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European Integration and Public Procurement

Introduction

The definition of public procurement is a complex one. It depicts a series of practices and government actions interacting with public policy. Public procurement could be best described as the supply chain system for the acquisition of all necessary goods, works and services by the state and its organs when acting in pursuit of public interest. Public procurement constitutes a significant *modus operandi* in the public sector arena and it stands as the procedural prerequisite for the delivery of public services. Apart from reasons relating to accountability in public expenditure, avoidance of corruption and political manipulation, the regulation of public procurement within the European legal and political systems has acquired a multi-disciplined dimension. The regulation of public procurement, does not only represent a best practice in the delivery of public service by the state and its organs, it most importantly qualifies as an instrument of policy. The spill-over effects from the deployment of a particular strategy relevant to the procurement practices of the public sector will have significant implications for national and international trade patterns as it can be detrimental to any economic and political integration process a European Union state is committed to.

Public procurement as a component of the common market

The establishment of the *common market*, as the core objective envisaged by the Treaty of Rome (the treaty creating the European Economic Communities) and reinforced by the Treaty of Maastricht (the treaty creating the European Union) is to be achieved through
the progressive approximation of the economic policies of Member States. The concept of the common market embraces legal and economic dynamics of the European integration process, with clear political effects from its accomplishment, and unfolds the characteristics of a genuine integral market, where unobstructed mobility of factors of production is guaranteed and a regime of effective and undistorted competition regulates its operation. These characteristics embrace the four basic freedoms of a customs union (free movement of goods, persons, capital and services) and, to the extent that the customs union tends to become an economic and a monetary one, the adoption of a common economic policy and the introduction of a single currency. Adherence by Member States to the above-mentioned fundamental principles of economic integration would ensure the abolition of any restriction, protection or obstacle to interstate trade. The level of success of economic integration in Europe would determine the level of success in political integration, as the ultimate objective stipulated in the Treaties.

The law of the European Union has conceived the creation of a legal supranational system alongside existing domestic ones, where the supremacy of the former over national laws has been declared by the European Court of Justice. The economic integration of the European Union requires the assistance of a legal order that can facilitate and observe its development with a view to achieving the ultimate aim which is the establishment of a political union. The new legal order is a conglomerate of mutual rights and duties between the European Union and its subjects, both Member States and private persons, and also amongst these subjects themselves and provides for the procedures which are necessary for determining and adjudicating infringements of law. The new legal order does confer rights and obligations not only to Member States but also to individuals (physical or legal persons). Both Member States and individuals are the subjects of European law, with respect to compliance and observance, and in as much as Member States participate in market activities, they have the same rights and obligations as those of individuals.

Two strategic plans have facilitated the economic integration of the Member States. These plans were enacted by European institutions and have been subsequently transposed into national laws and policies by Member States. The first plan has comprised a series of actions, measures and mechanisms aiming at the abolition of all tariff and non-tariff barriers to intra-community trade (trade amongst Member States). The second plan has focused on the establishment of an effective, workable