

EN
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Answer given by Ms Bieńkowska
on behalf of the Commission
(8.6.2016)

Member States are free to decide how public services are provided. It is only when they decide to tender them in the form of public contracts or concessions that the EU public procurement rules apply. In taking this decision, the potential fiscal impact and the benefits on efficiency of introducing competition in the relevant market might be considered.

EU public procurement rules refer to the procedures for the award of public contracts and concessions in order to guarantee transparency, equal treatment and competition. As a general rule, the performance of public contracts and concessions, including their termination, is primarily subject to the terms of the contract. When necessary, the enforcement of the relevant contractual obligations is to be guaranteed according to the national law applicable in each Member State.

Article 73 of Directive 2014/24/EU introduces a new feature in EU public procurement law and explicitly allows contracting authorities to terminate a public contract during its term, under specific conditions, in the case of substantial modifications which would have required a new procedure, when the contractor should have been excluded from the procedure or if the Court of Justice of the EU declares a serious infringement.

The Commission services have been seized with the circumstances to which the Honourable Members refer. Additional information has been requested and based on the information available, an appropriate follow-up will be ensured.