

“On Public Procurement”

Newsletter



Law No. 16/2024 'On the Amendment of Law No. 162/2020 "On Public Procurement"'

The Albanian Parliament approved Law No. 16/2024 'On the Amendment of Law No. 162/2020 "On Public Procurement"' (the **New Law**), published in the Official Gazette on March 4, 2024.

The New Law is partially harmonized with:

- Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.
- 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.
- Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts.
- Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors.

The amendments introduce new concepts: the '*procurement service provider*,' referring to a public or private entity to be contracted by the contracting authority for external expertise in conducting ancillary activities related to public procurement, and the '*procurement order*' which

authorizes the commencement of the procurement process.

Additionally, the new amendments provide for the elimination of the procurement procedure known as '*Consultancy Service*' which lacks definition within the EU Directives.

Moreover, it is provided that the determination of the contract's limit value occurs within the Electronic Procurement System, utilizing data acquired through interaction with other systems via the Government Interaction Platform. In procurement procedures where the value falls below the specified monetary thresholds, contracting authorities or entities reserve the right to reject bids deemed anomalously low, without the necessity of providing an explanation.

Additionally, the recent amendments introduce the requirement to formulate the contract implementation plan, which specifically applies to contracts concluded at the conclusion of procedures exceeding the monetary limit for small value procurements, with a duration of at least 6 months. This obligation must be fulfilled within 10 days from the finalization of the contract. It's noteworthy that in other instances, contracting entities are not obligated to report on the drafting of the contract implementation plan or to submit interim progress reports to the Agency of Public Procurement. Instead, a single report at the conclusion of the contract is sufficient.

Furthermore, the newly approved amendments incorporate the following additional criteria that can result in the immediate disqualification of the economic operators from the selection process during the evaluation stage:

- The economic operator fails to register the beneficial owners in the register of beneficial owners.
- The economic operator fails to implement the obligations derived from the legislation on wages in force.
- If a person who has been convicted by a final court decision for a serious professional offense holds positions such as a member of an administrative body, manager or supervisor, shareholder or partner of an economic operator, or has representative, decision-making, or controlling powers within the competing economic operator.

The new amendments also introduce mandatory electronic communication at every stage of the procurement process, from procedure development to lodging complaints as well as contract signing and implementation.

In this context, the following new concepts are provided:

- *'Operator virtual file'* refers to the collection of economic operators' documents, generated within the Electronic Procurement System through interactions with other electronic systems, and/or documents uploaded by the operators themselves during their involvement in procurement procedures, concessions/public-private partnerships, and public auctions. This collection of documents plays an essential role within the Electronic Procurement System.
- *'e-Certis'* serves as the information system designed to facilitate the identification of the diverse certificates necessary for procurement procedures across the European Union.
- *'Public procurement passport'* is a dataset that identifies a procurement procedure, encompassing the reference number, Common Procurement Dictionary codes, contracting authority/entity, procurement object, estimated procurement value, and the type of procurement procedure.



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If you wish to know more on issues highlighted in this edition, you may approach your usual contact at our firm or the following:

info@bogalaw.com

Tirana Office

40/3 Ibrahim Rugova Str.

1019 Tirana

Albania

Tel +355 4 225 1050

Fax +355 4 225 1055

www.bogalaw.com

www.bogalawip.com

Pristina Office

50/3 Sylejman Vokshi Str.

10000 Pristina

Kosovo

Tel +383 38 223 152

Fax +383 38 223 153

www.bogalaw.com

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