[GR] Mass Media Businesses/Public Procurement: National Legislation Elicits Reaction from European Commission

IRIS 2007-5:1/19

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The European Commission has decided to refer Greece to the European Court of Justice. The Commission believes the Greek Ministerial Decision No 24014/2005 on the evidence required for the application of Law No 3310/2005 as amended by Law 3414/2005 - on tenderers "interconnected" with mass media businesses- introduces grounds for exclusion from public procurement in Greece. Such exclusion is deemed incompatible with Community Law. That Act provides that unless both participants and other so-called "inter-connected" persons operating in the media market submit a number of "extracts from the judicial records" as well as other certificates and statements, they will be disqualified. This Decision is contrary to Art. 51 of Directive 2004/17 and Art. 44 of Directive 2004/18, because through the intervention of the Greek national Council for Radio and Television (an independent authority which regulates media companies and does not conduct tendering procedures) it provides a fresh reason for exclusion; in the event that the tenderer fails to submit the necessary documents to the Council, the latter rejects the application and the tenderer is not entitled to sign the contract. It should be noted that this failure to comply with EC provisions will soon be redressed through a revision of the Constitution by the Greek parliament.

"Public procurement: the Commission reacts to Greek legislation excluding certain companies from public procurement", press release of 21 March 2007, IP/07/353

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