



LEGAL FLASH | PUBLIC LAW

PUBLIC LAW LEGAL FLASH | JULY 20, 2017

ORDER NO. 216/2017, OF JULY 20 - EXTRAORDINARY UPDATE OF THE CONTRACT PRICE FOR THE PROVISION OF SERVICES OF A MULTI-ANNUAL NATURE, CONCLUDED WITH PUBLIC ENTITIES



ORDER NO. 216/2017, OF JULY 20

Order no. 216/2017 ("Order"), published on July 20, which comes into force on July 21, establishes the scope, circuit, deadlines, procedure and authorization terms for the extraordinary update of the contract price for the provision of services of a multi-annual nature, concluded with public entities before January 1, 2017 or, having been concluded after that date, originated in tender proceedings in which the proposals were submitted before January 1, 2017.

This extraordinary update of the price of the provision of services contracts arises in the context of the setting of the Minimum Guaranteed Monthly Remuneration ("MGMR") in € 557, as from January 1, 2017. In this context, the Government has undertaken to update the multi-annual public contracts where the MGMR proved to be a determining criteria in the calculation of the contractual price and, as such, have suffered substantial and unforeseen impacts resulting from the increase in the MGMR.

In this respect, the contracting party may, within 30 days of the entry into force of said Order, request from the contracting authority the acknowledgment that the contractual price proposed by it has had a substantial impact due to the entry into force of Decree-Law no. 86-B / 2016, of December 29, and request the consequent extraordinary update of the contract price.

In relation to the application form, it is included in the annex to the Order and must be accompanied by a financial report signed by the contracting party's Certified Accountant.

This financial report will be a key element in this application, as it will have to prove the following:

- i) That the agreed contractual price, due to the entry into force of Decree-Law no. 86-B / 2016, of December 29 (which updates the MGMR for 2017), has suffered a change uncovered by the inherent risks of the contract and with substantial impacts on the value of the contract;
- ii) That the reasons for the request for a special update of the price were not due to the contracting party's default;
- iii) That the reasons for the request for a special update of the price were not an inherent risk of the contract; and
- iv) That the anticipated expected increase of the MGMR was not in the originally forecast price.

Once the application has been submitted, the contracting authority shall examine the application within 15 days. If it concludes that the agreed contractual price has undergone a change not covered by the risks inherent to the contract, it shall submit the case within



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15 days to the members of the Government responsible for the sectorial and financial areas for the authorization of the extraordinary price update of the contract.

This authorization takes the form of a joint decree of the members of the Government responsible for the sectorial and financial areas, which will produce its effects retroactively to January 1, 2017.

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