



2023/2510

16.11.2023

COMMISSION DELEGATED REGULATION (EU) 2023/2510

of 15 November 2023

amending Directive 2009/81/EC of the European Parliament and of the Council in respect of the thresholds for supply, service and works contracts

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC ⁽¹⁾, and in particular Article 68(1), second subparagraph, thereof,

Whereas:

- (1) By Decision 2014/115/EU ⁽²⁾, the Council approved the Protocol amending the Agreement on Government Procurement ⁽³⁾ concluded in the framework of the World Trade Organization. The amended Agreement on Government Procurement ('the Agreement') is a plurilateral instrument and its purpose is to mutually open government procurement markets among its parties. The Agreement applies to any procurement contract with a value that reaches or exceeds the amounts set therein ('thresholds') expressed as special drawing rights.
- (2) One of the objectives of Directive 2014/25/EU of the European Parliament and of the Council ⁽⁴⁾ is to allow the contracting entities and the contracting authorities which apply that Directive to comply at the same time with the obligations laid down in the Agreement. In accordance with Article 17 of Directive 2014/25/EU, every 2 years the Commission is to verify that the thresholds set out in Article 15, points (a) and (b), of that Directive correspond to the thresholds established in the Agreement and is to, where necessary, revise them.
- (3) The thresholds laid down in Directive 2014/25/EU have been revised. In accordance with Article 68(1) of Directive 2009/81/EC, the thresholds laid down in that Directive are to be aligned to the revised thresholds laid down in Directive 2014/25/EU.
- (4) Pursuant to Article 68(1) of Directive 2009/81/EC, the Commission is also to revise the thresholds laid down in Article 8 of that Directive at the same time as thresholds laid down in Directive 2004/17/EC ⁽⁵⁾ of the European Parliament and of the Council are revised. Article 17(1) of Directive 2014/25/EU, which repealed Directive 2004/17/EC, requires that every two years the Commission revise the thresholds, with effect from 1 January. Hence, the thresholds for the years 2024-2025 should apply as of 1 January 2024.
- (5) The calculation of the thresholds cannot start earlier than 1 September, due to data availability. According to Article 68(3) of the Directive 2009/81/EC, the revised thresholds in euro and their corresponding values in other national currencies of EU Member States must be published by the Commission in the *Official Journal of the European Union* at the beginning of November. In view of the above, and in order to meet the above-mentioned deadline, the Commission makes recourse to the urgency procedure for adopting this regulation.
- (6) Directive 2009/81/EC should therefore be amended accordingly,

⁽¹⁾ OJ L 216, 20.8.2009, p. 76.

⁽²⁾ Council Decision 2014/115/EU of 2 December 2013 on the conclusion of the Protocol Amending the Agreement on Government Procurement (OJ L 68, 7.3.2014, p. 1).

⁽³⁾ OJ L 68, 7.3.2014, p. 2.

⁽⁴⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

⁽⁵⁾ Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ L 134, 30.4.2004, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Article 8 of Directive 2009/81/EC is amended as follows:

- (1) in point (a), 'EUR 431 000' is replaced by 'EUR 443 000';
- (2) in point (b), 'EUR 5 382 000' is replaced by 'EUR 5 538 000'.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2024.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 November 2023.

For the Commission
The President
Ursula VON DER LEYEN