

Covid-19 epidemic – Overview of the derogations introduced to standard public procurement rules

Four legislative acts have been published between 25 February 2020 and 20 March 2020, in view of the recent outbreak of Covid-19 in our country, introducing, inter alia, crucial exceptions to standard public procurement legislation as follows:

Conclusion of public contracts through direct award procedures

The new extraordinary legislation recently introduced by the Greek Government allows for the conclusion of public contracts through direct award or expedited procedures outside the context of standard public procurement rules in a number of cases:

- i. Contracts to be concluded by the Ministry of Development and Investments for the procurement of infrastructure support, consumables and personnel and services for the operation of the 1520 consumer help hotline and the operation of the Ministry's services vested with the authority to undertake inspections within the context of the outbreak. Relevant possibility for direct awards will be applicable for a time period of six (6) months following the enactment of said measures, i.e. until 14 September 2020.
- ii. Contracts for the procurement of spare parts for ambulances and medical equipment. Such contracts can be concluded following express publication procedures, namely following the publication of a relevant invitation at the website of the National Emergency Aid Centre (in Greek "EKAV") for a three-day period. Relevant contracts shall be concluded on the basis of the lowest price award criterion and the securing of adequate quantities in view of EKAV's needs. EKAV will be entitled to proceed to the conclusion of contracts under this extraordinary provision for a period of four (4) months following its enactment, i.e. until 14 July 2020.
- iii. Contracts for the undertaking of Covid-19 tests to be awarded to diagnostic laboratories of the private sector. The Awarding Authority, in this case the National Public Health Organization (in Greek "EODI") shall be entitled to proceed to the award of such contract following expedited publication procedures, namely following publication of a relevant invitation to its website for a three (3) days period. EODI will be entitled to proceed to the conclusion of contracts under this extraordinary provision for a period of four (4) months following its enactment, i.e. until 14 July 2020.
- iv. Contracts for the provision of cleaning, decontamination and security services to be awarded by any Authority. The duration of the contracts to be awarded under this provision cannot be more than six (6) months. Awarding Authorities may recourse to the relevant procedure for a period of up to six (6) months following the enactment of the pertinent legislation, i.e. until 14 September 2020.

- v. Contracts for the procurement of material, services, software and IT equipment to be used for the facilitation of remote work in the public sector. This provision is addressed to all Awarding Authorities and may be used for a period of up to six (6) months following the enactment of the pertinent legislation, i.e. until 14 September 2020.
- vi. Contracts for an amount of up to Euro sixty thousand (€60,000) per contract to be concluded by the Ministry of Labor and Social Affairs for the extension of existing IT systems, the creation and installation of new IT systems and applications and documents in the ERGANI system, the creation of new platforms for the facilitation of employers, employees and the unemployed and in general the facilitation of the Ministry's operations affected by the new situation. Recourse to the relevant procedure is permissible for a period of six (6) months from the enactment of the relevant legislation onwards, i.e. until 20 September 2020.
- vii. Contracts to be concluded by the Ministry of Digital Governance and the administrative authorities supervised by the same for the development and maintenance of existing web pages, the provision of IT services, the procurement of related material and portable computers, other types of electronic devices and software that shall be used within the context of remote working. Recourse to the relevant procedure shall be permissible for a time period of six (6) months following the enactment of the pertinent legislation, i.e. until 20 September 2020.

To be noted that the Single Public Procurement Independent Authority ("SPPIA") has proclaimed as early as 12 March 2020, in line with clarifications of the European Commission to Public Procurement Expert Groups of 18 March 2020, that the fight against the outbreak of Covid-19 and all preventive measures adopted in this context fall within the meaning of "*force majeure*". As such, the related circumstances may constitute legal basis for the adoption of the above and potentially further exemptions from the standard public procurement framework, allow for the direct award of public contracts over the thresholds set forth by the EU Directives 2014/24 and 2014/25 without prior publication or the prior review of SPPIA, as well as for greater flexibility in the execution of public contracts in place.

Extension and/or suspension of deadlines

As long as the direct threat for the outbreak or spread of Covid-19 persists and up until 20 September 2020, exceptional measures may also be taken by the competent Minister or competent Awarding Authority with regard to pending tender procedures or concluded public contracts of any type; such measures consist in the following:

- the postponement of any tender procedure;
- the extension of the deadline for the submission of offers in pending tender procedures in cases where a call for tenders has already been published before 20 March 2020;
- the suspension of deadlines irrespective of whether a contract is in the stage of award or execution;
- the extension of contractual deadlines for a time period to be defined by the pertinent decision.

Review of contracts by the Court of Auditors

In derogation of the standard public procurement rules, contracts aimed at the protection from the spread of Covid-19, shall be subject to the review of the Court of Auditors only if their value exceeds the amount of Euro nine hundred thousand (€900,000).

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