

## Eurodiaconia messages to boost social progress through public procurement in Europe

Brussels, 26 February 2018

Eurodiaconia is a network of 45 organizations in 32 European countries providing social services and working for social justice. Founded in the Christian tradition we work to ensure that our societies provide opportunities for all people to live in dignity and realize their full potential. For this reason, Eurodiaconia acknowledges the need to boost the social dimension of public procurement through an enabling legal framework and better, more innovative practices which guarantee that public money realises the full positive impact of quality, sustainable social services on people's lives. Tapping such a potential calls for a more strategic approach to public procurement that seizes the opportunities created by the social criteria made available by Directive 2014/24/EU and incorporates them organically in daily practice.

On behalf of our members' experience as providers of social services operating on a not-for-profit basis and, hence, engaging with public procurement procedures to bring quality services to end users on a regular basis, we would like to draw your attention to a number of concerns and share some proposals to boost social progress in Europe through public procurement. Our messages accompany our response (enclosed) to the targeted *Consultation on the scope and structure of a Commission guide on socially responsible public procurement*. This response constitutes only the most recent milestone in Eurodiaconia's continued efforts to input political initiative on public procurement.

### **Stock-taking is key to steer further progress**

Acknowledging the importance of public procurement as an expression of public commitment towards the provision of quality social services conducive to social inclusion and cohesion, Eurodiaconia has also accompanied its members throughout the transposition of Directive 2014/24/EU into national legislation to ensure a thriving legal and practical ecosystem for social operators. However, and in line with our members' views of the process, the European Commission confirms that the uptake of strategic -including social- criteria has been limited or remains underdeveloped at best<sup>1</sup>. Also, 55% of public procurement procedures still use the lowest price as the only award criterion<sup>2</sup>. In light of this, Eurodiaconia fully supports the European Commission's efforts to give new strength to the uptake of social criteria and the use of best price-quality ratio to ensure that quality, sustainability and social value are consistently incorporated in procurement decisions.

---

<sup>1</sup> COM(2017) 572 final, [Making public procurement work in and for Europe](#), p. 5

<sup>2</sup> *Ibidem*

However, stakeholders still lack a systematic account of the extent to which such considerations have been taken-up by national legislation. This gap was already felt throughout the transposition process. Notwithstanding the efforts of Eurodiaconia and other European networks to facilitate a mutual exchange on the progress of transposition at Member State level and promote a broader scope of the procurement opportunities at stake against the more restrictive approach of national authorities, the lack of such information has hampered a wider uptake of social criteria. Based on this experience, we believe it is crucial to overcome this information gap at the present stage, when the implementation of public procurement legislation is gaining steam and the European Commission is setting its priorities to ensure a better use of procurement rules -as presented in last October's Public Procurement Package<sup>3</sup>-. In our view, a stock-taking exercise of the transposition of the Directive with specific emphasis to social elements should be a key starting point to underpin an assessment of procurement legislation and to steer further action, both immediate and future, after concrete areas for development have been identified. In this way, social stakeholders will also have the possibility to engage in a more effective manner with the shared endeavour of rendering public procurement markets fully performant.

### **Social public procurement is core to operational procurement markets**

Knowledge of the state of play after the transposition has is crucial to mainstreaming social criteria and to promote, as a result, well-functioning public procurement markets that that fulfil the social ambition within the Directives. For this reason, Eurodiaconia does not share the sequencing of action envisaged by the European Commission, where further action on mainstreaming social criteria will not be undertaken until procurement markets in Europe become 'fully operational'<sup>4</sup>. In our view, the logic should be the opposite one because mainstreaming social criteria is in fact an essential precondition to render procurement markets fully operational and deliver on the Directive's social scope.

In the same vein, such a mainstreamed approach should help communicate the idea that the adoption of social criteria is applicable to all procurement processes irrespective of sectors. For this reason, Eurodiaconia does not share the idea of priority sectors in the proposed guidance on socially responsible public procurement, which may help validate the misconception that socially responsible public procurement yields higher benefits in some (few) sectors than in other. It would be preferable, instead, to ensure the most comprehensive guidance possible and including social services of general economic interest, in line with the specific regime granted to them in the Directive in light of their specific characteristics.

### **Guidance on social procurement should be holistic and enable coherence in social goals**

The proposed Guide on socially responsible public procurement should be a key instrument towards such goals. For this reason, rather than a stand-alone document, the Guidance would be more useful as a dynamic tool or portal which incorporates, in line with the progress of implementation and innovative ideas,

---

<sup>3</sup> European Commission, [Increasing the impact of public investment through efficient and professional procurement](#), 3 October 2017.

<sup>4</sup> COM (2017) 572 final, p. 8

information, resources and a helpdesk to ensure take-up of social criteria. Notwithstanding its practical angle, the Guide should emphasise the strategic nature of socially responsible public procurement. The Guide should not be interpreted as a handbook on how to take up social considerations only but also as a way to leverage the social and economic gains for economies and societies of a more strategic approach to social public procurement. In fact, contracting authorities still sometimes fail to understand the overall long-term benefits of social investment through public procurement and how these can be translated into their practice. Unfortunately, this may also be the case even when some of the social elements put forward by the Directives are applied. For example, some of our member organisations are making use of the opportunities offered by reserved contracts to support the integration of persons with disabilities and disadvantaged persons. However, reserved contracts are sometimes serving as an excuse for contracting authorities to increase pressure on prices. Such an approach to reserved contracts -which adds to the limitations on investment already imposed by the three-year limit under this format- fully contradicts the spirit of social provisions and, more generally, reveals a mistaken understanding of social criteria, seen as a 'privilege' rather than a fundamental piece of procurement markets to comply with societal goals through a sustainable provision of high-quality services. In order to avoid such trade-offs, a more coherent and holistic understanding of the societal aims behind the instruments at hand is needed from the initiators of procurement processes.

### **Leveraging experience on the ground is key**

The assessment made by the European Commission of the different areas for improvement puts contracting authorities at the heart of such an endeavour. COM (2017) 512 on *Making public procurement work in and for Europe* and the accompanying Recommendation<sup>5</sup> heavily emphasise the need to upskill contracting authorities and to instil in them the new tools and paradigm brought by new procurement rules. In our view, putting the spotlight on contracting authorities is a positive step in as much as these sometimes represent one of the main obstacles faced by tenderers with a social aim, who suffer from the lack of knowledge of instruments available for social procurement or from the inertia of old procedures. Nevertheless, the focus on contracting authorities, key as they are, constitutes a narrow, exceedingly top-down approach to public procurements processes which puts process at the centre, instead of the goods and services procured and, most importantly, end users. In the case of social services, suppliers also have a lot to gain from an increased knowledge of the tools available to raise the social bar in procurement and, importantly, of effective ways to present their socially-sensitive bids. In their role as drivers of innovative, high-quality social services, well-equipped providers should also be invited to such a mutually reinforcing dialogue towards the common objective of socially superior public procurement outcomes. For this reason, we call upon the European Commission to extend its call for increased knowledge of tools at hand to all parties involved in procurement practices and to ensure, together with national authorities, the availability of the necessary resources to this aim.

---

<sup>5</sup> Commission Recommendation (EU) 2017/1805 of 3 October 2017 on [The professionalisation of public procurement – Building an architecture for the professionalisation of public procurement](#)

As a matter of fact, the EC acknowledges the added value of such dialogue when it views the more extensive use of pre-market consultation as a way for contracting authorities to prepare procurement processes and inform potential suppliers of procurement objectives, requirements, etc. In our view, pre-market consultation, sourcing potential bidders, competitive dialogues or competitive procedures with negotiation should be targeted more forcefully towards potential bidders with less capacity to undertake procurement processes without previous knowledge or support but able to offer greater value added through social criteria, such as social enterprises or smaller operators with a social aim.

### **Framing public procurement against the EU strategic goals**

Far from administrative action only, public procurement should be recognised in its full political dimension and promoted accordingly. Therefore, we call upon the European Commission to fully realize the potential of public procurement as a tool to attain some of the strategic objectives of the European Union, in particular with regard to its social ambitions. In this way, socially responsible public procurement should be viewed as a key driver for an effective implementation of the principles and rights enshrined in the European Pillar of Social Rights and, therefore, equipped to this major aim.

In addition, such a strategic approach should also emphasise the links of sustainable public procurement with the Sustainable Development Goals. Beyond the explicit reference to the need to ‘promote public procurement practices that are sustainable, in accordance with national policies and priorities’ (SDG #12), sustainable procurement is also instrumental to achieve many of the global objectives enshrined in this global governance framework. In light of this, we encourage the European Commission to give full weight to its strategic approach to public procurement through an effective link with its post-2020 long—term compass. In the eyes of Eurodiaconia, the promotion of social procurement targets would constitute the clearest expression of such a commitment.

We thank you in advance for your attention and remain at your disposal if you would like more information on our proposals.

Yours sincerely,



Heather Roy

Secretary General, Eurodiaconia