

WRITTEN QUESTION P-0457/07
by Ona Juknevičienė (ALDE)
to the Commission

Subject: Directive 2004/18/EC

In accordance with the European Union's founding principle of free and undistorted competition, the European Parliament and the Council laid down rules in Directive 2004/18/EC¹ of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts. In the light of practices employed by certain contracting authorities, can the Commission answer the following questions concerning compliance with this Directive and with its objectives of genuine competition, transparency, equal treatment and non-discrimination:

1. Article 59 of the Directive establishes the general rule that 'the time limit for the presentation of applications for the concession shall be not less than 52 days...' In reality, it is unfortunately often the case that the notices issued by contracting authorities in the Member States are amended by notices published within this 52-day limit. Can the Commission indicate what obligation falls to the contracting authorities, in its own view or on the basis of Community case law, to extend the deadline for the presentation of applications when the amending notices are published within this 52-day time limit (in particular when the amending notice alters the selection criteria for applications)?

2. In some Member States, under restricted procedures or those advertised in accordance with the Directive candidates are selected prior to the issuing of a call for tender. Calls for tender are generally issued a few months after applications are received. There have been specific cases where this time gap was substantially longer, in some cases more than a year. Can the Commission state what obligation the contracting authorities are under, in its own view or on the basis of Community case law, to comply with a maximum time limit from the receipt of applications to the issuing of a call for tender? What conclusions should be drawn with regard to the publication of a new notice?

¹ OJ L 134, 30.4.2004, p. 114.