

The Reform of the European Public Procurement Model in Times of Credit Crisis

FRIDAY, MAY 24 & SATURDAY, MAY 25, 2013



LISBON
PORTUGAL



Seminar co-organised by the UIA Administrative Law Commission and the Faculty of Law of the University of Lisbon in collaboration with the UIA Banking Law and the Competition Law Commissions, with the Support of the Portuguese Regulator, InCI – Instituto da Construção e do Imobiliário (Institute of Construction and Real Estate)

Introduction

The European Commission is preparing a new reform on the European public procurement regimen by proposing new Directives that will substitute the present Directives on the classical procurement and on the special sectors procurement. Following the 2010/2011 Green Book and the auscultation of the stakeholders the European Commission proposal will also include a Directive on Concessions and changes on the Defence Procurement and on the remedies Directive. We are talking of a major change in European procurement.

The main objectives of the European Commission are to give this sector more flexibility and efficiency and to promote more social awareness. Therefore the new proposals stress the need to simplify and to give more flexibility to procedures. Moreover they pretend to boost the environment and energy saving solutions, the employment and social inclusion and a higher quality in the services rendered.

The reform comes in times of great need as the present financial difficulties are slowing down the public procurement market throughout Europe. Governments do not have the means to launch new procurements and new projects as the word is now to reduce the public deficit and cut on public expenses. At the same time the challenges for those countries that are capable to go ahead on new projects is to obtain the necessary financing from the market in times of great difficulty to banks and other financial institutions.

In the present credit distress times the banks are much lesser inclined to fund any new public project so Governments need to address other ways of financing their projects. The discussions nowadays are going towards new entities capable of funding public projects and new financial instruments. Discussions are presently on going as to bring Pension Funds, Asset Management companies, Private Equities and others to financing big public projects. Also we are seeing discussions around new financial instruments as projects bonds and financial enhancements. The problem may not reside in funding but on the legal framework and the need for new mentality and new approaches. Dealing with all this new institutions and new instruments means a change in the rules. All this new financial instruments and new financial institutions need a revision on the way business is done and on the contractual side of the deal.

This means also a revision on the public procurement regimen in place in Europe. The change of the funding from banks to other financial institutions mean that the present regimen may no long be accurate and some changes have to be put in place in order to attract those new funding institutions with new needs and ways of dealing with a public project. Risk, durability and procedure are 3 main themes to be discussed. Taking all this new discussions in order the on-going revision of the European Public Procurement Directives comes in good timing. The question is what level of change is really needed. Does the proposed changes by the European Commission are enough? Do they satisfy the new funding institutions? Are they adequate to consider the new financial instruments being discussed? Those are the questions to be addressed.

We do think the moment is right for the UIA to participate in these discussions joining the lawyer's worldwide and some public procurement experts as some financial institutions in order to help the on-going discussions and to cooperate with specific proposals to the change the European Commission is preparing. That is the reason for a Seminar in Lisbon on a subject that is so candent and important for lawyers, the financial business and Governments.



Thursday | May | 23 | 2013

19:30 WELCOME COCKTAIL

Hosted by SRS Advogados, RL
Rua D. Francisco Manuel de Melo, 21, Lisbon



Friday | May | 24 | 2013

08:30 – 09:00 REGISTRATION OF PARTICIPANTS

University of Lisbon – Faculty of Law

Alameda da Universidade, 1649-014 Lisbon – Portugal

09:00 – 09:15 WELCOME AND OPENING OF THE SEMINAR

- **Paula TEIXEIRA DA CRUZ**, Minister of Justice, Portugal
- **Jean-Marie BURGUBURU**, UIA President, Past President of the Paris Bar, Debevoise & Plimpton LLP, Paris, France
- **Eduardo VERA CRUZ**, Director of the Faculty of Law, University of Lisbon, Portugal
- **Fernando OLIVEIRA E SILVA**, Vice-President of InCI (Institute of Construction and Real Estate), Portugal
- **Maria João ESTORNINHO**, Professor, Faculty of Law, University of Law, EU Procurement Expert, Portugal
- **José Luís MOREIRA DA SILVA**, President of the UIA Administrative Law Commission, SRS Advogados, Portugal
- **Pedro REBELO DE SOUSA**, President of the UIA Banking Law Commission, SRS Advogados, Portugal

09:15 – 10:15 Sustainability and Simplification: The Proposals of New Directives

Moderator: • **Marcelo REBELO DE SOUSA**, Professor, Faculty of Law, University of Lisbon, Portugal

Speakers:

- **Peter BENNETT**, UK Government, United Kingdom
- **Maria Carolina DINIZ**, InCI (Institute of Construction and Real Estate), Portugal
- **Bernardo AYALA**, URJA Menendez, Portugal/Madrid

10:15 – 10:45 COFFEE BREAK

10:45 – 12:00 Project's Financing and the Reform of the EU Procurement Rules – The Banking View

Moderator: • **Eduardo PAZ FERREIRA**, Professor, Faculty of Law, University of Lisbon, Portugal

Speakers:

- **Pedro REBELO DE SOUSA**, President of the UIA Banking Law Commission, SRS Advogados, Portugal
- **Jorge CARDOSO**, Caixa BI, Portugal
- **Vasco Clara PINTO FERREIRA**, BANIF, Portugal

12:00 – 13:00 The Reform of the EU Procurement Rules – The Institutional Investors View

Moderator: • **Luís MORAIS**, Professor, Faculty of Law, University of Lisbon, Portugal

Speakers:

- **Alexandra MAIA LOUREIRO**, SRS Advogados, Portugal
- **Raul MARQUES**, APAF – Associação Portuguesa de Analistas Financeiros (Association of Financial Analysts), Portugal
- **Ricardo PEDROSA**, GR Investments, Portugal

13:00 – 14:30 LUNCH

14:30 – 15:45 Simplification of Procurement Procedures

Moderator: • **Fausto QUADROS**, Professor, Faculty of Law, University of Lisbon, Portugal

Speakers:

- **Vilhena DE FREITAS**, Professor, Faculty of Law, University of Lisbon, Portugal
- **Helena FRAGOSO**, InCI (Institute of Construction and Real Estate), Portugal
- **Franck JUDO**, Liedekerke Advocaten, Brussels, Belgium
- **Paulo PINHEIRO**, Vieira de Almeida & Associados – Sociedade de Advogados, RL, Lisbon, Portugal

15:45 – 16:15 COFFEE BREAK

16:15 – 17:30 Transparency and Fairness in Concessions: a New Directive

Moderator: • **Maria João ESTORNINHO**, Professor, Faculty of Law, University of Lisbon, EU Procurement Expert, Portugal

Speakers:

- **Pedro MELO**, PLMJ, Portugal
- **João CANTO E CASTRO**, Legal Director, Concessions Bureau, Estradas de Portugal, S.A. (Portuguese Road Incumbent), Portugal
- **Luís CABAÇO MARTINS**, President of the ANTROP (Association of Public Passenger Transport), Portugal

20:00 OPTIONAL DINNER

DARWIN'S

Champalimaud Centre for the Unknown
Avenida de Brasília Ala B
Lisbon 1400-038

Saturday | May 25 | 2013

09:00 – 09:15 REGISTRATION OF PARTICIPANTS

University of Lisbon – Faculty of Law

Alameda da Universidade, 1649-014 Lisbon – Portugal

09:15 – 10:15 Social Considerations and Green Public Procurement in Times of Crisis

Moderator: • **Maria do Rosário RAMALHO**,
Professor, Faculty of Law, University of Lisbon, Portugal

Speakers:

- **Miguel RAIMUNDO**, *Professor, Faculty of Law, University of Lisbon, Portugal*
- **Manuel TÊVES VIEIRA**, *SRS Advogados, Portugal*
(Secretary of the UIA Administrative Law Commission)
- **Cristina GIL**, *MNE, Portugal*

10:15 – 11:30 Competition Enhancement in the Procurement Reform

Moderator: • **Manuel SEBASTIÃO**, *PhD, President of the Portuguese Competition Authority, Portugal*

Speakers:

- **Nuno CUNHA RODRIGUES**, *Professor, Faculty of Law, University of Lisbon, Portugal*
- **Gonçalo ANASTÁCIO**, *SRS Advogados, Portugal*

- **Aleksander STAWICKI**, *UIA - Competition Law Commission, Warsaw, Poland*

11:30 – 11:45 COFFEE BREAK

11:45 – 12:30 The Revision of the Remedies Directive

Moderator: • **José Luís MOREIRA DA SILVA**, *President of the UIA Administrative Law Commission, SRS Advogados, Portugal*

Speakers:

- **Duarte ABECASSIS**, *Cuatrecasas Gonçalves Pereira, Portugal/Madrid*
- **Paulo GOUVEIA**, *Judge of the Court of Appeal, Central Administrative Court (South), Portugal*

12:30 – 13:00 CLOSING REMARKS

- **Fernando OLIVEIRA E SILVA**, *Vice-President of InCI (Institute of Construction and Real Estate), Portugal*
- **Maria João ESTORNINHO**, *Professor, Faculty of Law, University of Law, EU Procurement Expert, Portugal*
- **José Luís MOREIRA DA SILVA**, *President of the UIA Administrative Law Commission, SRS Advogados, Portugal*



Organising Committee

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General Information

SEMINAR VENUE

UNIVERSITY OF LISBON – FACULTY OF LAW

Alameda da Universidade
1649-014 Lisbon, Portugal
T +351 21 798 46 00

REGISTRATION FEES

| | UIA Member | | Non Member | |
|-----------------------|--------------|--------------|--------------|--------------|
| | ≤ 24.04.2013 | > 25.04.2013 | ≤ 24.04.2013 | > 25.04.2013 |
| STANDARD REGISTRATION | € 350* | € 400* | € 400* | € 450* |
| YOUNG LAWYER (<35)** | € 300* | € 350* | € 350* | € 400* |

* From January 1, 2012, the VAT (23%) can be applied to the amount here above according to the European Directive 2006/12/CE of November 28, 2006. For more information, please contact the UIA

** Please attach proof of age to the registration form to benefit from young lawyer fee.

These fees cover participation in the welcome cocktail, participation in the seminar, coffee breaks, lunch on Friday, May 24, 2013, as well as the documentation of the seminar. The dinner on Friday, May 24, 2013, is optional and at additional charge. Please note that the number of places at the seminar is limited. The organisers reserve the right to refuse registrations in the event of excess applications.

CONTINUING LEGAL EDUCATION

Every participant attending the seminar will receive a "Certificate of Participation" at the end of the event that may be used for obtaining "Credits" for "Continuing Legal Education" – "Continuing Professional Development" purposes, depending on national rules. For more information, please contact the UIA.

LANGUAGE

The working language will be **English** and **Portuguese**. A simultaneous translation service will be provided.

HOTEL ROOM RESERVATION

A limited number of rooms has been pre-booked at a preferential rate. Reservations should be made directly through the hotel. Credit card details must be given in order to secure your reservation. Please note that the number of rooms is limited. We recommend that you proceed with your reservations as soon as possible.

| Hotels | Rates |
|---|--|
| SANA Metropolitan Hotel Rua Soeiro Pereira Gomes, Parcela 2 1600-198 Lisbon T +351 217 98 25 00 F +351 217 95 08 63 E ge1.metropolitan@sanahotels.com www.metropolitan.sanahotels.com | Single Room € 85 Double Room € 90 Breakfast and taxes included Please download the hotel reservation form from our website: www.uanet.org |
| Radisson Blu Lisboa Av.Marechal Craveiro Lopes, 390 Campo Grande, 1749-009 Lisbon T +351 21 004 60 46 F +351 21 796 21 30 E clara@grupo-continental.com www.radissonblu.com/hotel-lisbon | Single Room € 80 Double Room € 88 American Buffet Breakfast and taxes included Please download the hotel reservation form from our website: www.uanet.org |
| Hotel – Lisbon Marriot Hotel Av. Combatentes, 45 1600-042 Lisbon T +351 21 723 55 15 F +351 21 726 44 18 E magda.varao@marriott-hotels.com www.lisbonmarriott.com | Single Room € 125 Double Room € 137 Breakfast and taxes included Please download the hotel reservation form from our website: www.uanet.org |

CANCELLATION CONDITIONS

VISAS

All cancellations will be subject to a 50% deduction and will have to be sent in writing, to be received by the Union Internationale des Avocats **no later than April 24, 2013**. No refund will be made for cancellations received after this date.

Anyone who requires a visa invitation letter in order to attend the seminar should register and pay their registration fees **no later than April 24, 2013** to ensure there is enough time to obtain a visa.

All cancellations will be refunded in full, minus €50 + VAT to cover administrative costs, provided that the UIA has received the registration documents and total registration fees **no later than April 24, 2013**.

If you register after this date, only 50% of the amount paid minus €50 + VAT to cover administrative costs will be refunded for cancellations due to visa refusals.

All cancellations due to a visa refusal must be sent in writing and reach the UIA **before the seminar**. Cancellations must be accompanied by a **proof of visa refusal**.

If your visa is issued after the seminar date or if you do not have proof of visa refusal, you will not be entitled to a refund.

GENERAL CONDITIONS

All registrations received by the Union Internationale des Avocats (UIA) along with the full payment of fees corresponding to the events selected will be confirmed in writing.

The UIA reserves the right to cancel or postpone the seminar to a later date, change the seminar venue and/or programme, make any corrections or modifications in the information published in the seminar programme and cancel any invitation to participate in the seminar, at any time and at their entire discretion, without having to provide any reasons for the same.

Neither the UIA, nor any of its managers, employees, agents, members or representatives shall be held responsible for any loss or damage, of any nature, suffered (directly or indirectly) by a delegate, accompanying person or a third party following any cancellations, changes, postponements or modifications.

The UIA strongly advises participants to subscribe to modifiable and/or refundable services, as well as to take out a cancellation insurance.

Neither the UIA, nor any of its managers, employees, agents, members or representatives shall be held responsible for any loss or damage, of any nature whatever, suffered (directly or indirectly) by a delegate or accompanying person, except in case of death or personal injury due to gross negligence by the UIA.

The contractual relations between the UIA and each participant (delegate or accompanying person) in relation to the seminar are subject to French law and jurisdiction, to the exclusion of any other law. Paris is the city of jurisdiction.

FORMALITIES

It is the responsibility of participants to ensure compliance with police, customs and health formalities for their journey. Participants unable to take part in the seminar because of their inability to take a flight or any other means of transportation due to being unable to provide the documents required (passport, visa, vaccination certificate, etc.) cannot claim any reimbursement.