

**Banking and Capital Markets**

The Portuguese Government confirmed that the new Public Procurement Code will apply to the procurement procedure in respect of the concession for the construction and operation of the high speed rail network section Poceirão/Caia, which should be launched in the beginning of June.

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**Public Tenders for the Portuguese High Speed Rail Project subject to new Procurement Rules**

According to Decree-Law 85/2008, of 27 May, the concession of the first section of the high speed rail network will be subject to the Portuguese Public Procurement Code (PPC), which was approved in January.

In this way, the Government has anticipated the entry into force of the PPC, which was initially expected to apply only to the procurement procedures starting after 29 July 2008. According to the Government, this measure is aimed at accelerating and harmonizing the legal framework applicable to the various tender procedures to be launched in relation with the Portuguese high speed rail project.

The call for international public tenders for the construction and operation of the section Poceirão-Caia, which is part of the link Lisbon-Madrid, should be launched in the first week of June. In accordance with the schedule initially announced by the Ministry for Public Works, the call for public tenders for the construction and operation of the second section of the link Lisbon-Madrid, which will link Poceirão and Lisbon should be launched in November 2008. Both procurement procedures are expected to be concluded by the second half of 2009, which should enable the entry into operation of the link Lisbon-Madrid in 2013.

The call for international public tenders for the construction and operation of the various sections of the links Lisbon-Oporto and Oporto-Vigo should only be launched in 2009 and are expected to be concluded in 2013 and 2015, respectively. The date for the launching of the tender procedures for the concession of the communications system was not yet announced.

Under Decree-Law 85/2008, all the procurement procedures launched in relation with the portuguese high speed rail project will be subject to the rules set out in the PPC, which will require a prompt adaptation of the operators to the new legal framework.

Among the amendments approved by the PPC, we highlight the automatic exclusion from the tender procedure of the bids worth 40% below the base price and the introduction of limitations to the additional works that may be required, i.e. 5% of the agreement's value for the additional work and 50% for all the additional works and the rectification of errors and omissions.

On the other hand, the PPC regulates the step-in and step-out rights, which, despite being often used in public procurement procedures in Portugal were not expressly regulated under Portuguese law, as well as the concessionaire's rights in the event of termination of the concession, with the purpose of protecting the investors and banks involved in project finance or public private partnerships.

Finally, it is expected that the new Portuguese procurement legal framework will simplify and speed up the tender procedures, namely by promoting the practice of certain acts through the web site available at [www.base.gov.pt](http://www.base.gov.pt).

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