

European Association for Ductile Iron Pipe Systems ·
EADIPS® / Fachgemeinschaft Guss-Rohrsysteme (FGR®) e. V.

Doncaster-Platz 5
D-45699 Herten

www.eadips.org



Regulatory measures for awarding and combating trade fraud in the EU

[1] Regulation on the award of public contracts in the field of transport, drinking water supply and energy supply (Regulation sector - SektVO). Regulation Sector of 12 April 2016 (Federal Law Gazette I p. 624, 657), last amended by Article 6 of the Act of 12 November 2020 (Federal Law Gazette I p. 2392).


[2] Regulation on the award of public contracts in the field of transport, drinking water supply and energy supply (Regulation sector- SektVO). Regulation sector of 12 April 2016 (Federal Law Gazette I p. 624, 657), last amended by Article 3 of the Regulation of 7 February 2024 (Federal Law Gazette 2024 I No. 39).

[3] Federal Law on the Award of Contracts (Federal Procurement Act 2018 - BVergG 2018)

[4] Commission Implementing Regulation (EU) 2023/2605 of 22 November 2023 amending Implementing Regulation (EU) 2022/926 imposing a definitive anti-dumping duty on imports of pipes and tubes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India following a partial interim review pursuant to Article 11(3) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

Products from third countries

**Championing fair competition
in the context of sustainable and
responsible procurement of goods and services**



The EU is fortifying its supply chains while promoting fair competition

Strengthening EU Supply Chains and Security of Supply

The European Union faces the urgent task of strengthening its supply chains and ensuring the security of supply for its member states. Promoting European production and implementing local sourcing within a circular economy are key strategies to reduce dependence on supplies from third countries.

Circular Economy and Fair Competition


Instruments such as the Carbon Border Adjustment Mechanism (CBAM) are designed to help create fair competition conditions and promote environmentally friendly production standards. However, significant challenges remain in the implementation of these measures.

Public Procurement and Market Access

While the EU has largely opened its public procurement markets to companies from third countries, many of these countries do not provide European companies with comparable access, or they are often excluded from these foreign markets.

EU Tendering Procedures and Preferences

What is largely unknown is that EU contracting authorities in the water, energy, and transport sectors, when issuing tenders for the supply of products under EU Directive 2014/25/EU, have the option to reject tenders from non-EU countries if the share of products originating from non-EU countries exceeds 50%. Additionally, they can give preference to EU offers if the prices are equivalent (i.e., within a margin of 3%).




Implementation of EU Directive 2014/25/EC into national law of the Member States



This practice is established by the implementation of EU Directive 2014/25/EC [1] into the national law of all Member States. The EU Directive was implemented, among other things,

-  in **Germany**: § 55 of the sectoral regulations (SektVO) [2],
-  in **Austria**: § 303 BVerfGG (Federal law on the awarding of contracts) [3],
-  in **France**: L.2153-1 et seq. of the French Code on public procurement,
-  in **Belgium**: art.154 – Loi du 17 JUIN 2016 relative aux marchés publics,
-  in **Luxembourg**: art. 147 – Loi du 8 avril 2018 sur les marchés publics,
-  in the **Netherlands**: art. 3.76 – Aanbestedingswet 2012 – Geldend van 18-04-2019 t/m heden ,
-  in **Italy**: Art 137, CODICE DEI CONTRATTI PUBBLICI Decree legislative April 18, 2016, n. 50,
-  in **Spain**: : art. 70 “Preference for community offers in supply contracts”, Royal Decree-Law 3/2020, on February 4, 2020*

* On June 28, 2021, this Royal Decree-Law was incorporated into the “Public Sector Contracts Code”, along with the rest of the EU directives and legislation related to public



Public authorities must ensure fair competition through responsible procurement, especially in the water sector.



Encouraging Fair Competition in Public Procurement

Public contracting authorities are encouraged to contribute to ensuring and maintaining fair competition through responsible procurement, particularly in essential sectors such as water services. However, fair competition can only occur if all market participants adhere to the legal rules.

Case of Tax Fraud in the Ductile Iron Pipe Sector

In November 2023, the European Commission identified the ductile iron pipe sector as one to be protected by publishing Implementing Regulation 2023/2605 [4]. In this context, the Commission discovered that an Indian manufacturer of these products had provided false weight information when importing its products into the EU. In an attempt to reduce the dumping margin, the weight information was declared up to 15% lower. As a result, the manufacturer was immediately subjected to a total customs duty of 16%, revealing clear tax fraud at the expense of European states. This allowed the manufacturer to fraudulently lower prices to gain a competitive advantage over European producers.

The Responsibility of Public Clients in the Water Sector


In light of this, public clients in the water supply sector, in particular, bear a special responsibility towards the population: sustainable and responsible procurement of goods and services that considers economic, ecological, and social factors.

The Importance of Fair Competition

As the cornerstone of a healthy market economy, fair competition plays a crucial role in today's competitive world. Only fair competition ensures a level playing field for companies, fosters innovation and efficiency, and, last but not least, strengthens consumer trust in manufacturers and utilities.

Commitment to European Standards

Moreover, the member companies of EADIPS stand for high European quality, economical and resource-efficient production of their products, as well as high standards in working conditions, production practices, and supply chain management.



Contracting authorities may reject non-EU tenders if more than 50% of the goods originate from non-EU countries.