PREFACE

When the publisher asked us to edit a Commentary on Directive 2014/24/EU, the Public Procurement Directive, our immediate concern was what could be the value added of a new Commentary, given existing works such as the *Brussels Commentary on EU Public Procurement Law* edited by Michael Steinicke and Peter L. Vesterdorf or other English-language general books on public procurement such as Sue Arrowsmith's *The Law of Public and Utilities Procurement*, or, closer to us, Martin Trybus, Roberto Caranta and Gunilla Edelstam's *EU Public Contract Law*.

The obvious answer was novelty or, at least, update. Aiming to complete the project towards the end of 2020 meant we could take stock of the case law developed after the Directive entered into force. But we wanted more. We wanted to open a window on national practice and on different perspectives and interpretations influenced by different legal traditions and experiences at Member State level. The excellent works that preceded our own focused almost exclusively on EU law. What national law and case law they consider comes from the UK, sadly no more a EU Member State. However, national law is extremely relevant in the public procurement context, not least because the Directive needs to be received, and somewhat fitted into, a preexisting and usually complex system of administrative and public law. Moreover, the national courts, representing the different legal traditions in the EU, are those that spot issues in the interpretation and application of EU law well before the CJEU has a chance *de dire le droit*. We wanted to include in the Commentary some of the comparative research that is the core mission of the European Procurement Law Group (www.eplgroup.eu), to which we both belong. The Group has been active for more than a decade now, and it is working on its fourth book with our publisher Edward Elgar Publishing (the first seven were published in Copenhagen by DJØF).

To produce such a nationally orientated Commentary on the Directive, we needed a very diverse pool of contributors. We started with members of the Group but went very much beyond that, ending with 36 contributors (including the editors) hailing from 15 different Member States, one former Member State, one EEA country and one country negotiating accession – in other words, we assembled a lineup of scholars scattered all over the map of Europe. Most contributors are academics, but practising lawyers also contribute their perspective to the Commentary. We asked contributors to share information about relevant developments in their national case law, and many dozens of cases were summarised for the mutual benefit of the group of contributors. In addition to that, they referred to more cases from the jurisdictions each of them is familiar with when drafting their comments. In this way, the collective and diverse wisdom of public procurement law in the old 28 EU Member States underpins this Commentary.

Seen now, it was a huge task for a very diverse group of contributors, scary and almost impossible to manage. And we did not foresee that anything like the COVID-19 pandemic might happen, and shatter our routines.

But with the reassuring benefit of hindsight, we can say that the plan worked out well. The Commentary is rich not just in its detailed and critical analysis of the provisions of the 2014 Directive and the case law (including the one predating the entry into force of the Directive, as well as the transposition deadline for the new legal instrument), but also in highlighting the application problems and interpretative issues being raised in the Member States, which in due time will make their way up to the CJEU or even require further legislative interventions.

For this achievement we must first of all thank our contributors for staying the course in what quite unexpectedly, when we were somewhere in the middle of our endeavour, turned into a very different and difficult working environment for all of us, academics and practitioners alike. Their and our families and partners must also be thanked for the patience and support that has been required for us to carve out some writing time in the midst of the pandemic, home schooling and, for a few contributors, even happy additions to their families. Some of the contributors must sadly also be thanked for persevering in the face of having lost some of their closest and dearest to the virus. Their resilience is admirable. Humbly, we take this opportunity to ask the reader to spare a thought for all those lost to the disease and their loved ones.

The contributors must also be thanked for bearing with us and having braved what amounted to quite a muscular and inquisitive editing process. Indeed, they were generally ready to engage in close discussion with us about the meaning and rationale of the different rules. Of course, each comment reflects the best knowledge and individual opinion of each contributor rather than the editors'. We ourselves, the editors, do not always see eye to eye on matters of interpretation of the Directive, and more generally about the 'higher philosophy' of public procurement. Difference of opinion enriches the conversation and we think it enriches our Commentary. The food for thought the two of us put on the table for the contributors was therefore both sour and sweet for them to try, ponder and choose, in the awareness that what might seem obvious when seen from a given Member State often becomes questionable when seen from another jurisdiction. The cross-references from one comment to the other will often help the reader be aware of and be exposed to these differences every time – and this is very often – answering a question of interpretation requires considering more than one of the articles in the Directive.

A heartfelt thank you is also due to Natalia Spataru, who helped greatly in the editorial work and in ensuring the manuscript was assembled into good shape. It was not an easy task, since many contributors and even the editors tended to be cavalier with the drafting rules.

Last but not least, we must thank our publisher, and specifically Stephanie Tytherleigh at first and Emily Mew later on, not just for trusting us with the endeavour, but also for the constant support and very welcoming publishing approach.

We hope the reader will agree that the Commentary provides a novel perspective on Directive 2014/24/EU and that the contributions will take one more step in our collective march towards a better understanding of the rules and, in due course, their improvement.

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