



Brexit Alert for Legal Counsel

UK to continue as independent member of Government Procurement Agreement

Whether Brexit happens or not, European companies can continue accessing the UK's government procurement market.

On Wednesday 27 February 2019, the parties to the Government Procurement Agreement (GPA) approved the United Kingdom's accession to the pact as independent member. This means that if and when Brexit eventually happens, European companies will still be able to bid on most major government contracts in the UK. British companies will also continue to benefit from access to government procurement in the EU.

What is the GPA?

The GPA is a binding international treaty that aims to mutually open government procurement markets among its parties. The GPA currently counts 19 parties covering 47 WTO members. The EU and its member states are covered as one party.

UK is currently covered as a EU member state

Currently, the UK is covered by the GPA thanks to its EU membership. As confirmed by the decision on Wednesday 27 February 2019, this GPA coverage is granted until Brexit is effective or until the end date of an eventual agreement between the EU and the UK on a transition period, during which EU law would apply to and in the UK.

Accession of the UK in its own right

The UK's accession to the GPA as independent member will take effect 30 days after the UK government submits its instrument of acceptance. That submission should be done no earlier than 30 days before the date of its withdrawal from the EU and within six months of the decision's date.

Impact

The 27 February 2019 decision means that when the UK leaves the EU, European companies can still bid on most major government contracts in the UK. This market access works both ways, meaning that British companies will also still be able to bid on major government contracts in the EU and other GPA countries. However, not all public contracts will remain accessible to the UK after Brexit, as GPA has a smaller scope than EU public procurement rules. For example, it does not cover lower value contracts, health services or legal services.

The UK ambassador stated that this decision underlines the UK's determination to minimise any disruption, and confirmed that the UK will leave the EU. Other parties to the GPA stressed that the UK's inclusion in the GPA is very important for the agreement. Currently, the UK accounts for over a quarter of the EU's GPA covered procurements.

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