

Department of Contracts
Notre Dame Ravelin
FLORIANA

To Permanent Secretaries
Directors General
Directors
Heads of Public Sector Organisations

12 July 2022

PUBLIC PROCUREMENT / CONCESSIONS: SANCTIONS AGAINST RUSSIA

In view of the current hostilities between Russia and Ukraine, the Council Regulation (EU) No: 833/2014 of 31 July 2014 concerning ‘Restrictive measures in view of Russia's Actions Destabilising the situation in Ukraine’ (hereinafter: the ‘Sanctions Regulation’) has been amended¹ through Council Regulation (EU) No: 2022/576 of 08 April 2022² to include amongst others Public Procurement / Concession Sanctions against Russia.

To this end, Contracting Authorities / Entities are encouraged to familiarise themselves with Article 5K of the Council Regulation (EU) No: 833/2014. For ease of perusal, the said article is enclosed at Annex I. Furthermore, one may also wish to review the full amended version of the Council Regulation which may be downloaded from the EUR-Lex website: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014R0833>

Applicability of Public Procurement / Concession Sanctions against Russia

In its essence, the Sanctions Regulation forbids the award and / or the execution of Public Procurement / Concession Contracts forming part of the prohibitions.

The Sanctions Regulation applies to most of the Public Contracts covered by the EU Public Procurement / Concession Directives³, wherein the Contract Value meets or exceeds the relevant EU Thresholds. In addition,

¹ EU Regulation No: 833/2014 has been amended throughout the years with the latest revision (at the time of publishing of this Contracts Circular) taking place through Council Regulation (EU) 2022/879 of 03 June 2022.

² The Council Regulation (EU) 2022/576 entered into force on the day following that of its publication in the Official Journal of the European Union (OJEU).

³ Directive 2014/23/EU, Directive 2014/24/EU, Directive 2014/25/EU and Directive 2009/81/EC.

the Sanctions Regulation also applies to a substantial portion of the Public Procurement / Concession Contracts which are usually excluded from the scope of the Directives.

The Public Procurement / Concession Sanctions against Russia, applicable from 09 April 2022, as detailed in the amended version of the Council Regulation (EU) No: 833/2014 cover:

- Ongoing and Awarded Public Procurement / Concession Contracts
- Future Public Procurement / Concession Procedures

As of 09 April 2022, new contracts should not be signed. Ongoing contracts [except for specific cases authorised in accordance with Article 5K (2) of the Council Regulation (EU) No: 833/2014] shall be terminated by 10 October 2022.

Additional Information

To assist Contracting Authorities / Entities in applying and implementing the relevant legal provisions of Article 5K of the Council Regulation (EU) No: 833/2014, at Annex II⁴, the Department of Contracts is providing additional general information and guidance. In addition, at Annex III, a simple flowchart which explains the general logic of the Public Procurement / Concession Sanctions is also enclosed.

Contracting Authorities / Entities may wish to consult the Frequently Asked Questions document at Annex IV; it is recommended that the latest version is always downloaded from the ec.europa.eu website⁵ and reviewed accordingly.

Contact

Contracting Authorities may submit any queries to the Department of Contracts' Customer Care service on info.contracts@gov.mt or by calling on +356 21220212.

Anthony Cachia
Director General (Contracts)

⁴ It is to be noted that it is only the Court of Justice of the European Union that can give an authoritative interpretation of EU Legislation.

⁵ https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/faqs-sanctions-russia-public-procurement_en.pdf