

Country case: Remedies Directives of the European Union

Description

Remedies are legal actions available to economic operators who participate in contract award procedures, which allow them to request the enforcement of the public procurement rules and the protection of their rights under them in cases where contracting authorities, intentionally or unintentionally, fail to comply with the law.

The legal framework on remedies is found in the following Remedies Directives:

- Directive 89/665/EEC regulates remedies available to economic operators during public sector contract award procedures.
- Directive 92/13/EEC regulates remedies available to economic operators during utilities contract award procedures.

The aim of the Directives is to allow irregularities occurring in contract award procedures to be challenged and corrected as soon as they occur, therefore to increase the lawfulness and transparency of such procedures, build confidence among businesses and facilitate the opening of local public contracts markets to competition from all over Europe.

Remedies Directives coordinate national review systems by imposing some common standards intended to ensure that rapid and effective means of redress is available in all EU countries in cases where bidders consider that contracts have been awarded unfairly. Both Directives were amended by Directive 2007/66/EC which introduced two main features:

- a "**standstill period**" – contracting authorities need to wait for at least 10 days after deciding and communicating who has won the public contract before the contract can actually be signed. This period gives bidders time to examine the decision and decide whether to initiate a review procedure. If they do so within the standstill period, this results in the "automatic suspension" of the procurement process until the review body takes its decision. If these rules are not respected, under certain conditions national review bodies must render a signed contract ineffective.
- **more stringent rules against illegal direct awards** of public contracts – national courts are able to render these contracts ineffective if they have been illegally awarded without transparency and prior competitive tendering unless that is specifically permitted under the directives.

Source: OECD (2016), "[Corruption in Public Procurement](#)".

Public Procurement
Principle: **Accountability**

Procurement Stage:

Tendering

Audience: **Policy Maker,
Procuring Entity, Private
Sector**