



**Parliament of Romania
Chamber of Deputies
Committee on European Affairs**

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Opinion

on the Communication from the Commission to the European Parliament and the Council on Public Procurement rules in connection with the current asylum crisis - COM(2015)454

According to the provisions of Article 170 paragraph (1) of the Regulations of the Chamber of Deputies, republished, The Committee on European Affairs, together with the Committee for Legal Matters, Discipline, and Immunities, were notified to examine on the merits the Communication from the Commission to the European Parliament and the Council on Public Procurement rules in connection with the current asylum crisis - COM(2015)454.

Having regard to:

- the Ministry of Foreign Affairs Notice,
- the Ministry of Internal Affairs Notice,
- Notice of the European Affairs Department of the Presidential Administration,
- Notice of the Office in Romania of the International Organization for Migration,
- messages of the Representative of Romania to EU,
- the contributions to the debates, of the representatives of the aforementioned institutions,
- the contributions of own secretariat,
- the fact sheet and the contributions of the EU Division - Chamber of Deputies,
- opinion of the Chamber of Deputies of 30 June 2015 on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A European agenda on migration - COM(2015)240,

The European Affairs Committee:

1. Notes that the purpose of this Communication is to explain to the national public authorities the various possibilities of applying the European rules in the field, in order to face the current crisis of the asylum seekers. The Communication interprets two EU directives on public procurement, in the particular context of the current crisis of migrants.
2. Takes note of the Commission's intention to promote a simpler, faster and more flexible system of procurement rules to improve the situation in the Member States confronted with a massive influx of migrants.

Indeed, Member States have to satisfy adequately and speedily the most immediate needs of the asylum seekers in terms of housing, supplies and services and the Communication provides guidance to the national, regional and local authorities on how they can ensure compliance with EU rules on public procurement, while ensuring the financing of these services in a simple, fast and non-bureaucratic manner.

3. Takes note that the Romanian government supports the document, given that it is likely to facilitate a more efficient nationwide management of the public procurement procedures in connection with the elements required for reception and integration of the applicants for international protection.
4. Notes that the European Commission's proposal does not create any new legal obligation, but reflects the interpretation of the treaties' provisions, directives on public procurement and the case-law of the Court of Justice of the European Union.
5. Notes that the European standards on public procurement provide more possibilities to face unforeseen events and urgent needs, such as: a substantial reduction of the general deadlines applicable to public procurement or the use of the negotiated procedure without publication in exceptional circumstances (cases of extreme urgency).
6. Highlights the function of exclusively administrative interpretation of the Communication and, in this context, brings to attention the following aspects:
 - a) According to Directive 2014/24, a procurement procedure is not useful if the products are purchased directly from a commodity market, including from trading platforms for commodities, such as the agricultural products, the raw materials and the energy markets, if the multilateral trading structure regulated and supervised naturally guarantees the market prices. This possibility of buying from the markets could be a viable alternative in case that a high demand of various products occurs at the time of a sudden request.
 - b) In the application of the incentive regime for small and medium sized enterprises, established both by programmatic documents specific to the Union, and by the Directive, even in cases of emergency or extreme urgency, a number of products, works and services could be grouped to facilitate access thereof. Such an approach of the procurement by lots would lead to both streamlining the deliveries and also to cost-efficiency, at least in the cases where the transport costs are a high proportion of the total cost.

c) As provided in Directive 2014/24 as well, the electronic auctions are not normally adequate for certain public procurement contracts for works and for certain public procurement contracts for services which have the object of intellectual activities, such as the design of works, because only the elements adequate for the automatic evaluation by electronic means, without any intervention or appreciation by the contracting authority, namely the elements which are quantifiable so that they can be expressed in figures or percentages may be the subject of the electronic auctions. In this respect, the inherent element of subjectivity of the evaluation on the basis of unquantifiable criteria for the cases where this is required by the very nature of the services concerned should not be assimilated with the lack of transparency or with the risk of corruption.

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The European Affairs Committee, at the sitting of 6 October 2015, in the presence of 15 of the 22 members, decided unanimously to adopt this opinion to be forwarded to the Standing Bureau of the Chamber of Deputies, for completion of the parliamentary scrutiny procedure.

Proposes to inform the European Union institutions and the Romanian Government on its observations and recommendations, as a contribution to the formulation of effective policies in the field of reference.

Proposes, at the same time, to forward its observations / recommendations to the European Commission, in the informal political dialogue proposed by the European Commission in the Communication "Delivering results for Europe", COM(2006)211.

Chairperson,

Secretary,

Ana BIRCHALL

Dorel Gheorghe CĂPRAR