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to:	Permanent Representative Committee
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Subject:	Proposal for a Directive of the European Parliament and of the Council on public procurement (Classical Directive) (First reading) - Approval of the final compromise text

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**I. INTRODUCTION**

1. On 21 December 2011, the Commission submitted to the European Parliament and the Council a proposal for a Directive on public procurement. The proposal was submitted together with a proposal for a Directive of the European Parliament and of the Council on procurement of entities operating in the water, energy, transport and postal services sectors (Utilities Directive)<sup>1</sup> and a proposal for a Directive of the European Parliament and of the Council on the award of concession contracts (Concessions Directive)<sup>2</sup>.

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<sup>1</sup> Doc. 18964/11 MAP 9 MI 685

<sup>2</sup> Doc. 18960/11 MAP 8 MI 684

2. Intensive preparatory negotiations were conducted in the Working Party on public procurement under the Danish and Cyprus Presidencies.
3. The proposals have been singled out as a Single Market Act key action with a significant potential for enhancing growth, innovation and job creation while supporting the most efficient use of public funds. The European Council has called for the adoption of the package by the end of 2012. Member States affirmed the importance of giving a high priority to the negotiations on the proposals in order to reach agreement with the European Parliament by the end of 2012. In order to effectively drive negotiations forward and in view of the complexity of the subject matter, Council and Parliament agreed to structure the discussions on the provisions of the Public Procurement proposal into 10 thematic clusters.
4. The Competitiveness Council on 20 February 2012 held an orientation debate on the basis of doc. 6436/12. A progress report was submitted to the Competitiveness Council on 30 May 2012 and a further orientation debate held on the basis of doc. 9696/12.
5. On 10 December 2012, the Competitiveness Council adopted a General Approach on the public procurement Directive (doc. 16725/1/12 REV 1) as well as on the utilities Directive (doc. 18011/12) and on the concessions Directive (doc. 18007/12). On the basis of the General Approach, the Working Party and was able to start the considerations of the European Parliament's amendments (doc. 18135/12). The IMCO Committee of the European Parliament had voted on the proposal for a Classical Directive on 18 December 2012 and on the proposal for a Utilities Directive and the proposal for a Concessions Directive on 24 January 2013. At its meeting on 21 February 2013, the IMCO Committee voted to give a mandate to the Rapporteurs to start negotiations with Council on all three proposals.
6. Consequently, trilogues were held, under the Irish Presidency, on all three Directives, according to the following schedule:

- 6 March: Classical Directive I
- 12 March: Concessions Directive I
- 26 March: Classical Directive II
- 10 April: Concessions Directive II
- 18 April: Classical Directive III
- 25 April: Concessions Directive III
- 6 May: Joint issues trilogue I
- 23 May: Classical Directive IV
- 28 May: Trilogue V on issues specific to Utilities Directive
- 3 June: Concessions Directive IV
- 4 June: Classical Directive VI
- 13 June: Joint issues trilogue II
- 21 June: Joint issues trilogue III
- 25 June: 3 trilogues on remaining issues on all three Directives

During this process, the Permanent Representatives Committee was regularly debriefed on the progress achieved and gave revised mandates for moving the negotiations forward, based on the intensive technical work by the preparatory bodies.

## **II. THE COMPROMISE**

7. On 21 June and 25 June, four final trilogues took place and the provisional agreement was reached on final compromise texts on the three Directives. The Permanent Representatives Committee was debriefed in detail on the outcome of the trilogues on 27 June 2013 (doc. 11644/13). Because of the very great volume and technical complexity of the proposals, additional technical meetings were held on 27 and 28 June and on 1, 2, 3 and 4 July to complete the text.
8. The final outcome of these trilogues and technical work has been presented to the delegations in the four column document 12167/13. In the Annex to this note, delegations will find the final compromise in the clean format. The key content of the compromise has been explained in doc. 11644/13 with the following most important components of the agreement:

- a) Public-public cooperation: Art.11 of Classical Directive, Art. 15 of Concessions Directive,
- b) Affiliated undertakings: Articles 9a and 11a of Concessions Directive, with the complete exclusion of the water sector from the scope of the Directive
- c) The European Single Procurement Document, based on a standard form of self-declarations, has replaced the European Procurement Passport, Articles 57 to 59 and 88,
- d) The light regime for the Social and Other Specific Services contained in Annex XVI of Classical and Annex X of Concessions Directive
- e) The exclusions from the scope of Article 10 Public Procurement and Article 8 Concessions (loans and financial services, political campaign services, audio-visual service, legal services, civil defence, lottery operators who have an exclusive right granted pursuant to applicable national laws) ,
- f) Social and Environmental Considerations Article 15(2) with recitals 14c, 14d, 14e, 14f, 14g, 41a of Classical and Article -26a(3) of Concessions Directive,
- g) Subcontracting - Article 71 in Classical and Article 41 in Concessions Directive,
- h) Reciprocity: Articles 69a and 69b in Classical and 79a and 79b in Utilities Directive,
- i) Transposition Deadlines and Transition to e-procurement (24 months and additional 30 months for e-procurement)
- j) Framework Agreements (maximum 4 years in Public Procurement and 8 years in Utilities, except in duly justified circumstances),
- k) Contract Modifications

- l) Governance (Article 51, reporting every three years)
- m) Reserved contracts

In addition, recitals in all three Directives have been aligned wherever appropriate so that identical solutions are explained by identical recitals and differences in recitals reflect real specificities of individual Directives.

### III. CONCLUSION

The Permanent Representatives Committee is therefore invited to

- agree to the compromise text on the Public procurement (classical) Directive as set out in the Annex to this note; and
- give to the Chairman of the Permanent Representatives Committee the mandate to inform the Chair of the European Parliament's IMCO Committee that, should the European Parliament adopt the amendments to the Commission proposal in the exact form as set out in the Annex to this note, subject to legal-linguistic verification of all the language versions by Legal-linguists of both Institutions, the Council would adopt the Directive in the form of the Commission proposal as thus amended by the Parliament.

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2011/0438 (COD)

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**on public procurement**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 53(1), Article 62 and Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments<sup>3</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>4</sup>,

Having regard to the opinion of the Committee of the Regions<sup>5</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The award of public contracts by or on behalf of Member States authorities has to comply with the principles of the Treaty on the Functioning of the European Union, and in particular the free movement of goods, freedom of establishment and the freedom to provide services as well as the principles deriving therefrom, such as equal treatment, non-discrimination, mutual recognition, proportionality and transparency. However, for public contracts above a certain value, provisions should be drawn up coordinating national procurement procedures so as to ensure that these principles are given practical effect and public procurement is opened up to competition.

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<sup>3</sup> OJ C ....

<sup>4</sup> OJ C ....

<sup>5</sup> OJ C ....

- (2) Public procurement plays a key role in the Europe 2020 strategy<sup>6</sup> as one of the market-based instruments to be used to achieve a smart, sustainable and inclusive growth while ensuring the most efficient use of public funds. For that purpose, the current public procurement rules adopted pursuant to Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors<sup>7</sup> and Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts<sup>8</sup> have to be revised and modernised in order to increase the efficiency of public spending, facilitating in particular the participation of small and medium-sized enterprises in public procurement and to enable procurers to make better use of public procurement in support of common societal goals. There is also a need to clarify basic notions and concepts to ensure legal certainty and to incorporate certain aspects of related well-established case-law of the Court of Justice of the European Union.
- (2a) When implementing this Directive, the United Nations Convention on the Rights of Persons with Disabilities<sup>9</sup> should be taken into account, in particular in the connection with the choice of means of communications, technical specifications, award criteria and contract performance conditions.
- (3) The increasingly diverse forms of public action have made it necessary to define more clearly the notion of procurement itself; as such this clarification should not broaden the scope of this Directive compared to that of Directive 2004/18/EC. The Union rules on public procurement are not intended to cover all forms of disbursement of public money, but only those aimed at the acquisition of works, supplies or services for consideration by means of a public contract. It should be clarified that such acquisitions of works, supplies or services should be subject to this directive whether they are implemented through purchase, leasing or other contractual forms.

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<sup>6</sup> COM(2010) 2020 final, 3.3-2010.

<sup>7</sup> OJ L 134, 30.4.2004, p. 1.

<sup>8</sup> OJ L 134, 30.4.2004, p. 114.

<sup>9</sup> Approved by Council Decision 2010/48/EC of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities (OJ L 23, 27.1.2010, p. 35).

The notion of acquisition should be understood broadly in the sense of obtaining the benefits of the works, supplies or services in question, not necessarily requiring a transfer of ownership to the contracting authorities. Furthermore, the mere financing, in particular through grants, of an activity, which is frequently linked to the obligation to reimburse the amounts received where they are not used for the purposes intended, does not usually fall under the public procurement rules. Similarly, situations where all operators fulfilling certain conditions are entitled to perform a given task, without any selectivity, such as customer choice and service voucher systems, should not be understood as being procurement but simple authorization schemes (for instance licenses for medicines or medical services).

- (3a) It should be recalled that nothing in this Directive obliges Member States to contract out or externalise the provision of services that they wish to provide themselves or to organise by means other than public contracts within the meaning of Article 2(7). The provision of services based on law or regulations, or employment contracts, should not be covered. In some Member States, this might for example be the case for certain administrative and government services such as executive and legislative services or the provision of certain services to the community, such as foreign affairs services or justice services or compulsory social security services.
- (3b) It is also appropriate to recall that this Directive should not affect the social security legislation of the Member States nor should it deal with the liberalisation of services of general economic interest, reserved to public or private entities, nor with the privatisation of public entities providing services. [Articles 1(2) and 1(6) of Directive 2006/123/EC].

It should equally be recalled that Member States are free to organise the provision of compulsory social services or of other services such as postal services either as services of general economic interest or as non-economic services of general interest or as a mixture thereof. It is appropriate to clarify that non-economic services of general interest should not fall within the scope of this Directive.



- (3c) It should finally be recalled that this Directive is without prejudice to the freedom of national, regional and local authorities to define, in conformity with Union law, services of general economic interest, their scope and the characteristics of the service to be provided, including any conditions regarding the quality of the service, in order to pursue its public policy objectives. It should also be without prejudice to the power of national, regional and local authorities to provide, commission and finance services of general economic interest in accordance with Article 14 TFEU and Protocol No 26 annexed to the Treaties. In addition, this Directive does not deal with the funding of services of general economic interest or with systems of aids granted by Member States, in particular in the social field, in accordance with Union rules on competition.
- (4) A contract should be deemed to be a public works contract only if its subject matter specifically covers the execution of activities listed in Annex II, even if the contract covers the provision of other services necessary for the execution of such activities. Public service contracts, in particular in the sphere of property management services, may, in certain circumstances, include works. However, insofar as such works are incidental to the principal subject-matter of the contract, and are a possible consequence thereof or a complement thereto, the fact that such works are included in the contract does not justify the qualification of the public service contract as a public works contract.

However, in view of the diversity of public works contracts, contracting authorities should be able to make provision for contracts for the design and execution of work to be awarded either separately or jointly. It is not the intention of this Directive to prescribe either joint or separate contract awards.

- (4a) The realisation of a work corresponding to the requirements specified by a contracting authority requires that the authority in question must have taken measures to define the type of the work or, at the very least, have had a decisive influence on its design. Whether the contractor realises all or part of the work by his own means or ensures their realisation by other means should not change the classification of the contract as a works contract, as long as the contractor assumes a direct or indirect obligation that is legally enforceable to ensure that the works will be realised.

- (4b) The notion of "contracting authorities" and in particular that of "bodies governed by public law" have been examined repeatedly in the jurisprudence of the Court of Justice of the European Union. To clarify that the scope of the Directive *ratione personae* should remain unaltered, it is appropriate to maintain the definition on which the Court based itself and to incorporate a certain number of clarifications given by that jurisprudence as a key to the understanding of the definition itself without the intention to alter the understanding of the concept as elaborated by the jurisprudence. For that purpose, it should be clarified that a body which operates in normal market conditions, aims to make a profit, and bears the losses resulting from the exercise of its activity should not be considered as being a "body governed by public law" since the needs in the general interest, that it has been set up to meet or been given the task of meeting, can be deemed to have an industrial or commercial character.

Similarly, the condition relating to the origin of the funding of the body considered, has also been examined by jurisprudence, which has clarified i. a. that financed for "the most part" means for more than half and that such financing may include payments from users which are imposed, calculated and collected according to rules of public law.

- (4c) In the case of mixed contracts, the applicable rules should be determined in function of the main subject of the contract where the different parts which constitute the contract are objectively not separable. It should therefore be clarified how contracting authorities should determine whether the different parts are separable or not. Such clarification should be based on the relevant jurisprudence of the Court of Justice of the European Union.

The determination should be carried out on a case-by-case basis, in which the expressed or presumed intentions of the contracting authority to regard the various aspects making up a mixed contract as indivisible should not be sufficient, but should be supported by objective evidence capable of justifying them and of establishing the need to conclude a single contract. Such a justified need to conclude a single contract could for instance be present in case of the construction of one single building, a part of which to be used directly by the contracting authority concerned and another part to be operated on a concessions basis, for instance to provide parking facilities to the public. It should be clarified that the need to conclude a single contract may be due to reasons both of a technical nature and of an economical nature.

- (4d) In the case of mixed contracts, which can be separated, contracting authorities are, of course, always free to award separate contracts for the separate parts of the mixed contract, in which case the provisions applicable to each separate part should be determined exclusively in function of the characteristics of that specific contract. On the other hand, where contracting authorities choose to include other elements in the procurement, whatever their value and whatever the legal regime the added elements would otherwise have been subject to, the main principle should be that where a contract should be awarded pursuant to the provisions of this Directive, if awarded on its own, then this Directive should continue to apply to the entire mixed contract.
- (4e) However, special provisions should be foreseen for mixed contracts involving defence or security aspects or parts not falling within the scope of the Treaty. In such cases, non-application of this Directive should be possible provided that the award of a single contract is justified for objective reasons and that the decision to award a single contract is not taken for the purpose of excluding contracts from the application of this Directive or Directive 2009/81/EC. It should be clarified that contracting authorities should not be prevented from choosing to apply this Directive to certain mixed contracts instead of applying Directive 2009/81/EC.
- (4f) It should be clarified that the notion of "economic operators" should be interpreted in a broad manner so as to include any persons and/or entities which offer the execution of works and/or a work, the supply of products or the provision of services on the market, irrespective of the legal form they have chosen to operate under. Thus, firms, branches, subsidiaries, partnerships, cooperative societies, limited companies, universities, public or private, and other forms of entities than natural persons should all fall within the notion of economic operator, whether or not they are "legal persons" in any and all relations.

- (4g) It should be clarified that groups of economic operators, including where they have come together in the form of a temporary association, may participate in award procedures without it being necessary for them to take on a specific legal form. To the extent this is necessary, for instance where joint and several liability is required, a specific form may be required where they are awarded the contract.

It should also be clarified that contracting authorities should be able to set out explicitly how groups of economic operators are to meet the requirements concerning economic and financial standing as set out pursuant to Article 56(3), or the criteria relating to technical and professional ability as set out pursuant to Article 56(4) which are required of economic operators participating on their own.

Performance of contracts by groups of economic operators may necessitate setting conditions, which are not imposed on individual participants. Such conditions, which should be justified by objective reasons and proportionate, could for instance include requiring the appointment of a joint representation or a lead partner for the purposes of the procurement procedure or requiring information on their constitution.

- (6) Contracting authorities should make use of all possible means at their disposal under national law in order to prevent distortions in public procurement procedures stemming from conflicts of interest. This could include procedures in order to identify, prevent and remedy conflicts of interests.

- (8) Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the Agreements reached in the Uruguay Round multilateral negotiations (1986 to 1994) <sup>10</sup> approved in particular the World Trade Organisation Agreement on Government Procurement, hereinafter referred to as the ‘Agreement’. The aim of the Agreement is to establish a multilateral framework of balanced rights and obligations relating to public contracts with a view to achieving the liberalisation and expansion of world trade. For contracts covered by Annexes I, II, IV and V and the General Notes to the European Union’s Appendix 1 to the Agreement, as well as by other relevant international agreements by which the Union is bound, contracting authorities should fulfil the obligations under these agreements by applying this Directive to economic operators of third countries that are signatories to the agreements.
- (9) The Agreement applies to contracts above certain thresholds, set in the Agreement and expressed as special drawing rights. The thresholds laid down by this Directive should be aligned to ensure that they correspond to the euro equivalents of the thresholds of the Agreement. Provision should also be made for periodic reviews of the thresholds expressed in euros so as to adjust them, by way of a purely mathematical operation, to possible variations in the value of the euro in relation to the special drawing right. Apart from these periodic mathematical adjustments, an increase of the thresholds set in the Agreement should be explored during the next round of negotiations
- (9a) It should be clarified that, for the estimation of the value of a contract, all revenues have to be taken into account, whether received from the contracting authority or from third parties.

It should also be clarified that, for the purpose of estimating the thresholds, the notion of similar supplies should be understood as products which are intended for identical or similar uses, e.g. supplies of a range of foods or of different items of office furniture. Typically, an economic operator being active in the field concerned would be likely to carry such supplies as part of his normal product range.

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<sup>10</sup> OJ L 336, 23.12.1994, p. 1.

- (9b) For the purposes of estimating the value of a given procurement, it should be clarified that it should be allowed to base the estimation of the value on a subdivision of the procurement only where this is justified by objective reasons. For instance, it could be justified to estimate contract values at the level of a separate operational unit of the contracting authority, such as for instance schools or kindergartens, provided that the unit in question is independently responsible for its procurement. This can be assumed where the separate operational unit independently runs the procurement procedures and makes the buying decisions, disposes of a separate budget line for the procurements concerned, concludes the contract independently and finances it from a budget over which it disposes. A subdivision is not justified where the contracting authority merely organises a procurement in a decentralised way.
- (10) The results of the Evaluation on the Impact and Effectiveness of EU Public Procurement Legislation<sup>11</sup> suggested that the exclusion of certain services from the full application of the Directive should be reviewed. As a result, the full application of this directive is extended to a number of services.
- (11) Certain categories of services continue by their very nature to have a limited cross-border dimension, namely such services that are known as services to the person, such as certain social, health and educational services. These services are provided within a particular context that varies widely amongst Member States, due to different cultural traditions. A specific regime should therefore be established for public contracts for these services, with a higher threshold of EUR 750 000.

Services to the person with values below this threshold will typically not be of interest to providers from other Member States, unless there are concrete indications to the contrary, such as Union financing for transborder projects.

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<sup>11</sup> SEC(2011) 853 final, 27.6.2011.

Contracts for services to the person above this threshold should be subject to Union-wide transparency. Given the importance of the cultural context and the sensitivity of these services, Member States should be given wide discretion to organise the choice of the service providers in the way they consider most appropriate. The rules of this directive take account of that imperative, imposing only observance of basic principles of transparency and equal treatment and making sure that contracting authorities are able to apply specific quality criteria for the choice of service providers, such as the criteria set out in the voluntary European Quality Framework for Social Services of the European Union's Social Protection Committee<sup>12</sup>. When determining the procedures to be used for the award of contracts for services to the person, Member States should keep Protocol (No 26) on Services of General Interest and Article 14 TFEU in mind. In so doing, Member States should also pursue the objectives of simplification and alleviating the administrative burden for contracting authorities and economic operators; it should be clarified that so doing might also entail relying on rules applicable to service contracts not subject to the specific regime.

Member States and/or public authorities remain free to provide these services themselves or to organise social services in a way that does not entail the conclusion of public contracts, for example through the mere financing of such services or by granting licences or authorisations to all economic operators meeting the conditions established beforehand by the contracting authority, without any limits or quotas, provided such a system ensures sufficient advertising and complies with the principles of transparency and non-discrimination.

(11a) Likewise, hotel and restaurant services are typically offered only by operators located in the specific place of delivery of these services and have therefore also a limited cross-border dimension. They should therefore only be covered by the particular regime set out for social and other specific services, as from a threshold of EUR 750 000. Large hotel and restaurant service contracts above this threshold may be of interest for various economic operators, such as travel agencies and other intermediaries, also on a cross-border basis.

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<sup>12</sup> SPC/2010/10/8 final, 6.10.2010.

- (11b) Similarly, certain legal services exclusively concern issues of purely national law and are therefore typically offered only by operators located in the Member State concerned and have consequently also a limited cross-border dimension. They should therefore only be covered by the particular regime set out for social and other specific services, as from a threshold of EUR 750 000. Large legal service contracts above this threshold may be of interest for various economic operators, such as international law firms, also on a cross-border basis, in particular where they involve legal issues arising from or having as its background EU or other international law or implicating more than one country.
- (11c) Experience has shown that a series of other services, such as rescue services, firefighting services and prison services normally only present a certain cross-border interest as of the moment where they acquire sufficient critical mass through their relatively high value. In so far as they are not excluded from the scope of the directive, they should be included under the particular regime set out for social and other specific services. To the extent that their provision is actually based on contracts, other categories of services, such as government services or the provision of services to the community, would normally only be likely to present a cross-border interest as of a threshold of EUR 750 000 and should consequently only be subject to the particular regime set out for social and other specific services.
- (11ca) In order to ensure continuity of public services this Directive should allow that participation in procurement procedures for certain services in the fields of health, social and cultural services could be reserved for organisations based on employee ownership or active participation in the governance and for existing organisations such as cooperatives to participate in delivering these services to end users. This provision is limited in scope exclusively to certain health, social and related services, certain education and training services, library, archives, museums and other cultural services, sporting services, and services for private households, and is not intended to cover any of the exclusions otherwise provided for by this Directive. Such procurement procedures shall be subject to the rules on publicity applicable to services in the light regime.



- (11d) It is appropriate to identify these services by reference to specific positions of the ‘Common Procurement Vocabulary (CPV)’ as adopted by Regulation (EC) No 2195/2002 , which is a hierarchically structured nomenclature, divided into divisions, groups, classes, categories and subcategories. To avoid legal uncertainty, it should be clarified that reference to a division does not implicitly entail a reference to subordinate subdivisions. Such comprehensive coverage should instead be set out explicitly by mentioning all the relevant positions, where appropriate as a range of codes.
- (12) Public contracts that are awarded by contracting authorities operating in the water, energy, transport and postal services sectors and fall within the scope of those activities are covered by Directive ... of the European Parliament and of the Council of ... on procurement by entities operating in the water, energy, transport and postal services sectors<sup>13</sup>. Contracts awarded by contracting authorities in the context of their operation of maritime, coastal or river transport services fall within the scope of this Directive.
- (13) Being addressed to Member States, this directive does not apply to procurement carried out by international organisations on their own behalf and for their own account. There is, however, a need to clarify to what extent this directive should be applied to procurement governed by specific international rules.

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- (13aa) The awarding of public contracts for certain audiovisual and radio media services by media providers should allow aspects of cultural or social significance to be taken into account which render application of procurement rules inappropriate. For these reasons, an exception must therefore be made for public service contracts, awarded by the media service providers themselves, for the purchase, development, production or co-production of off-the-shelf programmes and other preparatory services, such as those relating to scripts or artistic performances necessary for the production of the programme. It should also be clarified that this exclusion should apply equally to broadcast media services as well as on-demand services (non-linear services). However, this exclusion should not apply to the supply of technical equipment necessary for the production, co-production and broadcasting of such programmes.
- (13aab) It should be recalled that arbitration and conciliation services and other similar forms of alternative dispute resolution are usually provided by bodies or individuals which are agreed on, or selected, in a manner which cannot be governed by procurement rules [Cf. Recital 26 of Directive 2004/18/EC]. It should be clarified that the Directive should not apply to service contracts for the provision of such services, whatever their denomination under national law.
- (13a) A certain number of legal services are rendered by service providers that are designated by a court or tribunal of a Member State, involve representation of clients in judicial proceedings by lawyers, must be provided by notaries or are connected with the exercise of official authority. Such legal services are usually provided by bodies or individuals designated or selected in a manner which cannot be governed by procurement rules, such may for instance be the case for the designation of State Attorneys in certain Member States; they should consequently be excluded from the scope of this Directive.
- (13b) It is appropriate to specify that the notion of financial instruments as referred to in this Directive is given the same meaning as in other Internal Market legislation and, in view of the recent creation of the European Financial Stability Facility, it should be stipulated that operations conducted with that facility should be excluded from the scope of this Directive. It should finally be clarified that loans, whether or not these are in connection with the issue or other operations concerning securities or other financial instruments, should be excluded from the scope of the Directive.

(13c) It should be recalled that Article 5(1) of Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70<sup>14</sup> explicitly provides that Directives 2004/17/EC and 2004/18/EC apply to (public) service contracts for public passenger transport services by bus or tram, whereas the Regulation applies to service concessions for public passenger transport by bus or tram. It should furthermore be recalled that the Regulation continues to apply to (public) service contracts as well as service concessions for public passenger transport by railway or metro. To clarify the relations between this Directive and the Regulation, it should be provided explicitly that the provisions of this Directive should not be applicable to public service contracts for the provision of public passenger transport services by rail or metro, the award of which should continue to be subject to the provisions of the Regulation. Insofar as the Regulation leaves it to national law to depart from the rules laid down by it, Member States may continue to provide in their national law that public service contracts for public passenger transport services by rail or metro have to be awarded by a contract award procedure following their general public procurement rules.

(13ca) This Directive should not apply to certain emergency services where these are performed by non-profit organisations or associations, since the particular nature of these organisations would be difficult to preserve in case the service providers would have to be chosen in accordance with the procedures set out in this Directive. However, the exclusion should not be extended beyond the strict necessary; it should therefore be set out explicitly that patient transport ambulance services should not be excluded. In that context it is furthermore necessary to clarify that CPV Group 601 “Land Transport Services” does not cover ambulance services, to be found in CPV class 8514. It should therefore be clarified that services within CPV code 85143000-3 consisting exclusively of patient transport ambulance services should be subject to the light regime; consequently, contracts for the provision of ambulance services in general would also be subject to the light regime if the value of the patient transport ambulance services were greater than the value of other ambulance services;

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<sup>14</sup> OJ L 315, 3.12.2007, p. 1

(13cb) It is appropriate to recall that this Directive only applies to contracting authorities of Member States; consequently, political parties in general will not be subject to its provisions, not being contracting authorities. However, there may be political parties in some Member States which would fall within the notion of bodies governed by public law [...].

Certain services (such as propaganda film and video-tape production) are however so inextricably connected to the political views of the service provider when provided in the context of an election campaign, that the service providers are normally selected in a manner which cannot be governed by procurement rules.

Finally, it should be recalled that the statute and funding of European political parties and European political foundations are subject to other rules than those in this Directive.

(13d) In certain cases, a given contracting authority or a given association thereof may be the sole source for a given service, for the provision of which it enjoys an exclusive right pursuant to published laws, regulations or administrative provisions which are compatible with the Treaty. It should be clarified that a public service contract may be awarded to that contracting authority or association thereof without the Directive being applied.

(14) There is considerable legal uncertainty as to how far contracts concluded between entities within the public sector should be covered by public procurement rules. The relevant case-law of the Court of Justice of the European Union is interpreted differently between Member States and even between contracting authorities. It is therefore necessary to clarify in which cases contracts concluded within the public sector are not subject to the application of public procurement rules.

Such clarification should be guided by the principles set out in the relevant case-law of the Court of Justice. The sole fact that both parties to an agreement are themselves public authorities does not as such rule out the application of procurement rules. However, the application of public procurement rules should not interfere with the freedom of public authorities to perform the public service tasks conferred on them by using their own resources which includes the possibility of cooperation with other public authorities.

It should be ensured that any exempted public-public cooperation does not result in a distortion of competition in relation to private economic operators insofar as it places a private provider of services in a position of advantage vis-a-vis competitors.

(14aaaaa) Public contracts awarded to controlled legal persons should not be subject to the application of the procedures provided for by this Directive if the contracting authority exercises over the legal person concerned a control which is similar to that which it exercises over its own departments provided that the controlled legal person carries out more than 80% of its activities in the performance of tasks entrusted to it by the controlling contracting authority or by other legal persons controlled by that contracting authority, regardless of the beneficiary of the contract performance.

The exemption should not extend to situations where there is a direct participation by a private economic operator in the capital of the controlled legal person since, in such circumstances, the award of a public contract without a competitive procedure would provide the private economic operator with a capital presence in the controlled legal person an undue advantage over its competitors. However, in view of the particular characteristics of public bodies with compulsory membership, such as organisations responsible for the management or exercise of certain public services, this should not apply in cases where the participation of specific private economic operators in the capital of the controlled legal person is made compulsory by a national law provision in conformity with the Treaties, provided that such participation is non-controlling and non-blocking and does not confer a decisive influence on the decisions of the controlled legal person. It should further be clarified that the decisive element is only the direct private participation in the controlled legal person. Therefore where there is private capital participation in the controlling contracting authority or in the controlling contracting authorities this does not preclude the award of public contracts to the controlled legal person, without applying the procedures provided for by this Directive as such participations do not adversely affect competition between private economic operators.

It should also be clarified that contracting authorities such as bodies governed by public law, that may have private capital participation, should be in a position to avail themselves of the exemption for horizontal cooperation. Consequently, where all other conditions in relation to horizontal cooperation are met, the horizontal cooperation exemption should extend to such contracting authorities where the contract is concluded exclusively between contracting authorities.

(14aaaa) Contracting authorities may choose to provide jointly their public services by way of cooperation without being obliged to use any particular legal form. Such a cooperation may cover all types of activities related to the performance of services and responsibilities assigned to or assumed by the participating authorities, such as mandatory or voluntary tasks of local or regional authorities or services conferred upon specific bodies by public law. The services provided by the different participating authorities do not necessarily have to be identical; they might also be complementary.

Contracts for the joint provision of public services should not be subject to the application of the rules set out in this directive provided that they are concluded exclusively between contracting authorities, that the implementation of that cooperation is governed solely by considerations relating to the public interest and that no private service provider is placed in a position of advantage vis-à-vis its competitors.

In order to fulfil these conditions, the cooperation should be based on a cooperative concept. This does not require that all participating authorities assume the performance of main contractual obligations, as long as there are commitments to contribute towards the cooperative performance of the public service in question. In addition the implementation of the cooperation, including any financial transfers between the participating contracting authorities, has to be governed solely by considerations relating to the public interest.

- (14aaa) Certain cases exist where a legal entity acts, under the relevant provisions of national law, as an instrument or technical service to determined contracting authorities, and is obliged to carry out orders given to it by these contracting authorities and has no influence on the remuneration for its performance. In view of its non-contractual nature such a purely administrative relationship should not fall within the scope of public procurement procedures.
- (14a) The co-financing of research and development (R&D) programmes by industry sources should be encouraged; it should consequently be clarified that this Directive only applies where there is no such co-financing and where the outcome of the R&D activities go to the contracting authority concerned; this should not exclude that the service provider having carried out these activities could publish an account thereof as long as the contracting authority retains the exclusive right to use the outcome of the R&D in the conduct of its own affairs. However any fictitious sharing of the results of the R&D or any symbolic participation in the remuneration of the service provider will not prevent the application of this Directive.
- (14b) Employment and occupation contribute to integration in society and are key elements in guaranteeing equal opportunities for all. In this context, sheltered workshops can play a significant role. The same is true for other social businesses whose main aim is to support the social and professional integration or reintegration of disabled and disadvantaged persons, such as unemployed, members of disadvantaged minorities or otherwise socially marginalised groups. However, such workshops or businesses might not be able to obtain contracts under normal conditions of competition. Consequently, it is appropriate to provide that Member States should be able to reserve the right to participate in award procedures for public contracts or for certain lots thereof to such workshops or businesses or reserve performance of contracts to the context of sheltered employment programmes.

(14c) In view of an appropriate integration of environmental, social and labour requirements in public procurement procedures it is of particular importance that Member States and contracting authorities take relevant measures to ensure compliance with obligations in the fields of environmental, social and labour law that apply at the place where the works are executed or the services provided and result from laws, regulations, decrees and decisions, at both national and Union level, as well as from collective agreements, provided that such rules, and their application, comply with Union law. Equally, obligations stemming from international agreements ratified by all Member States and listed in Annex XI should apply during contract performance. However, this should in no way prevent the application of terms and conditions of employment which are more favourable to workers.

The relevant measures should be applied in conformity with the basic principles of European Union law, notably with a view to ensure equal treatment. Such relevant measures should be applied in accordance with Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services and in a way that ensures equal treatment and does not discriminate directly or indirectly against economic operators and workers from other Member States.

(14d) Services should be considered to be provided at the place at which the characteristic performances are executed; when services are provided at a distance, for example services provided by call centres, the services will be considered to be provided at the place where the services are executed, irrespective of the places and Member States to which the services are directed.

(14e) The relevant obligations could be mirrored in contract clauses. It should also be possible to include clauses ensuring compliance with collective agreements in compliance with Union law in public contracts. Non-compliance with the relevant obligations may be considered to be grave misconduct on the part of the economic operator concerned, liable to exclusion of that economic operator from the procedure for the award of a public contract.



- (14f) Control of the observance of these environmental, social and labour law provisions should be performed at the relevant stages of the procurement procedure, that is when applying the general principles governing the choice of participants and the award of contracts [Article 54], when applying the exclusion criteria [Article 55] and when applying the provisions concerning abnormally low tenders [Article 69]. The necessary verification for that purpose should be carried out in accordance with the relevant provisions of Title II, Chapter III, section 3 [Articles 54 to 69], of this Directive, in particular those governing means of proof and self-declarations.
- (14g) Nothing in this Directive should prevent the imposition or enforcement of measures necessary to protect public policy, public morality, public security, health, human and animal life, the preservation of plant life or other environmental measures, in particular with a view to sustainable development, provided that these measures are in conformity with the Treaty.
- (15) There is a great need for contracting authorities to have additional flexibility to choose a procurement procedure, which provides for negotiations. A greater use of these procedures is also likely to increase cross-border trade, as the evaluation has shown that contracts awarded by negotiated procedure with prior publication have a particularly high success rate of cross-border tenders. Member States should be able to provide for the use of the competitive procedure with negotiation or the competitive dialogue, in various situations where open or restricted procedures without negotiations are not likely to lead to satisfactory procurement outcomes. It should be recalled that use of the competitive dialogue has significantly increased in terms of contract values over the last years. It has shown itself to be of use in cases where contracting authorities are unable to define the means of satisfying their needs or of assessing what the market can offer in terms of technical, financial or legal solutions. This situation may arise in particular with innovative projects, the implementation of major integrated transport infrastructure projects, large computer networks or projects involving complex and structured financing. *Where relevant, contracting authorities should be encouraged to appoint a project leader to ensure good cooperation between the economic operators and the contracting authority during the award procedure.*

- (15a) For works contracts, such situations include works that are not standard buildings or where works includes design or innovative solution. For services or supplies that require adaptation or design efforts, the use of a competitive procedure with negotiation or competitive dialogue is likely to be of value. Such adaptation or design efforts are particularly necessary in the case of complex purchases such as sophisticated products, intellectual services, for example some consultancy services, architectural services or engineering services, or major ICT projects. In these cases, negotiations may be necessary to guarantee that the supply or service in question corresponds to the needs of the contracting authority. In respect of off-the shelf services or supplies that can be provided by many different operators on the market, the competitive procedure with negotiation and competitive dialogue should not be used.
- (15b) The competitive procedure with negotiation should also be available in cases where an open or restricted procedure resulted only in irregular or unacceptable tenders. In such cases, contracting authorities should be allowed to conduct negotiations with the aim of obtaining regular and acceptable tenders.
- (15c) The competitive procedure with negotiation should be accompanied by adequate safeguards ensuring observance of the principles of equal treatment and transparency. In particular, contracting authorities should indicate beforehand the minimum requirements which characterise the nature of the procurement and which should not be changed in the negotiations. Award criteria and their weighting should remain stable throughout the entire procedure and should not be subject to negotiations, in order to guarantee equal treatment of all economic operators. Negotiations should aim at improving the tenders so as to allow contracting authorities to buy works, supplies and services perfectly adapted to their specific needs. Negotiations may concern all characteristics of the purchased works, supplies and services including, for instance, quality, quantities, commercial clauses as well as social, environmental and innovative aspects, insofar as they do not constitute minimum requirements.

It should be clarified that the minimum requirements to be set by the contracting authority are those conditions and characteristics (particularly physical, functional and legal) that any tender should meet or possess pursuant to Article 54(1)(a) in order to allow the contracting authority to award the contract in accordance with the chosen award criterion. To ensure transparency and traceability of the process, all stages should be duly documented. Furthermore, all tenders throughout the procedure should be submitted in writing.

- (16a) Contracting authorities should be allowed to shorten certain deadlines applicable to open and restricted procedure and to competitive procedures with negotiation where the deadlines in question would be impracticable because of a state of urgency which should be duly substantiated by the contracting authorities. It should be clarified that this need not be an extreme urgency brought about by events unforeseeable for and not attributable to the contracting authority.
- (17) Research and innovation, including eco-innovation and social innovation, are among the main drivers of future growth and have been put at the centre of the Europe 2020 strategy for smart, sustainable and inclusive growth. Public authorities should make the best strategic use of public procurement to spur innovation. Buying innovative goods, works and services plays a key role in improving the efficiency and quality of public services while addressing major societal challenges.

It contributes to achieving best value for public money as well as wider economic, environmental and societal benefits in terms of generating new ideas, translating them into innovative products and services and thus promoting sustainable economic growth.

It should be recalled that a series of procurement models have been outlined in the Commission's communication of 14.12.2007 on pre-commercial procurement<sup>15</sup>, which deal with the procurement of those research and development services not falling within the scope of this Directive. Those models would continue to be available as hitherto, but this directive should also contribute to facilitating public procurement of innovation and help Member States in achieving the Innovation Union targets.

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<sup>15</sup> COM(2007) 799 final: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Pre-commercial Procurement: driving innovation to ensure sustainable high quality public services in Europe.

(17aa) Because of the importance of innovation, contracting authorities should be encouraged to allow variants as often as possible; their attention should consequently be drawn to the need of defining the minimum requirements to be met by variants before indicating that variants may be submitted.

(17a) Where a need for the development of an innovative product or service or innovative works and the subsequent purchase of the resulting supplies, services or works cannot be met by solutions already available on the market, contracting authorities should have access to a specific procurement procedure in respect of contracts falling within the scope of this Directive. This specific procedure should allow contracting authorities to establish a long-term innovation partnership for the development and subsequent purchase of a new, innovative product, service or works provided that such innovative product or service or innovative works can be delivered to agreed performance levels and costs, without the need for a separate procurement procedure for the purchase. The Innovation partnership should be based on the procedural rules that apply to the competitive procedure with negotiation and contracts should be awarded on the sole basis of the best price quality ratio, which is most suitable for comparing tenders for innovative solutions. Whether in respect of very large projects or smaller innovative projects, the innovation partnership should be structured in such a way that it can provide the necessary ‘market-pull’, incentivising the development of an innovative solution without foreclosing the market.

Contracting authorities should consequently not use innovation partnerships in such a way as to prevent, restrict or distort competition; in certain cases, setting up innovation partnerships with several partners could contribute to avoiding such effects.

(18) In view of the detrimental effects on competition, negotiated procedures without prior publication of a contract notice should only be used in very exceptional circumstances. This exception should be limited to cases where publication is either not possible, for reasons of extreme urgency brought about by events unforeseeable for and not attributable to the contracting authority, or where it is clear from the outset that publication would not trigger more competition or better procurement outcomes, not least because there is objectively only one economic operator that can perform the contract. This is the case for works of art,

where the identity of the artist intrinsically determines the unique character and value of the art object itself. Exclusivity can also arise from other reasons, but only situations of objective exclusivity can justify the use of the negotiated procedure without publication, where the situation of exclusivity has not been created by the contracting authority itself with a view to the future procurement procedure.

Contracting authorities relying on this exception should provide reasons why there are no reasonable alternatives or substitutes such as using alternative distribution channels including outside the Member State of the contracting authority or considering functionally comparable works, supplies and services.

Where the situation of exclusivity is due to technical reasons, these should be rigorously defined and justified on a case-by-case basis. They could include, for instance, near technical impossibility for another economic operator to achieve the required performance or the necessity to use specific know-how, tools or means which only one economic operator has at its disposal. Technical reasons may also derive from specific interoperability requirements which must be fulfilled in order to ensure the functioning of the works, supplies or services to be procured.

Finally, a procurement procedure is not useful where supplies are purchased directly on a commodity market, including trading platforms for commodities such as agricultural goods, raw materials and energy exchanges, where the regulated and supervised multilateral trading structure naturally guarantees market prices.

(18a) It should be clarified that the provisions concerning protection of confidential information do not in any way *prevent public disclosure of non-confidential parts of concluded contracts, including any subsequent changes.* [Am. 92]

(19) Electronic means of information and communication can greatly simplify the publication of contracts and increase the efficiency and transparency of procurement processes. They should become the standard means of communication and information exchange in procurement procedures, as they greatly enhance the possibilities of economic operators to participate in procurement procedures across the Internal Market. For that purpose, transmission of notices in electronic form, electronic availability of the procurement documents and – after a transition period of thirty months – fully electronic communication, meaning communication by electronic means at all stages of the procedure, including the transmission of requests for participation and, in particular, the transmission of the tenders (e-submission) should be made mandatory. Member States and contracting authorities should remain free to go further if they so wish. It should also be clarified that mandatory use of electronic means of communications pursuant to this Directive should not, however, oblige contracting authorities to carry out electronic processing of tenders, nor should it mandate electronic evaluation or automatic processing. Furthermore, pursuant to this Directive, no elements of the public procurement process after the award of the contract should be covered by the obligation to use electronic means of communication nor should internal communication within the contracting authority.

(19a) Contracting authorities should, except in certain specific situations, use electronic means of communication which are non-discriminatory, generally available and interoperable with the information and communication technology products in general use and do not restrict economic operators' access to the procurement procedure. Such means of communication should also take accessibility for persons with disabilities into due account.

It should be clarified that the obligation to use electronic means at all stages of the public procurement procedure would not be appropriate where the use of electronic means would require specialised tools or file formats that are not generally available nor where the communications concerned could only be handled using specialised office equipment. Contracting authorities should therefore not be obliged to require the use of electronic means of communication in the submission process in certain cases, which should be listed exhaustively. The Directive should stipulate that such cases should include situations which would require the use of specialised office equipment not generally available to the contracting authorities such as wide-format printers. In some procurement procedures the procurement documents may require the submission of a physical or scale model which cannot be submitted to the contracting authorities using electronic means. In such situations, the model should be transmitted to the contracting authorities by post.

It should however be clarified that the use of other means of communication should be limited to those elements of the tender for which electronic means of communications are not required.

It is appropriate to clarify that, where necessary for technical reasons, contracting authorities should be able to set a maximum limit to the size of the files that may be submitted.

(19aa) There may be exceptional cases in which contracting authorities should be allowed not to use electronic means of communication where so doing would be necessary in order to protect the particularly sensitive nature of information. It should be clarified that where the use of electronic tools which are not generally available can offer the necessary level of protection, such electronic tools should be used. Such may for instance be the case where contracting authorities require the use of dedicated secure means of communication to which they offer access as provided for in Article 19(4).

- (19b) Differing technical formats or processes and messaging standards could potentially create obstacles to interoperability, not only within each Member State but also and especially between the Member States. For example, in order to participate in a procurement procedure in which use of electronic catalogues, which is a format for the presentation and organisation of information in a manner that is common to all the participating bidders and which lends itself to electronic treatment, is permitted or required, economic operators would, in the absence of standardisation, be required to customise their own catalogues to each procurement procedure, which would entail providing very similar information in different formats depending on the specifications of the contracting authority concerned. Standardising the catalogue formats would thus improve the level of interoperability, enhance efficiency and would also - and perhaps above all - reduce the effort required of economic operators.
- (19c) When considering whether there is a need to ensure or enhance interoperability between differing technical formats or process and messaging standards by rendering the use of specific standards mandatory, and if so which standards to impose, the Commission should take the utmost account of the opinions of the stakeholders concerned. It should also consider the extent to which a given standard has already been used in practice by economic operators and contracting authorities and how well it has worked; before making use of any technical standard mandatory, the Commission should also carefully consider the costs that this may entail, in particular in terms of adaptations to existing e-procurement solutions, including infrastructure, processes or software. Where the standards concerned are not developed by an international, European or national standardisation organisation, they should meet the requirements applicable to ICT standards as set out in Regulation (EU) 1025/2012 on European standardisation.



- (19d) Before specifying the level of security required for the electronic means of communications to be used at the various stages of the award procedure, Member States and contracting authorities should evaluate the proportionality between on the one hand the requirements aimed at ensuring correct and reliable identification of the senders of the communication concerned as well as the integrity of its content and on the other hand the risk of problems e. g. in situations where messages are sent by a different sender than the one indicated. All other things being equal, this would mean that the level of security required of, for instance, an email requesting confirmation of the exact address at which an information meeting will be held would not need to be set at the same level as for the tender itself which constitutes a binding offer for the economic operator. Similarly, the evaluation of proportionality could result in lower levels of security being required in connection with the resubmission of electronic catalogues or the submission of tenders in the context of mini-competitions under a framework agreement or the access to procurement documents.
- (19e) While essential elements of a procurement procedure such as the procurement documents, requests for participation, confirmation of interest and tenders should always be made in writing, oral communication with economic operators should otherwise continue to be possible, provided that its content is documented to a sufficient degree. This is necessary to ensure an adequate level of transparency that allows for a verification of whether the principle of equal treatment has been adhered to. In particular, it is essential that oral communications with tenderers which could have an impact on the content and assessment of the tenders be documented to a sufficient extent and by appropriate means, such as written or audio records or summaries of the main elements of the communication.
- (20) There is a strong trend emerging across Union public procurement markets towards the aggregation of demand by public purchasers, with a view to obtaining economies of scale, including lower prices and transaction costs, and to improving and professionalising procurement management. This can be achieved by concentrating purchases either by the number of contracting authorities involved or by volume and value over time. However, the aggregation and centralisation of purchases should be carefully monitored in order to avoid excessive concentration of purchasing power and collusion, and to preserve transparency and competition, as well as market access opportunities for small and medium-sized enterprises.

(21) The instrument of framework agreements has been widely used and is considered as an efficient procurement technique throughout Europe. It should therefore be maintained largely as is. However, certain aspects need to be clarified, in particular that framework agreements should not be used by contracting authorities which are not identified in it; for that purpose, the contracting authorities that are parties to a specific framework agreement from the outset should be clearly indicated, either by name or by other means, such as a reference to a given category of contracting authorities within a clearly delimited geographical area, so that the contracting authorities concerned can be easily and unequivocally identified. Likewise, a framework agreement should not be open to entry of new economic operators once it has been concluded. This implies for instance that where a central purchasing body uses an overall register of the contracting authorities or categories thereof, such as the local authorities in a given geographical area, that are entitled to have recourse to framework agreements it concludes, that central purchasing body should do so in a way that makes it possible to verify not only the identity of the contracting authority concerned but also the date from which it acquires the right to have recourse to the framework agreement concluded by the central purchasing body as that date determines which specific framework agreements that contracting authority should be allowed to use.

(21a) The objective conditions for determining which of the economic operators, party to the framework agreement, should perform a given task, such as supplies or services intended for use by natural persons, may, in the context of framework agreements setting out all the terms, include the needs or the choice of the natural persons concerned.

Contracting authorities should be given additional flexibility when procuring under framework agreements, which are concluded with more than one economic operator and which set out all the terms.

In such cases, contracting authorities should be allowed to obtain specific works, supplies or services, that are covered by the framework agreement, either by requiring them from one of the economic operators, determined in accordance of objective criteria and on the terms already set out, or by awarding a specific contract for the works, supplies or services concerned following a mini-competition among the economic operators parties to the framework agreement. To ensure transparency and equal treatment, contracting authorities should indicate in the procurement documents for the framework agreement the objective criteria that will govern the choice between these two methods of performing the framework agreement. Such criteria could for instance relate to the quantity, value or characteristics of the works, supplies or services concerned, including the need for a higher degree of service or an increased security level, or to developments in price levels compared to a predetermined price index. Framework agreements should not be used improperly or in such a way as to prevent, restrict or distort competition. Contracting authorities are not obliged pursuant to this Directive to procure works, supplies or services that are covered by a framework agreement, under this framework agreement.

(21aa) It should also be clarified that while contracts based on a framework agreement are to be awarded before the end of the term of the framework agreement itself, the duration of the individual contracts based on a framework agreement does not need to coincide with the duration of that framework agreement, but may, as appropriate, be shorter or longer. In particular, it should be allowed to set the length of individual contracts based on a framework agreement taking account of factors such as the time needed for their performance; where maintenance of equipment with an expected useful life of more than four years is included or where extensive training of staff to perform the contract is needed.

It should also be clarified that there may be exceptional cases in which the length of the framework agreements themselves should be allowed to be longer than four years. Such cases, which should be duly justified, in particular by the subject of the framework agreement, may arise for instance where economic operators need to dispose of equipment for which the amortisation period is longer than four years and which must be available at any time over the entire duration of the framework agreement.

- (22) In view of the experience acquired, there is also a need to adjust the rules governing dynamic purchasing systems to enable contracting authorities to take full advantage of the possibilities afforded by that instrument. The systems need to be simplified, in particular they should be operated in the form of a restricted procedure, hence eliminating the need for indicative tenders, which have been identified as one of the major burdens associated with dynamic purchasing systems. Thus any economic operator that submits a request to participate and meets the selection criteria should be allowed to take part in procurement procedures carried out through the dynamic purchasing system over its period of validity. This purchasing technique allows the contracting authority to have a particularly broad range of tenders and hence to ensure optimum use of public funds through broad competition in respect of commonly used or off-the-shelf goods or services which are generally available on the market.
- (22a) The examination of these requests to participate should normally be performed within a maximum of 10 working days, given that the evaluation of the selection criteria will take place on the basis of the simplified requirements for documentation that are set out in this Directive. However, when a dynamic purchasing system is first set up, contracting authorities may, in response to the first publication of the contract notice or the invitation to confirm interest, be faced with such a large number of requests for participation that they may need more time to examine the requests. This should be admissible, provided that no specific procurement is launched as long as all the requests have not been examined. Contracting authorities should be free to organise the way in which they intend to examine the requests for participation, for instance by deciding to conduct such examinations only once a week, provided the deadlines for the examination of each request of admission are observed.
- (22b) At any time during the period of validity of the dynamic purchasing system contracting authorities should be free to require economic operators to submit a renewed and updated self-declaration on the fulfilment of criteria for qualitative selection, within an adequate time limit. It should be recalled that the possibility foreseen in the general provisions on means of proof of this directive to ask economic operators to submit supporting documents and the obligation to do so of the tenderer to which it has decided to award the contract also apply in the particular context of dynamic purchasing systems.

(22c) In order to further the possibilities of SMEs to participate in a large-scale dynamic purchasing system, for instance one that is operated by a central purchasing body, the contracting authority concerned should be able to articulate the system in objectively defined categories of products, works or services. Such categories should be defined by reference to objective factors which may for instance include the maximum allowable size of specific contracts to be awarded within the category concerned or a specific geographic area in which subsequent specific contracts are to be performed. Where a dynamic purchasing system is divided into categories, the contracting authority should apply selection criteria that are proportional to the characteristics of the category concerned.

(22d) It should be clarified that electronic auctions are typically not suitable for certain public works contracts and certain public service contracts having as their subject-matter intellectual performances, such as the design of works, because only the elements suitable for automatic evaluation by electronic means, without any intervention and/or appreciation by the contracting authority, namely elements which are quantifiable so that they can be expressed in figures or percentages, may be the object of electronic auctions.

It should, however, also be clarified that electronic auctions may be used in a procurement procedure for the purchase of a specific intellectual property right. It is also appropriate to recall that while contracting authorities remain free to reduce the number of candidates or tenderers in accordance with Articles 64 and 65 as long as the auction has not yet started, no further reduction of the number of tenderers participating in the electronic auction should be allowed after the auction has started.

(23) In addition, new electronic purchasing techniques are constantly being developed, such as electronic catalogues. Electronic catalogues are a format for the presentation and organisation of information in a manner that is common to all the participating bidders and which lends itself to electronic treatment; an example could be tenders presented in the form of a spreadsheet. Contracting authorities may require electronic catalogues in all available procedures where the use of electronic means of communication is required. Electronic catalogues help to increase competition and streamline public purchasing, particularly in terms of savings in time and money. Certain rules should however be laid down to ensure that the use of the new techniques complies with the rules of this Directive and the principles of equal treatment, non-discrimination and transparency. Thus, use of electronic catalogues for the presentation of tenders should not entail that economic operators may limit themselves to the transmission of their general catalogue. Economic operators should still have to adapt their general catalogues in view of the specific procurement procedure. Such adaptation will ensure that the catalogue that is transmitted in response to a given procurement procedure only contains products, works or services that the economic operators estimated - after an active examination - correspond to the requirements of the contracting authority. In so doing, economic operators should be allowed to copy information contained in their general catalogue, but they should not be allowed to submit the general catalogue as such.

Furthermore, where sufficient guarantees are offered in respect of ensuring traceability, equal treatment and predictability, contracting authorities should be allowed to generate tenders in relation to specific purchases on the basis of previously transmitted electronic catalogues, in particular where competition has been reopened under a framework agreement or where a dynamic purchasing system is being used.

Where tenders have been generated by the contracting authority, the economic operator concerned should be given the possibility to verify that the tender thus constituted by the contracting authority does not contain any material errors. Where material errors are present, the economic operator should not be bound by the tender generated by the contracting authority unless the error is corrected.

In line with the requirements of the rules for electronic means of communication, contracting authorities should avoid unjustified obstacles to economic operators' access to procurement procedures in which tenders are to be presented in the form of electronic catalogues and which guarantee compliance with the general principles of non-discrimination and equal treatment.

- (24) Centralised purchasing techniques are increasingly used in most Member States. Central purchasing bodies are responsible for making acquisitions, managing dynamic purchasing systems or awarding public contracts/framework agreements for other contracting authorities, with or without remuneration. The contracting authorities for whom a framework agreement is concluded should be able to use it for individual or repetitive purchases. In view of the large volumes purchased, such techniques may help increase competition and should professionalise public purchasing. Provision should therefore be made for a Union definition of central purchasing bodies dedicated to contracting authorities and it should be clarified that central purchasing bodies operate in two different manners.

Firstly, they should be able to act as wholesalers by buying, stocking and reselling or, secondly, as intermediaries by awarding contracts, operating dynamic purchasing systems or concluding framework agreements to be used by contracting authorities. Such intermediary role might in some cases be carried out by conducting the relevant award procedures autonomously, without detailed instructions from the contracting authorities concerned; in other cases, by conducting the relevant award procedures under the instructions of the contracting authorities concerned, on their behalf and for their account.

Furthermore, rules should be laid down for allocating responsibility for the observance of the obligations pursuant to this Directive, among the central purchasing body and the contracting authorities procuring from or through the central purchasing body. Where the latter has sole responsibility for the conduct of the procurement procedures, it should also be solely and directly responsible for the legality of the procedures. Where a contracting authority conducts certain parts of the procedure, for instance the reopening of competition under a framework agreement or the award of individual contracts based on a dynamic purchasing system, it should continue to be responsible for the stages it conducts.

(24a) Contracting authorities should be allowed to award a public service contract for the provision of centralised purchasing activities to a central purchasing body without applying the procedures provided for in this Directive; it should also be permitted that such public service contracts include the provision of ancillary purchasing activities. Public service contracts for the provision of ancillary purchasing activities should, when performed otherwise than by a central purchasing body in connection with its provision of central purchasing activities to the contracting authority concerned, be awarded in accordance with the provisions of this Directive. It should also be recalled that this Directive should not apply where centralised or ancillary purchasing activities are provided other than through a contract for pecuniary interest which constitutes procurement within the meaning of this Directive.

(24b) Strengthening the provisions concerning central purchasing bodies should in no way prevent the current practices of occasional joint procurement, i. e. less institutionalised and systematic common purchasing or the established practice of having recourse to service providers that prepare and manage procurement procedures on behalf and for the account of a contracting authority and under its instructions.

On the contrary, certain features of joint procurement should be clarified because of the important role joint procurement may play, not least in connection with innovative projects.

Joint procurement may take many different forms, ranging from coordinated procurement through the preparation of common technical specifications for works, supplies or services that will be procured by a number of contracting authorities, each conducting a separate procurement procedure, to situations where the contracting authorities concerned jointly conduct one procurement procedure either by acting together or by entrusting one contracting authority with the management of the procurement procedure on behalf of all contracting authorities.

Where different contracting authorities are jointly conducting a procurement procedure, they should be jointly responsible for fulfilling their obligations under this Directive. However, where only parts of the procurement procedure are jointly conducted by the contracting authorities, joint responsibility should only apply to those parts of the procedure that have been carried out together. Each contracting authority should be solely responsible in respect of procedures or parts of procedures it conducts on its own, such as the awarding of a



contract, the conclusion of a framework agreement, the operation of a dynamic purchasing system, the reopening of competition under a framework agreement or the determination of which of the economic operators party to a framework agreement shall perform a given task.

- (25) Electronic means of communication are particularly well suited to support centralised purchasing practices and tools because of the possibility they offer to re-use and automatically process data and to minimise information and transaction costs. The use of such electronic means of communication should therefore, as a first step, be rendered compulsory for central purchasing bodies, while also facilitating converging practices across the Union. This should be followed by a general obligation to use electronic means of communication in all procurement procedures after a transition period of thirty months.
- (26) Joint awarding of public contracts by contracting authorities from different Member States currently encounters specific legal difficulties concerning conflicts of national laws. Despite the fact that Directive 2004/18/EC implicitly allowed for cross-border joint public procurement, contracting authorities are still facing considerable legal and practical difficulties in purchasing from central purchasing bodies in other Member States or jointly awarding public contracts. In order to allow contracting authorities to derive maximum benefit from the potential of the internal market in terms of economies of scale and risk-benefit sharing, not least for innovative projects involving a greater amount of risk than reasonably bearable by a single contracting authority, these difficulties should be remedied. Therefore new rules on cross-border joint procurement should be established in order to facilitate cooperation between contracting authorities and enhancing the benefits from the internal market by creating cross-border business opportunities for suppliers and service providers. Those rules should determine the conditions for cross-border utilisation of central purchasing bodies and designate the applicable public procurement legislation, including the applicable legislation on remedies, in cases of cross-border joint procedures, complementing the conflict of law rules of Regulation (EC) No 593/2008 of the European Parliament and the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I)<sup>16</sup>
- In addition, contracting authorities from different Member States may set up joint legal bodies established under national or Union law. Specific rules should be established for such form of joint procurement.

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<sup>16</sup> OJ L 177, 4.7.2008, p. 6.

However, contracting authorities should not make use of the possibilities for cross-border joint procurement for the purpose of circumventing mandatory public law rules, in conformity with Union law, which are applicable to them in the Member State where they are located. Such rules may include, for example, provisions on transparency and access to documents or specific requirements for the traceability of sensitive supplies.

- (27) The technical specifications drawn up by public purchasers need to allow public procurement to be *open to competition as well as to achieve objectives of sustainability*. To that end, it must be possible to submit tenders that reflect the diversity of technical solutions *standards and technical specifications in the marketplace, including those drawn up on the basis of performance criteria linked to the life cycle and the sustainability of the production process of the works, supplies and services*.

Consequently, technical specifications should be drafted in such a way to avoid artificially narrowing down competition through requirements that favour a specific economic operator by mirroring key characteristics of the supplies, services or works habitually offered by that economic operator. Drawing up the technical specifications in terms of functional and performance requirements generally allows this objective to be achieved in the best way possible. Functional and performance related requirements are also appropriate means to favour innovation in public procurement and should be used as widely as possible. Where reference is made to a European standard or, in the absence thereof, to a national standard, tenders based on equivalent arrangements should be considered by contracting authorities. It should be the responsibility of the economic operator to prove equivalence with the requested label.

To prove equivalence, tenderers can be required to provide third-party verified evidence; however, other appropriate means of proof such as a technical dossier of the manufacturer should also be allowed where the economic operator concerned has no access to such certificates or test reports, or no possibility of obtaining them within the relevant time limits, *provided that the economic operator concerned thereby proves that the works, supplies or services meet the requirements or criteria set out in the technical specifications, the award criteria or the contract performance conditions*.

(28) Contracting authorities that wish to purchase works, supplies or services with specific environmental, social or other characteristics should be able to refer to particular labels, such as the European Eco-label, (multi-)national eco-labels or any other label provided that the requirements for the label are linked to the subject-matter of the contract, such as the description of the product and its presentation, including packaging requirements. It is furthermore essential that these requirements are drawn up and adopted on the basis of objectively verifiable criteria, using a procedure in which stakeholders, such as government bodies, consumers, manufacturers, distributors and environmental organisations, can participate, and that the label is accessible and available to all interested parties. It should be clarified that stakeholders could be public or private bodies, businesses or any sort of non-governmental organizations (organizations that are not a part of a government and are not conventional businesses).

It should equally be clarified that *specific national or government bodies or organizations* may be involved in setting up label requirements that may be used in connection with procurement by public authorities without these bodies or organizations losing their status as third parties.

It should be avoided that references to labels would have the effect of restricting innovation.

(27a) For all procurement intended for use by persons, whether general public or staff of the contracting authority, it is necessary that contracting authorities lay down technical specifications so as to take into account accessibility criteria for people with disabilities or design for all users, except in duly justified cases.

(29a) When drawing up technical specifications, contracting authorities should take into account *requirements ensuing from Union law in the field of data protection law, notably in relation to the design of the processing of personal data (data protection by design).*

(30) Public procurement should be adapted to the needs of small and medium-sized enterprises (SMEs). Contracting authorities should be encouraged to make use of the Code of Best Practices set out in the Commission Staff Working Document of 25 June 2008 entitled 'European Code of Best Practices Facilitating Access by SMEs to Public Procurement Contracts'<sup>17</sup>, providing guidance on how they may apply the public procurement framework in a way that facilitates SME participation. To that end and to enhance competition, contracting authorities should in particular be encouraged to divide large contracts into lots. Such division could be done on a quantitative basis, making the size of the individual contracts better correspond to the capacity of SMEs, or on a qualitative basis, in accordance with the different trades and specialisations involved, to adapt the content of the individual contracts more closely to the specialised sectors of SMEs and/or in accordance with different subsequent project phases.

The size and subject-matter of the lots should be determined freely by the contracting authority, which, in accordance with the relevant rules on the calculation of the estimated value of procurement, should also be allowed to award some of the lots without applying the procedures of this Directive. The contracting authority should have a duty to consider the appropriateness of dividing contracts into lots while remaining free to decide autonomously on the basis of any reason it deems pertinent, without being subject to administrative or judicial supervision. Where the contracting authority decides that it would not be appropriate to divide the contract into lots, the individual report or the procurement documents should contain an indication of the main reasons for the contracting authority's choice. Such reasons could for instance be that the contracting authority finds that such division could risk restricting competition, or risk rendering the execution of the contract excessively technically difficult or expensive, or that the need to coordinate the different contractors for the lots could seriously risk undermining the proper execution of the contract.

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<sup>17</sup> *SEC(2008)2193*.

Member States should remain free to go further in their efforts to facilitate the involvement of SMEs in the public procurement market, by extending the scope of the obligation to consider the appropriateness of dividing contracts into lots to smaller contracts, by requiring contracting authorities to provide a justification for a decision not to divide contracts into lots or by rendering a division into lots obligatory under certain conditions. With the same purpose, Member States should also be free to provide mechanisms for direct payments to subcontractors.

(30a) Where contracts are divided into lots, contracting authorities should, for instance in order to preserve competition or to ensure reliability of supply, be allowed to limit the number of lots for which an economic operator may tender; they should also be allowed to limit the number of lots that may be awarded to any one tenderer.

However, the objective of facilitating greater access to public procurement by SMEs might be hampered if contracting authorities would be obliged to award the contract lot by lot even where this would entail having to accept substantially less advantageous solutions compared to an award grouping several or all of the lots. Where the possibility to apply such a method has been clearly indicated beforehand, it should therefore be possible for contracting authorities to conduct a comparative assessment of the tenders in order to establish whether the tenders submitted by a particular tenderer for a specific combination of lots would, taken as whole, fulfil the award criteria set out pursuant to Article 66 with regard to these lots better than the tenders for the individual lots concerned seen in isolation. If so, then the contracting authority should be allowed to award a contract combining the lots in question to the tenderer concerned. It should be clarified that contracting authorities should conduct such a comparative assessment by first determining which tenders best fulfil the award criteria set out pursuant to Article 66 for each individual lot and then comparing it with the tenders submitted by a particular tenderer for a specific combination of lots, taken as whole.

(30b) In order to make procedures faster and more efficient, time limits for participation in procurement procedures should be kept as short as possible without creating undue barriers to access for economic operators from across the Internal Market and in particular SMEs. It should therefore be kept in mind that, when fixing the time limits for the receipt of tenders and requests to participate, contracting authorities should take account in particular of the complexity of the contract and the time required for drawing up tenders, even if this entails setting time limits that are longer than the minima provided for under this Directive. Use of electronic means of information and communication, in particular full electronic availability to economic operators, tenderers and candidates of procurement documents and electronic transmission of communications does on the other hand lead to increased transparency and time savings. Therefore, provision should be made for reducing the minimum time limits in line with the rules set by the Agreement and subject to the condition that they are compatible with the specific mode of transmission envisaged at Union level. Furthermore, contracting authorities should have the opportunity to further shorten the time limits for receipt of requests to participate and of tenders in cases where a state of urgency renders the regular time limits impracticable, but does not make a regular procedure with publication impossible. Only in exceptional situations where extreme urgency brought about by events unforeseeable by the contracting authority concerned that are not attributable to that contracting authority makes it impossible to conduct a regular procedure even with shortened time limits, contracting authorities should, insofar as strictly necessary, have the possibility to award contracts by negotiated procedure without prior publication. This may be case where natural catastrophes require immediate action.

(30ba) It should be clarified that the need to ensure that economic operators dispose of sufficient time in which to draw up responsive tenders may entail that the time limits which were set initially may have to be prolonged. Such would in particular be the case where significant changes are made to the procurement documents. It should also be specified that, in this context, significant changes should be understood as covering changes, in particular to the technical specifications, in respect of which economic operators would need to dispose of additional time in order to understand and respond appropriately. It should, however, be clarified that such changes should not be so substantial that the admission of other candidates than those initially selected would have been allowed for or additional participants in the procurement procedure would have been attracted; such could in particular be the case where the changes renders the contract or the framework agreement materially different in character from the one initially set out in the procurement documents.

(30c) It should be clarified that the information concerning certain decisions taken during a procurement procedure, including the decision not to award a contract or conclude a framework agreement should be sent by the contracting authorities, without candidates or tenderer having to request such information. It should also be recalled that Directive 89/665/EEC provides for an obligation for contracting authorities, again without candidates or tenderer having to request it, to provide the concerned candidates and tenderers with a summary of the relevant reasons for some of the central decisions that are taken in the course of a procurement procedure. It should finally be clarified that candidates and tenderers should be enabled to request more detailed information concerning these reasons, which contracting authorities should be required to give except where there would be serious grounds for not doing so.

These grounds should be set out in the Directive. To ensure the necessary transparency in the context of procurement procedures involving negotiations and dialogues with tenderers, tenderers having made an admissible tender should, within the same limits, also be enabled to request information on the conduct and progress of the procedure.

- (31) Overly demanding requirements concerning economic and financial capacity frequently constitute an unjustified obstacle to the involvement of SMEs in public procurement. Any such requirements should be related and proportionate to the subject-matter of the contract. In particular, contracting authorities should not be allowed to require economic operators to have a minimum turnover that would be disproportionate to the subject-matter of the contract; the requirement should normally not exceed at the most two times the estimated contract value. However, in duly justified circumstances, higher requirements may be applied. Such circumstances may relate to the high risks attached to the performance of the contract or the fact that its timely and correct performance is critical, for instance because it constitutes a necessary preliminary for the performance of other contracts.

In such duly justified cases contracting authorities remain free to decide autonomously whether higher minimum turnover requirements would be appropriate and pertinent without being subject to administrative or judicial supervision. Where higher minimum turnover requirements are to be applied, contracting authorities should remain free to set the level as long as it is related and proportionate to the subject-matter of the contract. Where the contracting authority decides that the minimum turnover requirement should be set at a higher level than two times the estimated contract value, the individual report or the procurement documents should contain an indication of the main reasons for the contracting authority's choice.

Contracting authorities may also request information on the ratio, for instance, between assets and liabilities in the annual accounts. A positive ratio showing higher levels of assets than of liabilities could provide additional evidence that the financial capacity of economic operators is sufficient.

- (32) Many economic operators, and not least SMEs, find that a major obstacle to their participation in public procurement consists in administrative burdens deriving from the need to produce a substantial number of certificates or other documents related to exclusion and selection criteria. Limiting such requirements, for example through use of a European Single Procurement Document consisting of an updated self-declaration, could result in considerable simplification for the benefit of both contracting authorities and economic operators.



The tenderer to which it has been decided to award the contract should, however, be required to provide the relevant evidence and contracting authorities should not conclude contracts with tenderers unable to do so. Contracting authorities should also be entitled to request all or part of the supporting documents at any moment where they consider this to be necessary in view of the proper conduct of the procedure. This might in particular be the case in two-stage procedure – restricted procedures, competitive procedures with negotiation, competitive dialogues and innovation partnerships - in which the contracting authorities make use of the possibility to limit the number of candidates invited to submit a tender. Requiring submission of the supporting documents at the moment of selection of the candidates to be invited could be justified to avoid that contracting authorities invite candidates which prove unable to submit the supporting documents at the award stage, depriving otherwise qualified candidates from participation.

It should be set out explicitly that the European Single Procurement Document should also provide the relevant information in respect of entities on whose capacities an economic operator relies, so that the verification of the information regarding such entities can be carried out together with and on the same conditions as the verification in respect of the main economic operator.

(32a) It is important that the decisions of contracting authorities should be based on recent information, in particular as regards exclusion grounds, given that important changes may intervene quite rapidly, for instance in case of financial difficulties which would render the economic operator unsuitable or, conversely, because an outstanding debt on social contributions would meanwhile have been paid. It is therefore preferable that, whenever possible, contracting authorities should verify such information by accessing relevant databases, which should be national in the sense of being administered by public authorities. At the current stage of development, there may still be cases where doing so might not yet be possible because of technical reasons; consequently, the Commission should envisage promoting measures that could facilitate easy recourse to up-to-date information electronically, such as strengthening tools offering access to virtual company dossiers, or means of facilitating interoperability between databases or other such flanking measures.

It should also be provided that contracting authorities should not ask for – still up-to-date – documents, which they already possess from earlier procurement procedures. However, it should also be ensured that contracting authorities will not be faced with disproportionate archiving and filing burdens in this context; consequently, implementation of this duty should only be applicable once the use of electronic means of communication is obligatory as electronic document management will render the task much easier for contracting authorities.

- (32aa) Further simplification for both economic operators and contracting authorities could be obtained by means of a standard form for self-declarations, which could reduce problems linked to the precise drafting of formal statements and declarations of consent as well as language issues.

The Commission should be empowered to adopt these by implementing acts. The examination procedure should be used for the adoption of these standard forms given that there is a need to ensure uniform conditions of application of the European Single Procurement Document and taking into account the impact of the implementing act, since the European Single Procurement Document should play a central role in the simplification of the documentary requirements in procurement procedures.

- (33) The Commission provides and manages an electronic system — e-Certis, which is currently updated and verified on a voluntary basis by national authorities. The aim of e-Certis is to facilitate the exchange of certificates and other documentary evidence frequently required by contracting authorities. Experience acquired so far indicates that voluntary updating and verification is insufficient to ensure that e-Certis can deliver its full potential for simplifying and facilitating documentary exchanges for the benefit of small and medium-sized enterprises in particular. Maintenance should therefore be rendered obligatory in a first step; recourse to e-Certis will be made mandatory at a later stage.

(36) Contracting authorities may require that environmental management measures or schemes are to be applied during the performance of a public contract. Environmental management schemes, whether or not they are registered under Union instruments such as Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)<sup>18</sup>, can demonstrate that the economic operator has the technical capability to perform the contract. This includes Ecolabel certificates involving environmental management criteria. Where an economic operator has no access to such environmental management registration schemes or no possibility of obtaining them within the relevant time limits, it should be allowed to submit a description of the environmental management measures implemented, provided that the economic operator concerned demonstrates that these measures ensure the same level of environmental protection as the measures required under the environmental management.

(36aa) The notion of award criteria is central to this Directive, it is therefore important that the relevant provisions are presented in as simple and streamlined a way as possible. This may be obtained by using the terminology "most economically advantageous tender" as the overriding concept as all winning tenders should finally be chosen in accordance with what the individual contracting authority considers to be the economically best solution among those offered. To avoid confusion with the award criterion that is currently known as the "most economically advantageous tender" in Directives 2004/17/EC and 2004/18/EC, a different terminology should be used to cover that concept, the "best price-quality ratio"; consequently, it should be interpreted in accordance with the relative jurisprudence under those Directives, except where there is a clearly materially different solution in this Directive.

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<sup>18</sup> OJ L 342, 22.12.2009, p. 1.

(37) Contracts should be awarded on the basis of objective criteria that ensure compliance with the principles of transparency, non-discrimination and equal treatment, with a view to ensuring an objective comparison of the relative value of the tenders in order to determine, in conditions of effective competition, which tender is the most economically advantageous tender. It should be set out explicitly that the most economically advantageous tender should be assessed on the basis of the best price-quality ratio, *which should always include a price or cost element*. It should equally be clarified that such assessment of the most economically advantageous tender could also be carried out on the basis of either price or cost effectiveness only. It is furthermore appropriate to recall that contracting authorities are free to set adequate quality standards by using technical specifications or contract performance conditions.

In order to encourage a greater quality orientation of public procurement, Member States should be permitted to prohibit or restrict use of price only or cost only to assess the most economically advantageous tender where they deem this appropriate.

To ensure compliance with the principle of equal treatment in the award of contracts, contracting authorities should be obliged to create the necessary transparency to enable all tenderers to be reasonably informed of the criteria and arrangements which will be applied in the contract award decision. Contracting authorities should therefore be obliged to indicate the contract award criteria and the relative weighting given to each of those criteria. Contracting authorities should, however, be permitted to derogate from that obligation to indicate the weighting of the criteria in duly justified cases for which they must be able to give reasons, where the weighting cannot be established in advance, in particular because of the complexity of the contract. In such cases, they should indicate the criteria in decreasing order of importance.

(37a) Under Article 11 of the Treaty on the Functioning of the European Union, environmental protection requirements must be integrated into the definition and implementation of the Union policies and activities, in particular with a view to promoting sustainable development. This Directive clarifies how the contracting authorities may contribute to the protection of the environment and the promotion of sustainable development, whilst ensuring that they can obtain the best value for money for their contracts.

(38) *When assessing* the best price-quality ratio contracting authorities should determine the economic and qualitative criteria linked to the subject-matter of the contract that they will use for that purpose. These criteria should thus allow for a comparative assessment of the level of performance offered by each tender in the light of the subject-matter of the contract, as defined in the technical specifications. In the context of the best price-quality ratio, a non-exhaustive list of possible award criteria which include environmental and social aspects is set out in this Directive. Contracting authorities should be encouraged to choose award criteria that allow them to obtain high-quality works, supplies and services that are optimally suited to their needs.

The chosen award criteria should not confer an unrestricted freedom of choice on the contracting authority and they should ensure the possibility of effective and fair competition and be accompanied by arrangements that allow the information provided by the tenderers to be effectively verified.

To identify the most economically advantageous tender, the contract award decision should not be based on non-cost criteria only. Qualitative criteria should therefore be accompanied by a cost criterion that could, at the choice of the contracting authority, be either the price or a cost-effectiveness approach such as life-cycle costing. However, the award criteria should not affect the application of national provisions determining the remuneration of certain services or setting out fixed prices for certain supplies.

- (38aa) Where national provisions determine the remuneration of certain services or set out fixed prices for certain supplies, it should be clarified that it remains possible to assess value for money on the basis of other factors than the sole price or remuneration. Depending on the service or product concerned, such factors could, for instance, include conditions of delivery and payment, aspects of after-sale service (e.g. extent of advisory and replacement services) or environmental or social aspects (e.g. whether books were stamped on recycled paper or paper from sustainable timber, the cost imputed to environmental externalities or whether the social integration of disadvantaged persons or members of vulnerable groups amongst the persons assigned to performing the contract has been furthered). Given the numerous possibilities of evaluating value for money on the basis of substantive criteria, recourse to drawing of lots as the sole means of awarding the contract should be avoided.
- (38a) Wherever the quality of the staff employed is relevant to the level of performance of the contract, contracting authorities should also be allowed to use as an award criterion the organisation, qualification and experience of the staff assigned to performing the contract in question, as this may affect the quality of contract performance and, as a result, the economic value of the tender. This may be the case, for example, in contracts for intellectual services such as consultancy or architectural services. Contracting authorities which make use of this possibility should ensure, by appropriate means of contractual law, that the staff assigned to contract performance effectively fulfil the specified quality standards and that such staff may only be replaced with the consent of the contracting authority which verifies that the replacement staff affords an equivalent level of quality.
- (39) It is of utmost importance to fully exploit the potential of public procurement to achieve the objectives of the Europe 2020 Strategy for sustainable growth. In this context, it should be recalled that *public procurement is crucial to driving innovation, which is of great importance for future growth in Europe*. In view of the important differences between individual sectors and markets, it would however not be appropriate to set general mandatory requirements for environmental, social and innovation procurement.

The Union legislature has already set mandatory procurement requirements for obtaining specific goals in the sectors of road transport vehicles (Directive 2009/33/EC of the European Parliament and the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles<sup>19</sup>) and office equipment (Regulation (EC) No 106/2008 of the European Parliament and the Council of 15 January 2008 on a Community energy-efficiency labelling programme for office equipment<sup>20</sup>). In addition, the definition of common methodologies for life cycle costing has significantly advanced.

It therefore appears appropriate to continue on that path, leaving it to sector-specific legislation to set mandatory objectives and targets in function of the particular policies and conditions prevailing in the relevant sector and to promote the development and use of European approaches to life-cycle costing as a further underpinning for the use of public procurement in support of sustainable growth.

- (40) These sector-specific measures should [lawyer-linguist rules] be complemented by an adaptation of the public procurement Directives empowering contracting authorities to pursue the objectives of the Europe 2020 Strategy in their purchasing strategies. It should hence be made clear that, except where it is assessed on the basis of price only, contracting authorities can determine the most economically advantageous tender and the lowest cost using a life-cycle costing approach. The notion of life-cycle costing includes all costs over the life cycle of works, supplies or services.

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<sup>19</sup> OJ L 120, 15.5.2009, p. 5.

<sup>20</sup> OJ L 39, 13.2.2008, p. 1.

This means internal costs, such as *research* to be carried out, development, production, *transport*, use, maintenance and end-of-life disposal costs but can also include costs imputed to environmental externalities, such as pollution caused by extraction of the raw materials used in the product or caused by the product itself or its manufacturing, provided they can be monetised and monitored. The methods which contracting authorities use for assessing costs imputed to environmental externalities should be established in advance in an objective and non-discriminatory manner and be accessible to all interested parties. Such methods can be established at national, regional or local level, but they should, to avoid distortions of competition through tailor-made methodologies, remain general in the sense that they should not be set up specifically for a particular public procurement procedure.

Common methodologies should be developed at Union level for the calculation of life-cycle costs for specific categories of supplies or services. Where such common methodologies are developed, their use should be made compulsory.

*Furthermore, the feasibility of establishing a common methodology on social life cycle costing should be examined, taking into account existing methodologies such as the Guidelines for Social Life Cycle Assessment of Products adopted within the framework of the United Nations Environment Programme.*



(41) Furthermore, in view of a better integration of social and environmental considerations in the procurement procedures, contracting authorities should be allowed to use award criteria or contract performance conditions relating to the works, supplies or services to be provided under the public contract in any respect and at any stage of their life cycles from extraction of raw materials for the product to the stage of disposal of the product, including factors involved in the specific process of production, provision or trading and its conditions of those works, supplies or services or a specific process during a later stage of their life cycle, even where such factors do not form part of their material substance. Criteria and conditions referring to such a production or provision process are for example that the manufacturing of the purchased goods did not involve toxic chemicals, or that the purchased services are provided using energy-efficient machines. In accordance with the case-law of the Court of Justice of the European Union, this includes also award criteria or contract performance conditions relating to the supply or utilisation of fair trade products in the course of the performance of the contract to be awarded. Criteria and conditions relating to trading and its conditions (commercialisation) may for instance refer to the fact that the product concerned is of fair trade origin, including the requirement to pay a minimum price and price premium to producers. Contract performance conditions pertaining to environmental considerations may include, for example, the delivery, package and disposal of products, and in respect of works and services contracts, waste minimisation or resource efficiency.

However, the condition of a link with the subject-matter of the contract excludes criteria and conditions relating to general corporate policy, which cannot be considered as a factor characterising the specific process of production or provision of the purchased works, supplies or services. Contracting authorities should hence not be allowed to require tenderers to have a certain corporate social or environmental responsibility policy in place.

(41a) It is essential that award criteria or contract performance conditions concerning social aspects of the production process relate to the works, supplies or services to be provided under the contract. In addition, they should be applied in accordance with Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, as interpreted by the European Court of Justice and should not be chosen or applied in a way that discriminates directly or indirectly against economic operators from other Member States or from third countries parties to the Agreement or to Free Trade Agreements to which the Union is party. Thus, requirements concerning the basic working conditions regulated in Directive 96/71/EC, such as minimum rates of pay, should remain at the level set by national legislation or by collective agreements applied in accordance with Union law in the context of that Directive.

Contract performance conditions may also be intended to favour the implementation of measures for the promotion of equality of women and men at work, the increased participation of women in the labour market and the reconciliation of work and private life, the protection of the environment or animal welfare and, to comply in substance with fundamental International Labour Organization (ILO) Conventions, and to recruit more disadvantaged persons than are required under national legislation.

(41b) Measures aiming at the protection of health of the staff involved in the production process, the favouring of social integration of disadvantaged persons or members of vulnerable groups amongst the persons assigned to performing the contract or training in the skills needed for the contract in question can also be the subject of award criteria or contract performance conditions provided that they relate to the works, supplies or services to be provided under the contract. For instance, such criteria or conditions may refer, amongst other things, to the employment of long-term job-seekers, the implementation of training measures for the unemployed or young persons in the course of the performance of the contract to be awarded. In technical specifications contracting authorities can provide such social requirements which directly characterise the product or service in question, such as accessibility for persons with disabilities or design for all users.

- (43) Public contracts should not be awarded to economic operators that have participated in a criminal organisation or have been found guilty of corruption, fraud to the detriment of the Union's financial interests, terrorist offences, money laundering or terrorist financing. Non-payment of taxes or social security contributions should also be sanctioned by mandatory exclusion at the level of the Union. Member States should, however, be able to provide for a derogation from these mandatory exclusions in exceptional situations where overriding requirements in the general interest make a contract award indispensable. This might, for example, be the case where urgently needed vaccines or emergency equipment can only be purchased from an economic operator to whom one of the mandatory grounds for exclusion applies.
- (43a) Contracting authorities should further be given the possibility to exclude economic operators which have proven unreliable, for instance because of violations of environmental or social obligations, including rules on accessibility for disabled persons or other forms of grave professional misconduct, such as violations of competition rules or of intellectual property rights. It should be clarified that grave professional misconduct may render an economic operator's integrity questionable and thus render the economic operator unsuitable to receive the award of a public contract irrespective of whether the economic operator would otherwise possess the technical and economical capacity to perform the contract.

Bearing in mind that the contracting authority will be responsible for the consequences of its possible erroneous decision, contracting authorities should also remain free to consider that there has been grave professional misconduct, where, before a final and binding decision on the presence of mandatory exclusion grounds has been rendered, they can demonstrate by any appropriate means that the economic operator has violated its obligations, including obligations relating to the payment of taxes or social security contributions, unless otherwise provided by the applicable national law. They should also be able to exclude candidates or tenderers whose performance in earlier public contracts has shown major deficiencies with regard to substantive requirements, for instance failure to deliver or perform, significant shortcomings of the product or service delivered, making it unusable for the intended purpose, or misbehaviour that casts serious doubts as to the reliability of the economic operator. National law should provide for a maximum duration for such exclusions.

In applying facultative grounds for exclusion, contracting authorities should pay particular attention to the principle of proportionality. Minor irregularities should only in exceptional circumstances lead to the exclusion of an economic operator. However repeated cases of minor irregularities can give rise to doubts about the reliability of an economic operator which might justify its exclusion.

- (44) Allowance should, however, be made for the possibility that economic operators may adopt compliance measures aimed at remedying the consequences of any criminal offences or misconduct and at effectively preventing further occurrences of the misbehaviour. These measures may consist in particular in personnel and organisation measures such as the severance of all links with persons or organisations involved in the misbehaviour, appropriate staff reorganisation measures, the implementation of reporting and control systems, the creation of an internal audit structure to monitor compliance and the adoption of internal liability and compensation rules. Where such measures offer sufficient guarantees, the economic operator in question should no longer be excluded on these grounds. Economic operators should have the possibility to request that compliance measures taken with a view to possible admission to the procurement procedure are examined. However, it should be left to Member States to determine the exact procedural and substantive conditions for the application of this possibility. They are, in particular, free to decide whether they want to leave it to the individual contracting authorities to do the relevant assessments or entrust other authorities on a central or decentral level with this task.
- (44a) Tenders that appear abnormally low in relation to the works, supplies or services might be based on technically, economically or legally unsound assumptions or practices. Where the tenderer cannot provide a sufficient explanation, the contracting authority should be entitled to reject the tender. Rejection should be mandatory in cases where the contracting authority has established that the abnormally low price or costs proposed results from non-compliance with mandatory Union legislation or national law compatible with it in the fields of social, labour or environmental law or international labour law provisions.

(fv44aa) Contract performance conditions are for laying down specific requirements relating to the performance of the contract. Unlike contract award criteria which are the basis for a comparative assessment of the quality of tenders, contract performance conditions constitute fixed objective requirements that have no impact on the assessment of tenders. Contract performance conditions are compatible with this Directive provided that they are not directly or indirectly discriminatory and are linked to the subject matter of the contract, which comprises all factors involved in the specific process of production, provision or commercialisation. This includes conditions concerning the process of performance of the contract, but excludes requirements referring to a general corporate policy.

The contract performance conditions should be indicated in the contract notice, the prior information notice used as a means of calling for competition or the procurement documents.

(44b) It is important that observance by subcontractors of applicable obligations in the fields of environmental, social and labour law, established by Union law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex XI provided that such rules, and their application, comply with Union law, is ensured through appropriate actions within the scope of their responsibilities and remit by the competent national authorities, such as for instance labour inspections or environmental protection agencies.

It is also necessary to ensure some transparency in the subcontracting chain, as this will give contracting authorities information on who are present at building sites on which works are being performed for them or which undertakings are providing services in or at buildings, infrastructures or areas, such as town halls, municipal schools, sports facilities, ports or motorways, for which the contracting authorities are responsible or over which they have a direct oversight. It should be clarified that the obligation to deliver the required information will in any case be incumbent on the main contractor, either on the basis of specific clauses, that each contracting authority would have to include in all procurement procedures, or on the basis of obligations which Member States would impose on main contractors by means of generally applicable provisions.

It should also be clarified that the conditions relating to the enforcement of observance of applicable obligations in the fields of environmental, social and labour law, established by Union law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex XI, provided that such rules, and their application, comply with Union law, should be applied whenever the national law of a Member State provides for a mechanism of joint liability between subcontractors and the main contractor. Furthermore, it should be stated explicitly that Member States may go further, for instance by extending the transparency obligations, by enabling direct payment to subcontractors or by enabling or requiring contracting authorities to verify that subcontractors are not in any of the situations in which exclusion of economic operators would be warranted. Where such measures are applied to subcontractors, coherence with the provisions applicable to main contractors should be ensured so that existence of compulsory exclusion grounds would be followed by a requirement that the main contractor substitute the subcontractor concerned. Where such verification shows the presence of non-compulsory grounds for exclusion, it should be clarified that contracting authorities may require the substitution; it should, however, also be set out explicitly that contracting authorities may be obliged to require the substitution of the subcontractor concerned where exclusion of main contractors has been rendered obligatory in the same cases.

It should finally be set out explicitly that Member States remain free to provide for more stringent liability rules under national law or to go further under national law on direct payments to subcontractors.

- (45) It is necessary to clarify the conditions under which modifications of a contract during its performance require a new procurement procedure, taking into account the relevant case-law of the Court of Justice of the European Union. A new procurement procedure is required in case of material changes to the initial contract, in particular to the scope and content of the mutual rights and obligations of the parties, including the distribution of intellectual property rights. Such changes demonstrate the parties' intention to renegotiate essential terms or conditions of that contract. This is the case in particular if the amended conditions would have had an influence on the outcome of the procedure, had they been part of the initial procedure.

Modifications of the contract resulting in a minor change of the contract value up to a certain value should always be possible without the need to carry out a new procurement procedure. To this effect and in order to ensure legal certainty this directive should provide for “de minimis” thresholds, below which a new procurement procedure is not necessary.

Modifications of the contract above those thresholds should be possible without the need to carry out a new procurement procedure to the extent they comply with conditions laid down in Article 72.

- (45a) Contracting authorities may be faced with situations where additional works supplies or services become necessary; in such cases a modification of the initial contract without a new procurement procedure may be justified, in particular where the additional deliveries are intended either as a partial replacements or as the extension of existing services, supplies or installations where a change of supplier would oblige the contracting authority to acquire material, works or services having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance.
- (46) Contracting authorities can be faced with external circumstances that they could not foresee when they awarded the contract, in particular when the performance of the contract covers a longer period of time. In this case, a certain degree of flexibility is needed to adapt the contract to these circumstances without a new procurement procedure. The notion of unforeseeable circumstances refers to circumstances that could not have been predicted despite reasonably diligent preparation of the initial award by the contracting authority, taking into account its available means, the nature and characteristics of the specific project, good practice in the field in question and the need to ensure an appropriate relationship between the resources spent in preparing the award and its foreseeable value. However, this cannot apply in cases where a modification results in an alteration of the nature of the overall procurement, for instance by replacing the works, supplies or services to be procured by something different or by fundamentally changing the type of procurement since, in such a situation, a hypothetical influence on the outcome may be assumed.

- (47) In line with the principles of equal treatment and transparency, the successful tenderer should not, for instance where a contract is terminated because of deficiencies in the performance, be replaced by another economic operator without reopening the contract to competition. However, the successful tenderer performing the contract may, in particular where the contract has been awarded to more than one undertaking, undergo certain structural changes during the performance of the contract, such as purely internal reorganisations, takeovers, mergers and acquisitions or insolvency. Such structural changes should not automatically require new procurement procedures for all public contracts performed by that tenderer.
- (48) Contracting authorities should, in the individual contracts themselves, have the possibility to provide for modifications to a contract by way of review or option clauses, but such clauses should not give them unlimited discretion. This directive should therefore set out to what extent modifications may be provided for in the initial contract. It should consequently be clarified that sufficiently clearly drafted review or option clauses may for instance provide for price indexations or ensure that, e.g., communications equipment to be delivered over a given period continues to be suitable, also in case of changing communications protocols or other technological changes. It should also be possible under sufficiently clear clauses to provide for adaptations of the contract which are rendered necessary by *technical difficulties* which have appeared during *operation or maintenance*. It should finally be recalled that contracts could, for instance, include both ordinary maintenance as well as provide for extraordinary maintenance interventions that might become necessary in order to ensure continuation of a public service.
- (48aa) Contracting authorities are sometimes faced with circumstances that require the early termination of public contracts in order to comply with obligations stemming from EU law in the field of public procurement. Member States should therefore ensure that contracting authorities have the possibility, under the conditions determined by the applicable national law, to terminate a public contract during its term if so required by EU law.



- (48a) Design contests have traditionally mostly been used in the fields of town and country planning, architecture and engineering or data processing. It should, however, be recalled that these flexible instruments could be used also for other purposes, such as to obtain plans for financial engineering that would optimise SME support in the context of the JEREMIE or other Union SME support programmes in a given Member State. The design contest used to acquire the plans for such financial engineering could also stipulate that the subsequent service contracts for the realisation of this financial engineering would be awarded to the winner or one of the winners of the design contest by a negotiated procedure without publication.
- (49) The evaluation has shown that there is still considerable room for improvement in the application of the Union public procurement rules. In view of a more efficient and consistent application of the rules, it is essential to get a good overview on possible structural problems and general patterns in national procurement policies, in order to address possible problems in a more targeted way. This overview should be gained through appropriate monitoring, the results of which should be regularly published, in order to allow an informed debate on possible improvements of procurement rules and practice. Acquiring such a good overview could also allow insights on the application of public procurement rules in the context of the implementation of projects co-financed by the Union. Member States should remain free to decide how and by whom this monitoring should be carried out in practice; in so doing, they should also remain free to decide whether the monitoring should be based on a sample-based *ex-post* control or on a systematic, *ex-ante* control of public procurement procedures covered by this Directive. It should be possible to bring potential problems to the attention of the proper instances; this should not necessarily require that those having performed the monitoring are given an independent standing before courts and tribunals.

Better guidance, information and support to contracting authorities and economic operators could also greatly contribute to enhancing the efficiency of public procurement, through better knowledge, increased legal certainty and professionalisation of procurement practices; such guidance should be made available to contracting authorities and economic operators wherever it appears necessary to improve correct application of the rules. The guidance to be provided could cover all matters relevant to public procurement, such as acquisition planning, procedures, choice of techniques and instruments and good practices in the conduct of the procedures. With regard to legal questions, guidance should not necessarily amount to a complete legal analysis of the issues concerned; it could be limited to a general indication of the elements that should be taken into consideration for the subsequent detailed analysis of the questions, for instance by pointing to jurisprudence that could be relevant or to guidance notes or other sources having examined the specific question concerned.

- (51) Council Directive 89/665/EEC provides for certain review procedures to be available at least to any person having or having had an interest in obtaining a particular contract and who has been or risks being harmed by an alleged infringement of Union law in the field of public procurement or national rules transposing that law. These review procedures should not be affected by this Directive. However, citizens, concerned stakeholders, organised or not, and other persons or bodies which do not have access to review procedures pursuant to Council Directive 89/665/EEC do nevertheless have a legitimate interest as taxpayers in sound procurement procedures. They should therefore be given a possibility, otherwise than through the review system pursuant to Directive 89/665/EEC and without it necessarily involving them being given standing before courts and tribunals, to indicate possible violations of this Directive to a competent authority or structure. So as not to duplicate existing authorities or structures, Member States should be able to provide for recourse to general monitoring authorities or structures, sectoral oversight bodies, municipal oversight authorities, competition authorities, the ombudsman or national auditing authorities.

- (51a) In order to fully exploit the potential of public procurement to achieve the objectives of the Europe 2020 Strategy for sustainable growth, environmental, social and innovation procurement will also have to play its part. It is therefore important to obtain an overview of the developments in the field of strategic procurement so as to take an informed view on the general trends at the overall (macro) level in this area. Any already prepared, appropriate reports can of course be used in this context also.
- (51b) Given the potential of SMEs for job creation, growth and innovation it is important to encourage their participation in public procurement, both through appropriate provisions in this Directive as well as through initiatives at the national level. The new provisions provided for in this Directive should contribute towards an improvement of the level of success, by which is understood the share of SMEs in the total value of contracts awarded. It is not appropriate to impose obligatory shares of success, however, the national initiatives to enhance SME participation should be closely monitored given its importance.
- (51c) A series of procedures and working methods have already been established in respect of the Commission's communications and contacts with Member States, such as communications and contacts relating to the procedures provided for under Articles 258 and 260 TFEU, SOLVIT and EU Pilot, which are obviously not modified by this Directive. They should, however, be complemented by the designation of one single point of reference in each Member State for the cooperation with the Commission, which would function as sole entry point for matters concerning public procurement in the Member State concerned. This function may be performed by persons or structures which are already regularly in contact with the Commission on issues relating to public procurement, such as national contact points, members of the Advisory Committee on Public Procurement, Members of the Procurement Network or national coordinating instances.

- (52) Traceability and transparency of decision-making in procurement procedures is essential for ensuring sound procedures, including efficiently fighting corruption and fraud. Contracting authorities should hence keep copies of concluded high-value contracts, in order to be able to provide access to these documents to interested parties in accordance with applicable rules on access to documents. Furthermore, the essential elements and decisions of individual procurement procedures should be documented in a procurement report. To avoid administrative burden wherever possible, it should be permitted that the procurement report refer to information already contained in the relevant contract award notice. The electronic systems for publication of these notices, managed by the Commission, should also be improved with a view of facilitating the entry of data while making it easier to extract global reports and exchange data between systems.
- (52a) In the interests of administrative simplification and in order to lessen the burden on Member States, the Commission should periodically examine whether the quality and completeness of the information contained in the notices which are published in connection with public procurement procedures is sufficient to allow the Commission to extract the statistical information that would otherwise have to be transmitted by the Member States.
- (53a) Effective administrative cooperation is necessary for the exchange of information needed for conducting award procedures in cross-border situations, in particular with regard to the verification of the grounds for exclusion and the selection criteria, the application of quality and environmental standards and of lists of approved economic operators. The exchange of information is subject to national laws on confidentiality. Hence, this Directive does not entail any obligation for Member States to exchange information that goes beyond what national contracting authorities can access. The Internal Market Information System (IMI) established by Regulation (EU) No. 1024/2012 of the European Parliament and of the Council on administrative cooperation through the Internal Market Information System<sup>21</sup> could provide a useful electronic means to facilitate and enhance administrative cooperation managing the exchange of information on the basis of simple and unified procedures overcoming language barriers. A pilot project should consequently be launched as soon as possible to test the suitability of an expansion of IMI to cover the exchange of information under this Directive.

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<sup>21</sup> O.J. L 316 of 14.11.2012, p. 1

- (54) In order to adapt to rapid technical, economic and regulatory developments, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of a number of non-essential elements of this Directive. In fact, due to the need to comply with international agreements, the Commission should be empowered to modify the technical procedures for the calculation methods concerning thresholds as well as to periodically revise the thresholds themselves and to adapt Annexes V and XI; the lists of central government authorities are subject to variations due to administrative changes at national level. These are notified to the Commission, which should be empowered to adapt the Annex I; references to the CPV nomenclature may undergo regulatory changes at EU level and it is necessary to reflect those changes into the text of this Directive; the technical details and characteristics of the devices for electronic receipt should be kept up to date with technological developments; it is also necessary to empower the Commission to make mandatory technical standards for electronic communication to ensure the interoperability of technical formats, processes and messaging in procurement procedures conducted using electronic means of communication taking into account technological developments; the list of legislative acts of the Union establishing common methodologies for the calculation of life-cycle costs should be quickly adapted to incorporate the measures adopted on a sectoral basis. In order to satisfy these needs, the Commission should be empowered to keep the list of legislative acts including LCC methodologies up-to date.
- (55) It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. When preparing and drawing up delegated acts, the Commission should ensure simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.
- (55a) In the application of the Directive the Commission should consult appropriate groups of experts in the field of e-procurement ensuring a balanced composition of the main stakeholder groups.

- (56) In order to ensure uniform conditions for the implementation of this Directive, as for the drawing up of the standard forms for the publication of notices, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No. 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers<sup>22</sup>. The advisory procedure should be used for the adoption of these implementing acts, which do not have any impact either from the financial point of views or on the nature and scope of obligations stemming from this Directive. On the contrary, these acts are characterised by a mere administrative purpose and serve to facilitate the application of the rules set by this Directive.
- (56a) The Commission should review the effects on the internal market resulting from the application of the thresholds and report thereon to the European Parliament and the Council at the latest three years after the entry into force of this Directive. In so doing, it should take into account factors such as the level of cross-border procurement, SME participation, transaction costs and the cost-benefit trade-off.

According to its Article XXII(7), the Agreement shall be the subject of further negotiations three years after its entry into force and periodically thereafter. In that context, the appropriateness of the level of thresholds should be examined, bearing in mind the impact of inflation in view of a long period without changes of the thresholds in the Agreement; in case the level of thresholds should change as a consequence, the Commission should, where appropriate, adopt a legislative proposal amending the thresholds set out in this Directive.

- (56b) Having regard to current discussions on horizontal provisions governing relations with third countries in the context of public procurement the Commission should closely monitor global trade conditions and assess the Union's competitive position.

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<sup>22</sup> OJ L 55, 28.2.2011, p. 13.

- (57) Since the objective of this Directive, namely the coordination of laws, regulations and administrative provisions of the Member States applying to certain public procurement procedures, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (58) Directive 2004/18/EC should therefore be repealed.
- (59) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of [date], Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,

HAVE ADOPTED THIS DIRECTIVE:

# **TITLE I**

## **SCOPE, DEFINITIONS AND GENERAL PRINCIPLES**

### **CHAPTER I**

#### *Scope and definitions*

#### **SECTION 1**

##### **SUBJECT-MATTER AND DEFINITIONS**

##### *Article 1*

###### *Subject-matter and scope*

1. This Directive establishes rules on the procedures for procurement by contracting authorities with respect to public contracts as well as design contests, whose value is estimated to be not less than the thresholds laid down in Article 4.
2. Procurement within the meaning of this Directive is the acquisition by means of a public contract as defined in Article 2(7) of works, supplies or services by one or more contracting authorities from economic operators chosen by those contracting authorities, whether or not the works, supplies or services are intended for a public purpose.
3. The application of this Directive is subject to Article 346 of the Treaty on the Functioning of the European Union.
4. This Directive does not affect the freedom of Member States to define, in conformity with Union law, what they consider to be services of general economic interest, how those services should be organised and financed, in compliance with the State aid rules, and what specific obligations they should be subject to. Equally, this Directive does not affect the decision of public authorities whether, how and to what extent they want to perform public functions themselves pursuant to Protocol (No 26) on Services of General Interest and Article 14 TFEU.



5. This Directive does not affect the way in which the Member States organise their social security systems.
6. Agreements, decisions or other legal instruments that organise the transfer of powers and responsibilities for the performance of public tasks between contracting authorities or groupings of contracting authorities and do not provide for remuneration to be given for contractual performance, are considered as a matter of internal organisation of the Member State concerned and, as such, not affected in any way by the present Directive.

## *Article 2* *Definitions*

For the purposes of this Directive, the following definitions shall apply:

- (1) ‘contracting authorities’ means the State, regional or local authorities, bodies governed by public law, associations formed by one or more such authorities or one or more such bodies governed by public law;
- (2) ‘central government authorities’ means the contracting authorities listed in Annex I and, insofar as corrections or amendments have been made at national level, their successor entities;
- (3) ‘sub-central contracting authorities’ means all contracting authorities which are not central government authorities; this shall include ‘regional authorities’ and ‘local authorities’. Regional authorities are listed non-exhaustively in NUTS 1 and 2, as referred to by Regulation (EC) No. 1059/2003 of the European Parliament and of the Council<sup>23</sup> while ‘local authorities’ include all authorities of the administrative units falling under NUTS 3 and smaller administrative units, as referred to by Regulation (EC) No. 1059/2003;

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<sup>23</sup> OJ L 154, 21.6.2003, p. 1.

- (6) ‘bodies governed by public law’ means bodies that have all of the following characteristics:
- (a) they are established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;
  - (b) they have legal personality; and
  - (c) they are financed, for the most part, by the State, regional or local authorities, or other bodies governed by public law; or subject to management supervision by those bodies; or have an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities, or by other bodies governed by public law.
- (7) ‘public contracts’ means contracts for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities and having as their object the execution of works, the supply of products or the provision of services within the meaning of this Directive;
- (8) ‘public works contracts’ means public contracts having as their object one of the following:
- (a) the execution, or both the design and execution, of works related to one of the activities within the meaning of Annex II;
  - (b) the execution, or both the design and execution, of a work;
  - (c) the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority exercising a decisive influence on the type or design of the work;

- (9) ‘ a work’ means the outcome of building or civil engineering works taken as a whole which is sufficient in itself to fulfil an economic or technical function;
- (10) ‘public supply contracts’ means public contracts having as their object the purchase, lease, rental or hire-purchase, with or without an option to buy, of products. A public supply contract may include, as an incidental matter, siting and installation operations;
- (11) ‘public service contracts’ means public contracts having as their object the provision of services other than the execution of works referred to in point (8);
- (12) ‘economic operator’ means any natural or legal person or public entity or group of such persons and/or entities, including temporary associations of undertakings, which offers the execution of works and/or a work, the supply of products or the provision of services on the market;
- (13) ‘tenderer’ means an economic operator that has submitted a tender;
- (14) ‘candidate’ means an economic operator that has sought an invitation or has been invited to take part in a restricted procedure, in a competitive procedure with negotiation or in a negotiated procedure without prior publication, in a competitive dialogue or in an innovation partnership;
- (15) ‘procurement document’ means any document produced or referred to by the contracting authority to describe or determine elements of the procurement or the procedure, including the contract notice, the prior information notice where it is used as a means of calling for competition, the technical specifications, the descriptive document, proposed conditions of contract, formats for the presentation of documents by candidates and tenderers, information on generally applicable obligations and any additional documents.

- (16) ‘centralised purchasing activities’ means activities conducted on a permanent basis, in one of the following forms:
- (a) the acquisition of supplies and/or services intended for contracting authorities,
  - (b) the award of public contracts or the conclusion of framework agreements for works, supplies or services intended for contracting authorities;
- (17) ‘ancillary purchasing activities’ means activities consisting in the provision of support to purchasing activities, in particular in the following forms:
- (a) technical infrastructure enabling contracting authorities to award public contracts or to conclude framework agreements for works, supplies or services;
  - (b) advice on the conduct or design of public procurement procedures;
  - (c) preparation and management of procurement procedures on behalf and for the account of the contracting authority concerned;
- (18) ‘central purchasing body’ means a contracting authority providing centralised purchasing activities and, possibly, ancillary purchasing activities;
- (19) ‘procurement service provider’ means a public or private body which offers ancillary purchasing activities on the market;
- (20) ‘written’ or ‘in writing’ means any expression consisting of words or figures which can be read, reproduced and subsequently communicated, including information transmitted and stored by electronic means;

- (21) ‘electronic means’ means electronic equipment for the processing (including digital compression) and storage of data which is transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means;
- (22) ‘life cycle’ means all consecutive and/or interlinked stages, including research and development to be carried out, production, trading and its conditions, transport, use and maintenance, throughout the existence of a product or a works or the provision of a service, from raw material acquisition or generation of resources to disposal, clearance and end of service or utilisation.
- (23) ‘design contests’ means those procedures which enable the contracting authority to acquire, mainly in the fields of town and country planning, architecture and engineering or data processing, a plan or design selected by a jury after being put out to competition with or without the award of prizes.
- (23a) ‘innovation’ means the implementation of a new or significantly improved good, service or process, including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations inter alia with the purpose to help solving societal challenges or to support the Europe 2020 strategy for smart, sustainable and inclusive growth.
- (25) “label” means any document, certificate or attestation confirming that a given work, goods, service, process or procedure meet certain requirements;
- “label requirement(s)” means the requirements to be met by a given work, goods, service, process or procedure in order to obtain the label concerned.

*Article 3*  
*Mixed procurement*

1. Paragraph 2 shall apply to mixed contracts which have as their subject different types of procurement all of which are covered by this Directive.

Paragraphs 3 to 5 shall apply to mixed contracts which have as their subject procurement covered by this Directive and procurement covered by other legal regimes.

2. Contracts which have as their subject two or more types of procurement (works, services or supplies) shall be awarded in accordance with the provisions applicable to the type of procurement that characterises the main subject of the contract in question.

In the case of mixed contracts consisting partly of services within the meaning of Chapter I of Title III and partly of other services or of mixed contracts consisting partly of services and partly of supplies, the main subject shall be determined according to which of the estimated values of the respective services or supplies is the highest.

3. Where the different parts of a given contract are objectively separable, paragraph 4 shall apply; where the different parts of a given contract are objectively not separable, paragraph 6 shall apply.

Where part of a given contract is covered by Directive 2009/81/EC or Article 346 of the Treaty on the Functioning of the European Union, Article 14a shall apply.

4. In the case of contracts which have as their subject procurement covered by this Directive as well as procurement not covered by this Directive, contracting authorities may choose to award separate contracts for the separate parts or to award a single contract. Where contracting authorities choose to award separate contracts for separate parts, the decision of which legal regime applies to any one of such separate contracts shall be taken on the basis of the characteristics of the separate part concerned.

Where contracting authorities choose to award a single contract, this Directive shall, unless otherwise provided in Article 14a, apply to the ensuing mixed contract, irrespective of the value of the parts that would otherwise fall under a different legal regime and irrespective of which legal regime these parts would otherwise have been subject to.

Thus, in the case of mixed contracts containing elements of supply, works and service contracts and of concessions, the mixed contract shall be awarded in accordance with the provisions of this Directive, provided that the estimated value of the part of the contract which constitutes a contract covered by this Directive, calculated in accordance with the provisions of Article 5, is equal to or greater than the relevant threshold set out in Article 4.

5. In the case of contracts which have as their subject procurement covered by this Directive as well as procurement for the pursuit of an activity which is subject to the provisions of [Directive 2004/17/EC], the applicable rules shall, paragraph 4 notwithstanding, be determined pursuant to Articles 3 and 3a of [Directive 2004/17/EC].
6. Where the different parts of a given contract are objectively not separable, the applicable legal regime shall be determined on the basis of the main subject of that contract.

## SECTION 2

### THRESHOLDS

#### *Article 4* *Thresholds amounts*

This Directive shall apply to procurements with a value exclusive of value-added tax (VAT) estimated to be equal to or greater than the following thresholds:

- (a) EUR 5 000 000 for public works contracts;
- (b) EUR 130 000 for public supply and service contracts awarded by central government authorities and design contests organised by such authorities; where public supply contracts are awarded by contracting authorities operating in the field of defence, that threshold shall apply only to contracts concerning products covered by Annex III;
- (c) EUR 200 000 for public supply and service contracts awarded by sub-central contracting authorities and design contests organised by such authorities; this threshold shall also apply to public supply contracts awarded by central government authorities that operate in the field of defence, where these contracts involve products not covered by Annex III;
- (d) EUR 750 000 for public contracts for social and other specific services listed in Annex XVI.

#### *Article 5* *Methods for calculating the estimated value of procurement*

1. The calculation of the estimated value of a procurement shall be based on the total amount payable, net of VAT, as estimated by the contracting authority, including any form of option and any renewals of the contracts as explicitly set out in the procurement documents.

Where the contracting authority provides for prizes or payments to candidates or tenderers it shall take them into account when calculating the estimated value of the contract.



- 1a. Where a contracting authority is comprised of separate operational units, account shall be taken of the total estimated value for all the individual operational units.

Notwithstanding subparagraph 1, where a separate operational unit is independently responsible for its procurement or certain categories thereof, the values may be estimated at the level of the unit in question.

2. The choice of the method used to calculate the estimated value of a procurement shall not be made with the intention of excluding it from the scope of this Directive. A procurement shall not be subdivided with the effect of preventing it from falling within the scope of this Directive, unless justified by objective reasons.
3. This estimate shall be valid at the moment at which the call for competition is sent, or, in cases where a call for competition is not foreseen, at the moment at which the contracting authority commences the procurement procedure, for instance by contacting economic operators in relation to the procurement.
4. With regard to framework agreements and dynamic purchasing systems, the value to be taken into consideration shall be the maximum estimated value net of VAT of all the contracts envisaged for the total term of the framework agreement or the dynamic purchasing system.
5. In the case of innovation partnerships, the value to be taken into consideration shall be the maximum estimated value net of VAT of the research and development activities to take place during the all stages of the envisaged partnership as well as of the supplies, services or works to be developed and procured at the end of the envisaged partnership.
6. With regard to public works contracts, calculation of the estimated value shall take account of both the cost of the works and the total estimated value of the supplies and services that are made available to the contractor by the contracting authorities provided that they are necessary for executing the works.
7. Where a proposed work or a proposed provision of services may result in contracts being awarded in the form of separate lots, account shall be taken of the total estimated value of all such lots.

8. Where a proposal for the acquisition of similar supplies may result in contracts being awarded in the form of separate lots, account shall be taken of the total estimated value of all such lots when applying Article 4(b) and (c).

Where the aggregate value of the lots is equal to or exceeds the threshold laid down in Article 4, this Directive shall apply to the awarding of each lot.

9. Paragraphs 7 and 8 notwithstanding, contracting authorities may award contracts for individual lots without applying the procedures provided for under this Directive, provided that the estimated value net of VAT of the lot concerned is less than EUR 80 000 for supplies or services or EUR 1 million for works. However, the aggregate value of the lots thus awarded without applying this Directive shall not exceed 20 % of the aggregate value of all the lots into which the proposed work, the proposed acquisition of similar supplies or the proposed provision of services has been divided.
10. In the case of public supply or service contracts which are regular in nature or which are intended to be renewed within a given period, the calculation of the estimated contract value shall be based on the following:
- (a) either the total actual value of the successive contracts of the same type awarded during the preceding 12 months or financial year adjusted, where possible, to take account of the changes in quantity or value which would occur in the course of the 12 months following the initial contract;
  - (b) or the total estimated value of the successive contracts awarded during the 12 months following the first delivery, or during the financial year where that is longer than 12 months.

11. With regard to public supply contracts relating to the leasing, hire, rental or hire purchase of products, the value to be taken as a basis for calculating the estimated contract value shall be as follows:
- (a) in the case of fixed-term public contracts, where that term is less than or equal to 12 months, the total estimated value for the term of the contract or, where the term of the contract is greater than 12 months, the total value including the estimated residual value;
  - (b) in the case of public contracts without a fixed term or the term of which cannot be defined, the monthly value multiplied by 48.
12. With regard to public service contracts, the basis for calculating the estimated contract value shall, where appropriate, be the following:
- (a) insurance services: the premium payable and other forms of remuneration;
  - (b) banking and other financial services: the fees, commissions, interest and other forms of remuneration;
  - (c) design contracts: fees, commission payable and other forms of remuneration.
13. With regard to public service contracts which do not indicate a total price, the basis for calculating the estimated contract value shall be the following:
- (a) in the case of fixed-term contracts, where that term is less than or equal to 48 months: the total value for their full term;
  - (b) in the case of contracts without a fixed term or with a term greater than 48 months: the monthly value multiplied by 48.

## *Article 6*

### *Revision of the thresholds and of the list of central government authorities*

1. Every two years from 30 June 2013, the Commission shall verify that the thresholds set out in points (a), (b) and (c) of Article 4 correspond to the thresholds established in the Government Procurement Agreement and shall, where necessary, revise them.

In accordance with the calculation method set out in the Government Procurement Agreement, the Commission shall calculate the value of these thresholds on the basis of the average daily value of the euro in terms of the special drawing rights (SDRs), over a period of 24 months terminating on the last day of August preceding the revision with effect from 1 January. The value of the thresholds thus revised shall, where necessary, be rounded down to the nearest thousand euros so as to ensure that the thresholds in force provided for by the Agreement, expressed in SDRs, are observed.

2. When carrying out the revision pursuant to paragraph 1 of this Article, the Commission shall, in addition, revise:
  - (a) the threshold established in point (a) of the first paragraph of Article 12 by aligning it with the revised threshold applying to public works contracts;
  - (b) the threshold established in point (b) of the first paragraph of Article 12 by aligning it with the revised threshold applying to public service contracts awarded by sub-central contracting authorities.
3. Every two years from 1 January 2014, the Commission shall determine the values, in the national currencies of the Member States which are not participating in monetary union, of the thresholds referred to in points (a), (b) and (c) of Article 4, revised pursuant to paragraph 1 of this Article.

At the same time, the Commission shall determine the value, in the national currencies of the Member States which are not participating in monetary union, of the threshold referred to in point (d) of Article 4.

In accordance with the calculation method set out in the Government Procurement Agreement, the determination of such values shall be based on the average daily values of those currencies corresponding to the applicable threshold expressed in euros over the 24 months terminating on the last day of August preceding the revision with effect from 1 January.

4. The revised thresholds referred to in paragraph 1, their corresponding values in the national currencies referred to in the first subparagraph of paragraph 3, and the value determined in accordance with the second subparagraph of paragraph 3, shall be published by the Commission in the *Official Journal of the European Union* at the beginning of the month of November following their revision.
5. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to adapt the methodology set out in the second subparagraph of paragraph 1 to any change in the methodology provided in the Government Procurement Agreement for the revision of the thresholds referred to in points (a), (b) and (c) of Article 4 and for the determination of the thresholds in the national currencies of the Member States not participating in monetary union, as referred to in paragraph 3 of this Article.

It shall also be empowered to adopt delegated acts in accordance with Article 89 to revise the thresholds referred to in points (a), (b) and (c) of Article 4 pursuant to paragraph 1 of this Article. It shall also be empowered to adopt delegated acts in accordance with Article 89 to revise the thresholds referred to in points (a) and (b) of the first paragraph of Article 12 pursuant to paragraph 2 of this Article.

6. Where it is necessary to revise the thresholds referred to in points (a), (b) and (c) of Article 4 and the thresholds referred to in points (a) and (b) of the first paragraph of Article 12 and time constraints prevent the use of the procedure set in article 89 and therefore imperative grounds of urgency so require, the procedure provided for in Article 90 shall apply to delegated acts adopted pursuant to the second subparagraph of paragraph 5 of this Article.

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to amend Annex I, in order to update the list of contracting authorities following notifications from Member States, where such amendments prove necessary to correctly identify contracting authorities.

### **SECTION 3**

### **EXCLUSIONS**

#### *Article 7*

#### *Contracts in the water, energy, transport and postal services sectors*

This Directive shall not apply to public contracts and design contests which, under [Directive replacing 2004/17/EC], are awarded or organised by contracting authorities exercising one or more of the activities referred to in Articles [5 to 11] of that Directive and are awarded for the pursuit of those activities, to public contracts excluded from the scope of that Directive under [Articles 15, 20 and 27] thereof or, when awarded by a contracting authority which provides postal services within the meaning point (b) of Article 10(2) of that Directive, to contracts awarded for the pursuit of the following activities:

- added value services linked to and provided entirely by electronic means (including the secure transmission of coded documents by electronic means, address management services and transmission of registered electronic mail);
- financial services as defined in the CPV under the reference numbers from 66100000-1 to 66720000-3 and in Article 19(c) and including in particular postal money orders and postal giro transfers;
- philatelic services;
- logistics services (services combining physical delivery and/or warehousing with other non-postal functions)

*Article 8*  
*Specific exclusions in the field of electronic communications*

This Directive shall not apply to public contracts and design contests for the principal purpose of permitting the contracting authorities to provide or exploit public communications networks or to provide to the public one or more electronic communications services.

For the purposes of this Article:

- (a) ‘public communications network’ means an electronic communications network used wholly or mainly for the provision of electronic communications services available to the public which support the transfer of information between network termination points;
- (b) ‘electronic communications network’ means transmission systems and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit and packet-switched, including Internet) and mobile terrestrial networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed;
- (c) a ‘network termination point’ (NTP) means the physical point at which a subscriber is provided with access to a public communications network; in the case of networks involving switching or routing, the NTP is identified by means of a specific network address, which may be linked to a subscriber number or name;
- (d) ‘electronic communications service’ means a service normally provided for remuneration which consists wholly or mainly in the conveyance of signals on electronic communications networks, including telecommunications services and transmission services in networks used for broadcasting, but exclude services providing, or exercising editorial control over, content transmitted using electronic communications networks and services; it does not include information society services, as defined in Article 1 of Directive 98/34/EC, which do not consist wholly or mainly in the conveyance of signals on electronic communications networks.

*Article 9*  
*Contracts awarded and design contests organised pursuant to international rules*

1. This Directive shall not apply to public contracts and design contests which the contracting authority is obliged to award or organise in accordance with procurement procedures different from those of this Directive established by any of the following:
  - (a) a legal instrument creating international law obligations, such as an international agreement concluded in conformity with the Treaty between a Member State and one or more third countries or subdivisions thereof and covering works, supplies or services intended for the joint implementation or exploitation of a project by their signatories;
  - (b) an international organisation.

All legal instruments referred to in point (a) of the first subparagraph shall be communicated to the Commission, which may consult the Advisory Committee on Public Procurement referred to in Article 91.

2. This Directive shall not apply to public contracts and design contests which the contracting authority awards in accordance with procurement rules provided by an international organisation or international financing institution, where the public contracts and design contests concerned are fully financed by this organisation or institution; in the case of public contracts and design contests co-financed for the most part by an international organisation or international financing institution the parties shall agree on applicable procurement procedures.
3. Paragraphs 1 and 2 notwithstanding, Article 14b shall apply to contracts and design contests involving defence and security aspects which are awarded or organised pursuant to international rules.



*Article 10*  
*Specific exclusions for service contracts*

This Directive shall not apply to public service contracts for:

- (a) the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property or concerning rights thereon;
  - (b) the acquisition, development, production or co-production of programme material intended for audiovisual media services or radio media services, that are awarded by audiovisual or radio media service providers, or contracts for broadcasting time or programme provision that are awarded to audiovisual or radio media service providers;
  - (c) arbitration and conciliation services;
- (ca) any of the following legal services:
- (i) legal representation of a client by a lawyer within the meaning of Article 1 of Directive 77/249/EEC in:
    - an arbitration or conciliation held in a Member State, a third country or before an international arbitration or conciliation instance; *or*
    - judicial proceedings before the courts, tribunals or public authorities of a Member State, a third country or international courts, tribunals or institutions;
  - (ii) legal advice given in preparation of any of the proceedings referred to in point (i) or where there is a tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings, provided that the advice is given by a lawyer within the meaning of Article 1 of Directive 77/249/EEC;

- (iii) document certification and authentication services which must be provided by notaries;
  - (iv) legal services provided by trustees, appointed guardians or other legal services the providers of which are designated by a court or tribunal in the Member State concerned or are designated by law to carry out specific tasks under the supervision of such tribunals or courts;
  - (v) other legal services which in the Member State concerned are connected, even occasionally, with the exercise of official authority;
- (d) financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments within the meaning of Directive 2004/39/EC of the European Parliament and of the Council<sup>24</sup>, [...] central bank services and operations conducted with the European Financial Stability Facility;
- (da) loans, whether or not in connection with the issue, sale, purchase or transfer of securities or other financial instruments;
- (e) employment contracts;
- (ga) *civil defence, civil protection, and danger prevention services that are provided by non-profit organisations or associations, and which fall under the following CPV codes: 75250000-3, 75251000-0, 75251100-1, 75251110-4, 75251120-7, 75252000-7, 75222000-8; 98113100-9; 85143000-3 except patient transport ambulance services;*
- (f) public passenger transport services by rail or metro;
- (g) political campaign services falling within CPV 79341400-0, 92111230-3 and 92111240-6, when awarded by a political party in the context of an election campaign.

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<sup>24</sup> OJ L 145, 30.4.2004, p. 1.

For the purposes of this Article, "audiovisual media services" and "media service providers" shall, respectively, have the same meaning as pursuant to Articles 1(1)(a) and 1(1)(d) of Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive)<sup>25</sup>. "Programme" shall have the same meaning as pursuant to Article 1(1)(b) of Directive 2010/13/EU, but shall also include radio programmes and radio programme materials. Furthermore, for the purposes of this provision, "programme material" shall have the same meaning as "programme".

#### *Article 10a*

##### *Service contracts awarded on the basis of an exclusive right*

This Directive shall not apply to public service contracts awarded by a contracting authority to another contracting authority or to an association of contracting authorities on the basis of an exclusive right which they enjoy pursuant to a published law, regulation or administrative provision which is compatible with the Treaty.

#### *Article 11*

##### *Contracts between entities within the public sector*

1. A contract awarded by a contracting authority to another legal person governed by private or public law shall fall outside the scope of this Directive where the following cumulative conditions are fulfilled:
  - (a) the contracting authority exercises over the legal person concerned a control which is similar to that which it exercises over its own departments.
  - (b) more than 80% of the activities of that legal person are carried out in the performance of tasks entrusted to it by the controlling contracting authority or by other legal persons controlled by that contracting authority.

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<sup>25</sup> OJ L 95, 15.4.2010, p. 1.

- (c) there is no direct private capital participation in the controlled legal person with the exception of non-controlling and non-blocking forms of private capital participation required by applicable national legislative provisions, in conformity with the Treaties, which do not exert a decisive influence on the controlled legal person.

A contracting authority shall be deemed to exercise over a legal person a control similar to that which it exercises over its own departments within the meaning of point (a) of the first subparagraph where it exercises a decisive influence over both strategic objectives and significant decisions of the controlled legal person. The control may also be exercised by another legal person, which is itself controlled in the same way by the contracting authority.

2. Paragraph 1 also applies where a controlled legal person which is a contracting authority awards a contract to its controlling contracting authority, or to another legal person controlled by the same contracting authority, provided that there is no direct private capital participation in the legal person being awarded the public contract with the exception of non-controlling and non-blocking forms of private capital participation required by law, in conformity with the Treaties, which do not exert a decisive influence on the controlled legal person.
3. A contracting authority, which does not exercise over a legal person governed by private or public law control within the meaning of paragraph 1, may nevertheless award a public contract without applying this Directive to that legal person where the following cumulative conditions are fulfilled.
  - (a) the contracting authority exercises jointly with other contracting authorities over that legal person a control which is similar to that which they exercise over their own departments;
  - (b) more than 80% of the activities of that legal person are carried out in the performance of tasks entrusted to it by the controlling contracting authorities or by other legal persons controlled by the same contracting authorities;

- (c) there is no direct private capital participation in the controlled legal person with the exception of non-controlling and non-blocking forms of private capital participation required by applicable national legislative provisions, in conformity with the Treaties, which do not exert a decisive influence on the controlled legal person.

For the purposes of point (a) of the first subparagraph, contracting authorities exercise joint control over a legal person where the following cumulative conditions are fulfilled:

- (a) the decision-making bodies of the controlled legal person are composed of representatives of all participating contracting authorities. Individual representatives may represent several or all of the participating contracting authorities;
- (b) those contracting authorities are able to jointly exert decisive influence over the strategic objectives and significant decisions of the controlled legal person;
- (c) the controlled legal person does not pursue any interests which are contrary to those of the controlling contracting authorities.

4. A contract concluded exclusively between two or more contracting authorities shall fall outside the scope of this Directive where the following cumulative conditions are fulfilled:

- (a) the contract establishes or implements a cooperation between the participating contracting authorities with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common;
- (b) the implementation of that cooperation is governed solely by considerations relating to the public interest;
- (c) the participating contracting authorities perform on the open market less than 20% of the activities concerned by the cooperation.

6. For the determination of the percentage of activities referred to in 11 (1)(b), 11 (3)(b) and 11(4)(c) above, the average total turnover, or an appropriate alternative activity based measure such as costs incurred by the relevant legal person with respect to services, supplies

and works for the three years preceding the contract award shall be taken into consideration.

When, because of the date the relevant legal person was created or commenced activities or because of a reorganisation of its activities, the turnover, or alternative activity based measure such as costs, are either not available for the preceding three years or no longer relevant, it will be sufficient to show that the measurement of activity is credible, particularly by means of business projections.

## **SECTION 4**

### **SPECIFIC SITUATIONS**

#### *Subsection 1: Subsidised contracts and Research and Development services*

#### *Article 12* *Contracts subsidised by contracting authorities*

This Directive shall apply to the awarding of the following contracts:

- (a) works contracts which are subsidised directly by contracting authorities by more than 50% and the estimated value of which, net of VAT, is equal to or greater than EUR 5 000 000, where those contracts involve one of the following activities:
  - (i) civil engineering activities as listed in Annex II,
  - (ii) building work for hospitals, facilities intended for sports, recreation and leisure, school and university buildings and buildings used for administrative purposes;

- (b) service contracts which are subsidised directly by contracting authorities by more than 50% and the estimated value of which, net of VAT, is equal to or greater than EUR 200 000 and which are connected to a works contract within the meaning of point (a).

The contracting authorities providing the subsidies referred to in points (a) and (b) of the first subparagraph shall ensure compliance with this Directive where they do not themselves award the subsidised contracts or where they award that contract for and on behalf of other entities.

### *Article 13* *Research and development services*

1. This Directive shall apply to public service contracts for research and development services with CPV reference numbers 73000000-2 to 73120000-9, 73300000-5, 73420000-2 and 73430000-5 provided that the following conditions are both fulfilled:
  - (a) the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs,
  - (b) the service provided is wholly remunerated by the contracting authority.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to amend the CPV reference numbers referred to in paragraph 1 to reflect changes in the CPV nomenclature provided that such amendments do not imply a modification of the scope of this Directive.

*Subsection 2: Procurement involving defence and security aspects*

*Article 14*  
*Defence and security*

1. Subject to Article 1(3), this Directive shall apply to the awarding of public contracts and to design contests organised in the fields of defence and security, with the exception of the following contracts:
  - (a) contracts falling within the scope of Directive 2009/81/EC;
  - (b) contracts to which Directive 2009/81/EC does not apply pursuant to Articles 8, 12 and 13 thereof.
2. This Directive shall not apply to public contracts and design contests not otherwise exempted under paragraph 1, to the extent that the protection of the essential security interests of a Member State cannot be guaranteed by less intrusive measures, for instance by imposing requirements aimed at protecting the confidential nature of information which the contracting authority makes available in a contract award procedure as provided for in this Directive.

Furthermore, and in conformity with Article 346(1)(a) TFEU, this Directive shall not apply to public contracts and design contests not otherwise exempted under paragraph 1 to the extent that the application of this Directive would oblige a Member State to supply information the disclosure of which it considers contrary to the essential interests of its security.
- 2a. Where the procurement and performance of the contract or contest are declared to be secret or must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in a Member State, this Directive shall not apply provided that the Member State has determined that the essential interests concerned cannot be guaranteed by less intrusive measures, for instance such as referred to in the first subparagraph of paragraph 2.



*Article 14a*  
*Mixed procurement involving defence and security aspects*

1. In the case of mixed contracts which have as their subject procurement covered by this Directive as well as procurement covered by Directive 2009/81/EC or Article 346 of the Treaty on the Functioning of the European Union this Article shall apply.
2. Where the different parts of a given contract are objectively separable, contracting authorities may choose to award separate contracts for the separate parts or to award a single contract.

Where contracting authorities choose to award separate contracts for separate parts, the decision of which legal regime applies to any one of such separate contracts shall be taken on the basis of the characteristics of the separate part concerned.

Where contracting authorities choose to award a single contract, the following criteria shall apply to determine the applicable legal regime:

- (a) where part of a given contract is covered by Article 346 TFEU, the contract may be awarded without applying this Directive, provided that the award of a single contract is justified for objective reasons;
- (b) where part of a given contract is covered by Directive 2009/81/EC, the contract may be awarded in accordance with the provisions of Directive 2009/81/EC, provided that the award of a single contract is justified for objective reasons. This sub-paragraph is without prejudice to the thresholds and exclusions for which Directive 2009/81/EC provides.

The decision to award a single contract may not, however, be taken for the purpose of excluding contracts from the application of this Directive or Directive 2009/81/EC.

3. Point a of paragraph 2 shall apply to mixed contracts to which both point a and point b could otherwise apply.
4. Where the different parts of a given contract are objectively not separable, the contract may be awarded without applying this Directive where it includes elements to which Article 346 TFEU applies; otherwise it may be awarded in accordance with the provisions of Directive 2009/81/EC.

*Article 14b*

*Contracts and design contests involving defence and security aspects which are awarded or organised pursuant to international rules*

1. This Directive shall not apply to public contracts and design contests involving defence and security aspects which the contracting authority is obliged to award or organise in accordance with procurement procedures different from those of this Directive established by any of the following:
  - (a) an international agreement or arrangement concluded in conformity with the Treaty between a Member State and one or more third countries or subdivisions thereof and covering works, supplies or services intended for the joint implementation or exploitation of a project by their signatories;
  - (b) an international agreement or arrangement relating to the stationing of troops and concerning the undertakings of a Member State or a third country;
  - (c) an international organisation.

All agreements or arrangements referred to in point (a) of the first subparagraph shall be communicated to the Commission, which may consult the Advisory Committee on Public Procurement referred to in Article 91.

2. This Directive shall not apply to public contracts and design contests involving defence and security aspects which the contracting authority awards in accordance with procurement rules provided by an international organisation or international financing institution, where the public contracts and design contests concerned are fully financed by this organisation or institution; in the case of public contracts and design contests co-financed for the most part by an international organisation or international financing institution the parties shall agree on applicable procurement procedures.

## **CHAPTER II**

### ***General rules***

#### *Article 15* *Principles of procurement*

1. Contracting authorities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner.

*The design of the procurement shall not be made with the intention of excluding it from the scope of this Directive or of artificially narrowing competition. Competition shall be considered to be artificially narrowed where the design of the procurement was made with the intention of unduly favouring or disadvantaging certain economic operators.*

2. Member States shall take appropriate measures to ensure that in the performance of public contracts economic operators comply with applicable obligations in the fields of environmental, social and labour law established by Union law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex XI.

*Article 16*  
*Economic operators*

1. Economic operators that, under the law of the Member State in which they are established, are entitled to provide the relevant service, shall not be rejected solely on the ground that, under the law of the Member State in which the contract is awarded, they would be required to be either natural or legal persons.

However, in the case of public service and public works contracts as well as public supply contracts covering in addition services or siting and installation operations, legal persons may be required to indicate, in the tender or the request to participate, the names and relevant professional qualifications of the staff to be responsible for the performance of the contract in question.

2. Groups of economic operators, including temporary associations, may participate in procurement procedures and may not be required by the contracting authorities to have a specific legal form in order to submit a tender or a request to participate.

Where necessary, contracting authorities may clarify in the procurement documents how groups of economic operators shall meet the requirements as to economic and financial standing or technical and professional ability provided this is justified by objective reasons and proportionate. Member States may establish standard terms for so doing instead of the individual contracting authorities.

Conditions for the performance of a contract by such groups, which are different from those imposed on individual participants, shall also be justified by objective reasons and proportionate.

Groups of economic operators may, however, be required to assume a specific legal form once they have been awarded the contract, to the extent that this change is necessary for the satisfactory performance of the contract.

*Article 17*  
*Reserved contracts*

1. Member States may reserve the right to participate in public procurement procedures to sheltered workshops and economic operators whose main aim is the social and professional integration of disabled and disadvantaged persons or provide for such contracts to be performed in the context of sheltered employment programmes, provided that at least 30% of the employees of those workshops, economic operators or programmes are disabled or disadvantaged workers.
3. The call for competition shall make reference to this article.

*Article 18*  
*Confidentiality*

1. Unless otherwise provided in this Directive or in the national law to which the contracting authority is subject, in particular legislation concerning access to information, and without prejudice to the obligations relating to the advertising of awarded contracts and to the information to candidates and tenderers set out in Articles 48 and 53 of this Directive, the contracting authority shall not disclose information forwarded to it by economic operators which they have designated as confidential, including, but not limited to, technical or trade secrets and the confidential aspects of tenders.
2. Contracting authorities may impose on economic operators requirements aimed at protecting the confidential nature of information which the contracting authorities make available throughout the procurement procedure.

*Article 19*  
*Rules applicable to communication*

1. Member States shall ensure that all communication and information exchange under this Directive, in particular e-submission, are performed using electronic means of communication in accordance with the requirements of this Article. The tools and devices to be used for communicating by electronic means, as well as their technical characteristics, shall be non-discriminatory, generally available and interoperable with the information and communication technology products in general use and shall not restrict economic operators' access to the procurement procedure.

Notwithstanding the first subparagraph, contracting authorities are not obliged to require electronic means of communication in the submission process in the following situations:

- (a) due to the specialised nature of the procurement, the use of electronic means of communication would require specific tools, devices or file formats that are not generally available or supported by generally available applications;
- (b) the applications supporting file formats that are suitable for the description of the tenders use file formats that cannot be handled by any other open or generally available applications or are under a proprietary licensing scheme and cannot be made available for downloading or remote use by the contracting authority;
- (c) the use of electronic communication would require specialised office equipment that is not generally available to contracting authorities;
- (d) the procurement documents require the submission of physical or scale models which cannot be transmitted using electronic means

In respect of communications for which electronic means of communication are not used pursuant to subparagraph 2, communication shall be done by post or by a combination of post and electronic means.

Notwithstanding the first subparagraph, contracting authorities are not obliged to require electronic means of communication in the submission process to the extent that the use of means of communication other than electronic means is necessary either because of a breach of security of these means of communications or for the protection of the particularly sensitive nature of information requiring such a high level of protection that it cannot be properly ensured by using electronic tools and devices that are either generally available to economic operators or can be made available to them by alternative means of access within the meaning of paragraph 4.

It is the responsibility of the contracting authorities requiring, in accordance with the second subparagraph, means of communication other than electronic means in the submission process to indicate in the individual report referred to in Article 85 the reasons for it. Where applicable, contracting authorities shall indicate in the individual report the reasons why use of means of communication other than electronic has been considered necessary in application of the third subparagraph.

- 1a. Paragraph 1 notwithstanding, oral communication may be used in respect of communications other than the essential elements of a procurement procedure such as the procurement documents, requests for participation, confirmations of interest and tenders, provided that the content of the oral communication be documented to a sufficient degree. In particular, oral communications with tenderers which could have a substantial impact on the content and assessment of the tenders shall be documented to a sufficient extent and by appropriate means, such as written or audio records or summaries of the main elements of the communication.
2. In all communication, exchange and storage of information, contracting authorities shall ensure that the integrity of data and the confidentiality of tenders and requests to participate are preserved. They shall examine the content of tenders and requests to participate only after the time limit set for submitting them has expired.

3. For works contracts and design contests, Member States may require the use of specific electronic tools, such as of building information electronic modelling tools or similar. They shall offer alternative means of access as provided for in paragraph 4 until such time as these tools become generally available within the meaning of the second sentence of the first subparagraph of paragraph 1.
4. Contracting authorities may, where necessary, require the use of tools and devices which are not generally available, provided that the contracting authorities offer alternative means of access.

Contracting authorities shall be deemed to offer suitable alternative means of access in any of the following situations, where they:

- (a) offer unrestricted and full direct access free of charge by electronic means to these tools and devices from the date of publication of the notice in accordance with Annex IX or from the date when the invitation to confirm interest is sent; the text of the notice or the invitation to confirm interest shall specify the internet address at which these tools and devices are accessible;
  - (b) ensure that tenderers having no access to the tools and devices concerned, or no possibility of obtaining them within the relevant time limits, provided that the lack of access is not attributable to the tenderer concerned, may access the procurement procedure through the use of provisional tokens made available free of charge online; or
  - (c) support an alternative channel for electronic submission of tenders.
5. In addition to the requirements set out in Annex IV, the following rules shall apply to tools and devices for the electronic transmission and receipt of tenders and for the electronic receipt of requests to participate:
  - (a) information on specifications for the electronic submission of tenders and requests to participate, including encryption and time-stamping, shall be available to interested parties;



- (c) Member States, or contracting authorities acting within an overall framework established by the Member State concerned, shall specify the level of security required for the electronic means of communication in the various stages of the specific procurement procedure; the level shall be proportionate to the risks attached;
- (d) where Member States, or contracting authorities acting within an overall framework established by the Member State concerned, conclude that the level of risks, assessed in conformity with point c, is such that advanced Electronic Signatures as defined by Directive 1999/93/EC of the European Parliament and of the Council<sup>26</sup> are required, contracting authorities shall accept advanced signatures supported by a qualified electronic certificate, taking into account the Trusted List provided for in the Commission Decision 2009/767/EC<sup>27</sup>, created with or without a secure signature creation device, subject to compliance with the following conditions:
- (i) they must establish the required advanced signature format on the basis of formats established in Commission Decision 2011/130/EU<sup>28</sup> and put in place necessary measures to be able to process these formats technically; in case where a different format of electronic signature is used, the electronic signature or the electronic document carrier shall include information on existing validation possibilities, which shall be under the responsibility of the Member State. The validation possibilities shall allow the contracting authority to validate online, free of charge and in a way that is understandable for non-native speakers the received electronic signature as an advanced electronic signature supported by a qualified certificate. Member States shall notify information on the provider of validation services to the Commission, which shall make the information received from the Member States available to the public on line;

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<sup>26</sup> OJ L 13, 19.1.2000, p. 12.

<sup>27</sup> OJ L 274, 20.10.2009, p. 36.

<sup>28</sup> OJ L 53, 26.2.2011, p. 66.

- (ii) where a tender is signed with the support of a qualified certificate that is included in the Trusted list, they must not apply additional requirements that may hinder the use of those signatures by tenderers.

In respect of documents used in the context of a procurement procedure that are signed by a competent authority of a Member State or by another issuing entity, the competent issuing authority or entity may establish the required advanced signature format according to the requirements set out in Article 1(2) of Decision 2011/130/EU; they shall put in place necessary measures to be able to process these formats technically by including the information required for the purpose of processing the signature in the document concerned. Such documents must contain in the electronic signature or in the electronic document carrier information on existing validation possibilities that allow to validate the received electronic signature online, free of charge and in a way that is understandable for non-native speakers.

- 7a. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to amend the technical details and characteristics set out in Annex IV due to technical developments.

The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to amend the list set out in points a to d of the second subparagraph of paragraph 1 where technological developments render continued exceptions from the use of electronic means of communication inappropriate or, exceptionally, where new exclusions must be provided for because of technological developments.

To ensure the interoperability of technical formats as well as of process and messaging standards, especially in a cross-border context, the Commission shall be empowered to adopt delegated acts in accordance with Article 89 to establish the mandatory use of such specific technical standards, in particular with regard to the use of e-submission, electronic catalogues and means for electronic authentication, only where technical standards have been thoroughly tested and proved their usefulness in practice. Before making use of any technical standard mandatory, the Commission shall also carefully consider the costs that this may entail, in particular in terms of adaptations to existing e-procurement solutions, including infrastructure, processes or software.

*Article 20*  
*Nomenclatures*

1. Any references to nomenclatures in the context of public procurement shall be made using the ‘Common Procurement Vocabulary (CPV)’ as adopted by Regulation (EC) No 2195/2002<sup>29</sup>.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to adapt the reference numbers used in Annex II and XVI, whenever changes in the CPV nomenclature must be reflected in this Directive and they do not imply a modification of the scope of this Directive.

*Article 21*  
*Conflicts of interests*

Member States shall ensure that contracting authorities take appropriate measures to effectively prevent, identify and remedy conflicts of interests arising in the conduct of procurement procedures so as to avoid any distortion of competition and ensure equal treatment of all economic operators.

The concept of conflicts of interest shall at least cover any situation where staff members of the contracting authority or of a procurement service provider acting on behalf of the contracting authority who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.

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<sup>29</sup> OJ L 340, 16.12.2002, p. 1.

# **TITLE II**

## **RULES ON PUBLIC CONTRACTS**

### **CHAPTER I**

#### ***Procedures***

##### *Article 23*

*Conditions relating to the Government Procurement Agreement and other international agreements*

As far as covered by Annexes I, II, IV and V and the General Notes to the European Union's Appendix 1 to the Government Procurement Agreement and by the other international agreements by which the Union is bound, contracting authorities shall accord to the works, supplies, services and economic operators of the signatories to those agreements treatment no less favourable than the treatment accorded to the works, supplies, services and economic operators of the Union.

##### *Article 24*

*Choice of procedures*

1. In awarding their public contracts, contracting authorities shall apply the national procedures adjusted to be in conformity with this Directive, provided that, without prejudice to Article 30, a call for competition has been published in accordance with this Directive.
  - 1a. Member States shall provide that contracting authorities may apply open or restricted procedures as regulated in this Directive.
  - 1b. Member States shall provide that contracting authorities may apply innovation partnerships as regulated in this Directive.
  - 1c. Member States shall also provide that contracting authorities may use a competitive procedure with negotiation or a competitive dialogue in the following situations:

- a) with regard to works, supplies or services fulfilling one of the following criteria:
- i) where the needs of the contracting authority cannot be met without adaptation of readily available solutions
  - ii) they include design or innovative solutions
  - iii) the contract cannot be awarded without prior negotiations because of specific circumstances related to the nature, the complexity or the legal and financial make-up or because of the risks attaching to them
  - iv) the technical specifications cannot be established with sufficient precision by the contracting authority with reference to a standard, European Technical Assessment, Common Technical Specification or technical reference within the meaning of points 2 to 5 of Annex VIII;
- b) with regard to works, supplies or services where, in response to an open or a restricted procedure, only irregular or unacceptable tenders are submitted. In such situations contracting authorities need not publish a contract notice where they include in the procedure all of, and only, the tenderers which satisfy the criteria set out in Article 55 to 63 and which, during the prior open or restricted procedure, have submitted tenders in accordance with the formal requirements of the procurement procedure.

In particular tenders which do not comply with the procurement documents, which were received late, where there is evidence of collusion or corruption, or which have been found by the contracting authority to be abnormally low, shall be considered as being irregular. In particular tenders submitted by tenderers that do not have the required qualifications, and tenders whose price exceeds the contracting authority's budget as determined and documented prior to the launching of the procurement procedure shall be considered as unacceptable. \*

2. The call for competition shall be made by means of a contract notice pursuant to Article 47.

Where the contract is awarded by restricted or competitive procedure with negotiation, Member States may provide, notwithstanding the first subparagraph of this paragraph, that sub-central contracting authorities or specific categories thereof may make the call for competition by means of a prior information notice pursuant to Article 46(2).

Where the call for competition is made by means of a prior information notice pursuant to Article 46(2), economic operators having expressed their interest following the publication of the prior information notice shall subsequently be invited to confirm their interest in writing by means of an ‘invitation to confirm interest’ in conformity with Article 52.

3. In the specific cases and circumstances referred to expressly in Article 30, Member States may provide that contracting authorities may apply a negotiated procedure without prior publication. Member States shall not allow the use of this procedure in any other cases than those referred to in Article 30.

#### *Article 25* *Open procedure*

1. In open procedures, any interested economic operator may submit a tender in response to a call for competition.

The minimum time limit for the receipt of tenders shall be 35 days from the date on which the contract notice was sent.

The tender shall be accompanied by the information for qualitative selection that is requested by the contracting authority.

2. Where contracting authorities have published a prior information notice which was not itself used as a means of calling for competition, the minimum time limit for the receipt of tenders, as laid down in the second subparagraph of paragraph 1 of this Article, may be shortened to 15 days, provided that all of the following conditions are fulfilled:

- (a) the prior information notice included all the information required for the contract notice in section I of part B of Annex VI, insofar as that information was available at the time the prior information notice was published;
  - (b) the prior information notice was sent for publication between 35 days and 12 months before the date on which the contract notice was sent.
3. Where a state of urgency duly substantiated by the contracting authorities renders impracticable the time limit laid down in the second subparagraph of paragraph 1, they may fix a time limit which shall be not less than 15 days from the date on which the contract notice was sent.
4. The contracting authority may reduce by five days the time limit for receipt of tenders set out in the second subparagraph of paragraph 1 of this Article where it accepts that tenders may be submitted by electronic means in accordance with the first subparagraph of Article 19(1), and Articles 19(4) and (5).

*Article 26*  
*Restricted procedure*

1. In restricted procedures any economic operator may submit a request to participate in response to a call for competition containing the information set out in Annex VI parts B or C as the case may be by providing the information for qualitative selection that is requested by the contracting authority.

The minimum time limit for receipt of requests to participate shall be 30 days from the date on which the contract notice or, where a prior information notice is used as a means of calling for competition, the invitation to confirm interest is sent.

2. Only those economic operators invited by the contracting authority following its assessment of the information provided may submit a tender. Contracting authorities may limit the number of suitable candidates to be invited to participate in the procedure in accordance with Article 64.

The minimum time limit for the receipt of tenders shall be 30 days from the date on which the invitation to tender is sent.

3. Where contracting authorities have published a prior information notice which was not itself used as a means of calling for competition, the minimum time limit for the receipt of tenders as laid down in the second subparagraph of paragraph 2 of this Article may be shortened to 10 days, provided that all of the following conditions are fulfilled:
  - (a) the prior information notice included all the information required in section I of part B of Annex VI, insofar as that information was available at the time the prior information notice was published;
  - (b) the prior information notice was sent for publication between 35 days and 12 months before the date on which the contract notice was sent.
4. Member States may provide that all or specific categories of sub-central contracting authorities may set the time limit for the receipt of tenders by mutual agreement between the contracting authority and the selected candidates, provided that all selected candidates have the same time to prepare and submit their tenders. In the absence of agreement on the time limit for the receipt of tenders, the time limit shall be at least 10 days from the date on which the invitation to tender was sent.
5. The time limit for receipt of tenders provided for in paragraph 2 may be reduced by five days where the contracting authority accepts that tenders may be submitted by electronic means in conformity with Article 19(1), and Articles 19(4) and (5).
6. Where a state of urgency duly substantiated by the contracting authorities renders impracticable the time limits laid down in this Article, they may fix:
  - (a) a time limit for the receipt of requests to participate which shall not be less than 15 days from the date on which the contract notice was sent;
  - (b) a time limit for the receipt of tenders which shall be not less than 10 days from the date on which the invitation to tender was sent.



*Article 27*  
*Competitive procedure with negotiation*

1. In competitive procedures with negotiation, any economic operator may submit a request to participate in response to a call for competition containing the information set out in Annex VI parts B and C by providing the information for qualitative selection that is requested by the contracting authority.

In the procurement documents, contracting authorities shall identify the subject-matter of the procurement by providing a description of their needs and the characteristics required of the supplies, works or services to be procured and specify the contract award criteria. They shall also indicate which elements of the description define the minimum requirements to be met by all tenders.

The information provided shall be sufficiently precise to enable economic operators to identify the nature and scope of the procurement and decide whether to request to participate in the procedure.

The minimum time limit for receipt of requests to participate shall be 30 days from the date on which the contract notice or, where a prior information notice is used as a means of calling for competition, the invitation to confirm interest was sent. The minimum time limit for the receipt of initial tenders shall be 30 days from the date on which the invitation was sent. Article 26(3) to (6) shall apply.

2. Only those economic operators invited by the contracting authority following its assessment of the information provided may submit an initial tender which shall be the basis for the subsequent negotiations. Contracting authorities may limit the number of suitable candidates to be invited to participate in the procedure in accordance with Article 64.

3. Unless otherwise provided for in paragraph 3a of this Article, contracting authorities shall negotiate with tenderers the initial and all subsequent tenders submitted by them, except for the final tenders within the meaning of paragraph 6, to improve the content thereof.

The minimum requirements and the award criteria shall not be subject to negotiations.

- 3a. Contracting authorities may award contracts on the basis of the initial tenders without negotiation where they have indicated in the contract notice or in the invitation to confirm interest, that they reserve the possibility to do so.
4. During the negotiations, contracting authorities shall ensure the equal treatment of all tenderers. To that end, they shall not provide information in a discriminatory manner which may give some tenderers an advantage over others. They shall inform all tenderers, whose tenders have not been eliminated pursuant to paragraph 5, in writing of any changes to the technical specifications or other procurement documents, other than those setting out the minimum requirements. Following these changes, contracting authorities shall provide sufficient time for tenderers to modify and re-submit amended tenders, as appropriate.

In accordance with Article 18, contracting authorities shall not reveal to the other participants confidential information communicated by a candidate or a tenderer participating in the negotiations without its agreement. Such agreement shall not take the form of a general waiver but shall be given with reference to the intended communication of specific information.

5. Competitive procedures with negotiation may take place in successive stages in order to reduce the number of tenders to be negotiated by applying the award criteria specified in the contract notice, in the invitation to confirm interest or in another procurement document. In the contract notice, the invitation to confirm interest or in another procurement document, the contracting authority shall indicate whether it will use this option.

6. Where the contracting authority intends to conclude the negotiations, it shall inform the remaining tenderers and set a common deadline to submit any new or revised tenders. It shall verify that the final tenders are in conformity with the minimum requirements and comply with Article 54(1), assess the final tenders on the basis of the award criteria and award the contract in accordance with Articles 66 to 69.

*Article 28*  
*Competitive dialogue*

1. In competitive dialogues, any economic operator may submit a request to participate in response to a contract notice by providing the information for qualitative selection that is requested by the contracting authority.

The minimum time limit for receipt of requests to participate shall be 30 days from the date on which the contract notice was sent.

Only those economic operators invited by the contracting authority following the assessment of the information provided may participate in the dialogue. Contracting authorities may limit the number of suitable candidates to be invited to participate in the procedure in accordance with Article 64. The contract shall be awarded on the sole basis of the award criterion of the most economically advantageous tender in accordance with Article 66(1)(a).

2. Contracting authorities shall set out their needs and requirements in the contract notice and they shall define these needs and requirements in that notice and/or in a descriptive document. At the same time and in the same documents, they shall also set out and define the chosen award criteria and set out an indicative timeframe.
3. Contracting authorities shall open, with the participants selected in accordance with the relevant provisions of Articles 54 to 65, a dialogue the aim of which shall be to identify and define the means best suited to satisfying their needs. They may discuss all aspects of the procurement with the chosen participants during this dialogue.

During the dialogue, contracting authorities shall ensure equality of treatment among all participants. To that end, they shall not provide information in a discriminatory manner which may give some participants an advantage over others.

In accordance with Article 18, contracting authorities shall not reveal to the other participants solutions proposed or other confidential information communicated by a candidate or tenderer participating in the dialogue without its agreement. Such agreement shall not take the form of a general waiver but shall be given with reference to the intended communication of specific information.

4. Competitive dialogues may take place in successive stages in order to reduce the number of solutions to be discussed during the dialogue stage by applying the award criteria defined in the contract notice or in the descriptive document. In the contract notice or the descriptive document, the contracting authority shall indicate whether it will use this option.
5. The contracting authority shall continue the dialogue until it can identify the solution or solutions which are capable of meeting its needs.
6. Having declared that the dialogue is concluded and having so informed the remaining participants, contracting authorities shall ask each of them to submit their final tenders on the basis of the solution or solutions presented and specified during the dialogue. Those tenders shall contain all the elements required and necessary for the performance of the project.

Those tenders may be clarified, specified and optimized at the request of the contracting authority. However, such clarification, specification, optimization or additional information may not involve changes to the essential aspects of the tender or of the public procurement, including the needs and requirements set out in the contract notice or in the descriptive document, where variations to those aspects, needs and requirements are likely to distort competition or have a discriminatory effect.

7. Contracting authorities shall assess the tenders received on the basis of the award criteria laid down in the contract notice or in the descriptive document.

At the request of the contracting authority, negotiations with the tenderer identified as having submitted the most economically advantageous tender in accordance with Article 66 may be carried out to confirm financial commitments or other terms contained in the tender by finalising the terms of the contract provided this does not have the effect of materially modifying essential aspects of the tender or of the public procurement, including the needs and requirements set out in the contract notice or in the descriptive document and does not risk distorting competition or causing discrimination.

8. The contracting authorities may specify prizes or payments to the participants in the dialogue

#### *Article 29* *Innovation partnership*

1. In innovation partnerships, any economic operator may submit a request to participate in response to a contract notice by providing the information for qualitative selection that is requested by the contracting authority.

In the procurement documents, the contracting authority shall identify the need for an innovative product, service or works that cannot be met by purchasing products, services or works already available on the market. It shall indicate which elements of this description define the minimum requirements to be met by all tenders. The information provided shall be sufficiently precise to enable economic operators to identify the nature and scope of the required solution and decide whether to request to participate in the procedure.

The contracting authority may decide to set up the innovation partnership with one partner or with several partners conducting separate research and development activities.

The minimum time limit for receipt of requests to participate shall be 30 days on which the contract notice was sent. Only those economic operators invited by the contracting authority following the assessment of the information provided may participate in the procedure. Contracting authorities may limit the number of suitable candidates to be invited to participate in the procedure in accordance with Article 64. The contracts shall be awarded on the sole basis of the award criterion of the most economically advantageous tender in accordance with Article 66.

2. The innovation partnership shall aim at the development of an innovative product, service or works and the subsequent purchase of the resulting supplies, services or works, provided that they correspond to the agreed performance levels and maximum costs.

The innovation partnership shall be structured in successive phases following the sequence of steps in the research and innovation process, which may include the manufacturing of the supply, the provision of the services or the completion of the works. The innovation partnership shall set intermediate targets to be attained by the partners and provide for payment of the remuneration in appropriate instalments.

Based on those targets, the contracting authority may decide after each phase to terminate the innovation partnership or, in the case of an innovation partnership with several partners, to reduce the number of partners by terminating individual contracts, provided that the contracting authority has indicated in the procurement documents these possibilities and the conditions for their use.

3. Unless otherwise provided for in this Article, contracting authorities shall negotiate with tenderers the initial and all subsequent tenders submitted by them, except for the final tender, to improve the content thereof.

The minimum requirements and the award criteria shall not be subject to negotiations.

- 3a. uring the negotiations, contracting authorities shall ensure the equal treatment of all tenderers. To that end, they shall not provide information in a discriminatory manner which may give some tenderers an advantage over others. They shall inform all tenderers whose tenders have not been eliminated pursuant to paragraph 3b, in writing of any changes to the technical specifications or other procurement documents other than those setting out the minimum requirements. Following these changes, contracting authorities shall provide sufficient time for tenderers to modify and re-submit amended tenders, as appropriate.

In accordance with Article 18, contracting authorities shall not reveal to the other participants confidential information communicated by a candidate or tenderer participating in the negotiations without its agreement. Such agreement shall not take the form of a general waiver but shall be given with reference to the intended communication of specific information.

- 3b. Negotiations during innovation partnership procedures may take place in successive stages in order to reduce the number of tenders to be negotiated by applying the award criteria specified in the contract notice, in the invitation to confirm interest or in the procurement documents. In the contract notice, the invitation to confirm interest or in the procurement documents, the contracting authority shall clearly indicate whether it will use that option.
- 3c. In selecting candidates, contracting authorities shall in particular apply criteria concerning the candidates' capacity in the field of research and development and of developing and implementing innovative solutions.

Only those economic operators invited by the contracting authority following its assessment of the requested information may submit research and innovation projects aimed at meeting the needs identified by the contracting authority that cannot be met by existing solutions.

In the procurement documents, the contracting authority shall define the arrangements applicable to intellectual property rights. In the case of an innovation partnership with several partners, the contracting authority shall not, in accordance with article 18, reveal to the other partners solutions proposed or other confidential information communicated by a partner in the framework of the partnership without its agreement. Such agreement shall not take the form of a general waiver but shall be given with reference to the intended communication of specific information.

4. The contracting authority shall ensure that the structure of the partnership and, in particular, the duration and value of the different phases reflect the degree of innovation of the proposed solution and the sequence of the research and innovation activities required for the development of an innovative solution not yet available on the market. The estimated value of supplies, services or works shall not be disproportionate in relation to the investment required for their development.

*Article 30*  
*Use of the negotiated procedure without prior publication*

1. In the specific cases and circumstances laid down in paragraphs (2) to (5), Member States may provide that contracting authorities may award public contracts by a negotiated procedure without prior publication.
2. The negotiated procedure without prior publication may be used for public works contracts, public supply contracts and public service contracts in any of the following cases:
  - (a) where no tenders or no suitable tenders or no requests to participate or no suitable requests for participation have been submitted in response to an open procedure or a restricted procedure, provided that the initial conditions of the contract are not substantially altered and that a report is sent to the Commission where it so requests.



A tender shall be considered not to be suitable where it is irrelevant to the contract, being manifestly incapable, without substantial changes, of meeting the contracting authority's needs and requirements as specified in the procurement documents. A request for participation shall be considered not to be suitable where the economic operator concerned is to be or may be excluded pursuant to Article 55 or does not meet the selection criteria set out by the contracting authority pursuant to Article 56;

- (b) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:
  - (i) the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance;
  - (ii) competition is absent for technical reasons;
  - (iii) the protection of exclusive rights, including intellectual property rights;

The exceptions set out in points (ii) and (iii) only apply when no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement;

- (d) insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the time limits for the open, restricted or competitive procedures with negotiation cannot be complied with; the circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority;

3. The negotiated procedure without prior publication may be used for public supply contracts:

- (a) where the products involved are manufactured purely for the purpose of research, experimentation, study or development; however, contracts awarded pursuant to this provision shall not include quantity production to establish commercial viability or to recover research and development costs;

- (b) for additional deliveries by the original supplier which are intended either as a partial replacement of supplies or installations or as the extension of existing supplies or installations where a change of supplier would oblige the contracting authority to acquire supplies having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance; the duration of such contracts as well as that of recurrent contracts shall not, as a general rule, exceed three years;
  - (c) for supplies quoted and purchased on a commodity market;
  - (d) for the purchase of supplies or services on particularly advantageous terms, from either a supplier which is definitively winding up its business activities, or the liquidator in an insolvency procedure, an arrangement with creditors, or a similar procedure under national laws or regulations.
4. The negotiated procedure without prior publication may be used for public service contracts, where the contract concerned follows a design contest organised in accordance with this Directive and is to be awarded, under the rules foreseen in the design contest, to the winner or one of the winners of the design contest; in the latter case, all winners must be invited to participate in the negotiations.
5. The negotiated procedure without prior publication may be used for new works or services consisting in the repetition of similar works or services entrusted to the economic operator to which the same contracting authorities awarded an original contract, provided that such works or services are in conformity with a basic project for which the original contract was awarded according to a procedure in accordance with Article 24(1). The basic project shall indicate the extent of possible additional works or services and the conditions under which they will be awarded.

As soon as the first project is put up for tender, the possible use of this procedure shall be disclosed and the total estimated cost of subsequent works or services shall be taken into consideration by the contracting authorities when they apply Article 4.

This procedure may be used only during the three years following the conclusion of the original contract.

## **CHAPTER II**

### **Techniques and instruments for electronic and aggregated procurement**

#### *Article 31* *Framework agreements*

1. Contracting authorities may conclude framework agreements, provided that they apply the procedures provided for in this Directive.

A framework agreement means an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.

The term of a framework agreement shall not exceed four years, save in exceptional cases duly justified, in particular by the subject of the framework agreement.

2. Contracts based on a framework agreement shall be awarded in accordance with the procedures laid down in this paragraph and paragraphs 3 and 4.

Those procedures may be applied only between those contracting authorities clearly identified for this purpose in the call for competition or the invitation to confirm interest and those economic operators party to the framework agreement as concluded.

Contracts based on a framework agreement may under no circumstances make substantial modifications to the terms laid down in that framework agreement, in particular in the case referred to in paragraph 3.

3. Where a framework agreement is concluded with a single economic operator, contracts based on that agreement shall be awarded within the limits of the terms laid down in the framework agreement.

For the award of those contracts, contracting authorities may consult the economic operator party to the framework agreement in writing, requesting it to supplement its tender as necessary.

4. Where a framework agreement is concluded with more than one economic operator, it shall be performed in one of the following ways:
  - (a) following the terms and conditions of the framework agreement, without reopening competition, where it sets out all the terms governing the provision of the works, services and supplies concerned and the objective conditions for determining which of the economic operators, party to the framework agreement, shall perform them; the latter conditions shall be indicated in the procurement documents for the framework agreement;
  - (aa) where the framework agreement sets out all the terms governing the provision of the works, services and supplies concerned, partly without reopening of competition in accordance with point (a) and partly with reopening of competition amongst the economic operators parties to the framework agreement in accordance with point (b), where this possibility has been stipulated by the contracting authorities in the procurement documents for the framework agreement. The choice of whether specific works, supplies or services shall be acquired following a reopening of competition or directly on the terms set out in the framework agreement shall be made pursuant to objective criteria, which shall be set out in the procurement documents for the framework agreement. These procurement documents shall also specify which terms may be subject to reopening of competition.

The possibilities provided for under the first subparagraph of point aa shall also apply to any lot of a framework agreement for which all the terms governing the provision of the works, services and supplies concerned are set out, regardless of whether all the terms governing the provision of the works, services and supplies concerned under other lots have been set out.

- (b) where not all the terms governing the provision of the works, services and supplies are laid down in the framework agreement, through reopening competition amongst the economic operators parties to the framework agreement.
5. The competitions referred to in points (aa) and (b) of paragraph 4 shall be based on the same terms as applied for the award of the framework agreement and, where necessary, more precisely formulated terms, and, where appropriate, other terms referred to in the procurement documents for the framework agreement, in accordance with the following procedure:
- (a) for every contract to be awarded, contracting authorities shall consult in writing the economic operators capable of performing the contract;
  - (b) contracting authorities shall fix a time limit which is sufficiently long to allow tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject-matter of the contract and the time needed to send in tenders;
  - (c) tenders shall be submitted in writing, and their content shall not be opened until the stipulated time limit for reply has expired;
  - (d) contracting authorities shall award each contract to the tenderer that has submitted the best tender on the basis of the award criteria set out in the procurement documents for the framework agreement.

*Article 32*  
*Dynamic purchasing systems*

1. For commonly used purchases the characteristics of which, as generally available on the market, meet the requirements of the contracting authorities, contracting authorities may use a dynamic purchasing system. The dynamic purchasing system shall be operated as a completely electronic process, and shall be open throughout the validity of the purchasing system to any economic operator that satisfies the selection criteria. It may be divided into categories of products, works or services that are objectively defined on the basis of characteristics of the procurement to be undertaken under the category concerned. Such characteristics may include reference to the maximum allowable size of the subsequent specific contracts or to a specific geographic area in which subsequent specific contracts will be performed.
2. In order to procure under a dynamic purchasing system, contracting authorities shall follow the rules of the restricted procedure. All the candidates satisfying the selection criteria shall be admitted to the system, the number of candidates to be admitted to the system shall not be limited in accordance with Article 64. Where contracting authorities have divided the system into categories of products or services in accordance with paragraph 1 of this Article, they shall specify the applicable selection criteria for each category.

Article 26 notwithstanding, the following time limits shall apply:

- (a) A minimum time limit for receipt of requests to participate shall be 30 days from the date on which the contract notice or, where a prior information notice is used as a means of calling for competition, the invitation to confirm interest is sent. No further time limits for receipt of requests to participate shall apply once the invitation to tender for the first specific procurement under the dynamic purchasing system has been sent.
- (b) The minimum time limit for receipt of tenders shall be at least 10 days from the date on which the invitation to tender is sent. Where appropriate, Article 26(4) shall apply. Article 26(3) and (5) shall not apply.

- 2a. All communications in the context of a dynamic purchasing system shall only be made with electronic means in accordance with Article 19(1), (2), (4) and (5).
3. For the purposes of awarding contracts under a dynamic purchasing system, contracting authorities shall
- (a) publish a call for competition making it clear that a dynamic purchasing system is involved;
  - (b) indicate in the procurement documents at least the nature and estimated quantity of the purchases envisaged, as well as all the necessary information concerning the dynamic purchasing system, including how the dynamic purchasing system operates, the electronic equipment used and the technical connection arrangements and specifications;
  - (ba) indicate any division into categories of products or services and the characteristics defining them;
  - (c) offer unrestricted and full direct access, as long as the system is valid, to the procurement documents in conformity with Article 51.
4. Contracting authorities shall give any economic operator, throughout the entire period of validity of the dynamic purchasing system, the possibility of requesting to participate in the system under the conditions referred to in paragraph 2. Contracting authorities shall finalise their assessment of such requests according to the selection criteria within 10 working days following their receipt. This deadline may be prolonged to 15 working days in individual cases where justified, in particular because of the need to examine additional documentation or to otherwise verify whether the selection criteria are met.

Notwithstanding the first subparagraph, as long as the invitation to tender for the first specific procurement under the dynamic purchasing system has not been sent, contracting authorities may extend the evaluation period provided that no invitation to tender is issued during the extended evaluation period. In the procurement documents they shall indicate the length of the extended period that they intend to apply.

The contracting authority shall inform the economic operator concerned at the earliest possible opportunity of whether or not it has been admitted to the dynamic purchasing system.

5. Contracting authorities shall invite all admitted participants to submit a tender for each specific procurement under the dynamic purchasing system, in accordance with Article 52. Where the dynamic purchasing system has been divided into categories of works, products or services, contracting authorities shall invite all participants having been admitted to the category corresponding to the specific procurement concerned to submit a tender.

They shall award the contract to the tenderer that submitted the best tender on the basis of the award criteria set out in the contract notice for the dynamic purchasing system or, where a prior information notice is used as a means of calling for competition, in the invitation to confirm interest. Those criteria may, where appropriate, be formulated more precisely in the invitation to tender.

- (5a) Contracting authorities may, at any time during the period of validity of the dynamic purchasing system, require admitted participants to submit a renewed and updated self-declaration as provided for in Article 57(1), within five working days from the date on which that request is transmitted.

Article 57(2) to (4) shall apply throughout the entire period of validity of the dynamic purchasing system.

6. Contracting authorities shall indicate the period of validity of the dynamic purchasing system in the call for competition. They shall notify the Commission of any change in the period of validity, using the following standard forms:



- (a) where the period of validity is changed without terminating the system, the form used initially for the call for competition for the dynamic purchasing system;
  - (b) where the system is terminated, a contract award notice referred to in Article 48.
7. No charges may be billed prior to or during the period of validity of the dynamic purchasing system to the economic operators interested in or party to the dynamic purchasing system.

*Article 33*  
*Electronic auctions*

1. Contracting authorities may use electronic auctions, in which new prices, revised downwards, and/or new values concerning certain elements of tenders are presented.

For this purpose, contracting authorities shall structure the electronic auction as a repetitive electronic process, which occurs after an initial full evaluation of the tenders, enabling them to be ranked using automatic evaluation methods.

As certain public service contracts and certain public works contracts having as their subject-matter intellectual performances, such as the design of works, cannot be ranked using automatic evaluation methods, such contracts shall not be the object of electronic auctions.

2. In open, restricted or competitive procedures with negotiation, the contracting authorities may decide that the award of a public contract shall be preceded by an electronic auction when the procurement documents, in particular the technical specifications, can be established with precision.

In the same circumstances, an electronic auction may be held on the reopening of competition among the parties to a framework agreement as provided for in Article 31(4)(aa) or (b) and on the opening for competition of contracts to be awarded under the dynamic purchasing system referred to in Article 32.

3. The electronic auction shall be based on one of the following elements of the tenders:
  - (a) solely on prices where the contract is awarded on the basis of price only;
  - (b) on prices and/or on the new values of the features of the tenders indicated in the procurement documents where the contract is awarded on the basis of the best price/quality ratio or to the tender with the lowest cost using a cost-effectiveness approach.
4. Contracting authorities which decide to hold an electronic auction shall state that fact in the contract notice or in the invitation to confirm interest. The procurement documents shall include at least the information set out in Annex VII.
5. Before proceeding with an electronic auction, contracting authorities shall make a full initial evaluation of the tenders in accordance with the award criterion or criteria and with the weighting fixed for them.

A tender shall be considered admissible where it has been submitted by a tenderer, who has not been excluded pursuant to Article 55 and who meets the selection criteria, and whose tender is in conformity with the technical specifications without being irregular or unacceptable within the meaning of point (b) of Article 24(1c) or unsuitable within the meaning of point (a) of Article 30(2).

All tenderers that have submitted admissible tenders shall be invited simultaneously by electronic means to participate in the electronic auction using, as of the specified date and time, the connections in accordance with the instructions set out in the invitation. The electronic auction may take place in a number of successive phases. The electronic auction shall not start sooner than two working days after the date on which invitations are sent out.

6. The invitation shall be accompanied by the outcome of a full evaluation of the relevant tenderer, carried out in accordance with the weighting provided for in the first subparagraph of Article 66(5).

The invitation shall also state the mathematical formula to be used in the electronic auction to determine the automatic re-rankings on the basis of the new prices and/or new values submitted. That formula shall incorporate the weighting of all the criteria established to determine the most economically advantageous tender, as indicated in the notice used as a means of calling for competition or in other procurement documents. For that purpose, any ranges shall, however, be reduced beforehand to a specified value.

Where variants are authorised, a separate formula shall be provided for each variant.

7. Throughout each phase of an electronic auction the contracting authorities shall instantaneously communicate to all tenderers at least sufficient information to enable them to ascertain their relative rankings at any moment and they may, where this has been previously indicated, communicate other information concerning other prices or values submitted as well as announcing the number of participants in any specific phase of the auction. In no case, however, may they disclose the identities of the tenderers during any phase of an electronic auction.
8. Contracting authorities shall close an electronic auction in one or more of the following manners:
  - (a) at the previously indicated date and time;
  - (b) when they receive no more new prices or new values which meet the requirements concerning minimum differences, provided that they have previously stated the time which they will allow to elapse after receiving the last submission before they close the electronic auction; or
  - (c) when the previously indicated number of phases in the auction has been completed.

Where the contracting authorities intend to close an electronic auction in accordance with point (c), possibly in combination with the arrangements laid down in point (b), the invitation to take part in the auction shall indicate the timetable for each phase of the auction.

9. After closing an electronic auction contracting authorities shall award the contract in accordance with Article 66 on the basis of the results of the electronic auction.

*Article 34*  
*Electronic catalogues*

1. Where the use of electronic means of communication is required, contracting authorities may require tenders to be presented in the format of an electronic catalogue or to include an electronic catalogue.

Member States may render the use of electronic catalogues mandatory in connection with certain types of procurement.

Tenders presented in the form of an electronic catalogue may be accompanied by other documents, completing the tender.

2. Electronic catalogues shall be established by the candidates or tenderers with a view to participating in a given procurement procedure in accordance with the technical specifications and format established by the contracting authority.

Furthermore, electronic catalogues shall comply with the requirements for electronic communication tools as well as with any additional requirements set by the contracting authority in accordance with Article 19.

3. Where the presentation of tenders in the form of electronic catalogues is accepted or required, contracting authorities shall:
  - (a) state so in the contract notice or in the invitation to confirm interest where a prior information notice is used as a means of calling for competition;
  - (b) indicate in the procurement documents all the necessary information pursuant to Article 19(5) concerning the format, the electronic equipment used and the technical connection arrangements and specifications for the catalogue.

4. Where a framework agreement has been concluded with more than one economic operator following the submission of tenders in the form of electronic catalogues, contracting authorities may provide that the reopening of competition for specific contracts takes place on the basis of updated catalogues. In such case, contracting authorities shall use one of the following alternative methods:
- (a) invite tenderers to resubmit their electronic catalogues, adapted to the requirements of the specific contract in question;
  - (b) notify tenderers that they intend to collect from the electronic catalogues which have already been submitted the information needed to constitute tenders adapted to the requirements of the specific contract in question ; provided that the use of this method has been announced in the procurement documents for the framework agreement.
5. Where contracting authorities reopen competition for specific contracts in accordance with point (b) of paragraph (4), they shall specify the date and time at which they intend to collect the information needed to constitute tenders adapted to the requirements of the specific contract in question and shall give tenderers the possibility to refuse such collection of information.

Contracting authorities shall allow for an adequate period between the notification and the actual collection of information.

Before awarding the contract, contracting authorities shall present the collected information to the tenderer concerned so as to give it the opportunity to contest or confirm that the tender thus constituted does not contain any material errors.

6. Contracting authorities may award contracts based on a dynamic purchasing system by requiring that offers for a specific contract shall be presented in the format of an electronic catalogue.

Contracting authorities may also award contracts based on a dynamic purchasing system in accordance with point (b) of paragraph 4 and paragraph 5 provided that the request for participation in the dynamic purchasing system is accompanied by an electronic catalogue in accordance with the technical specifications and format established by the contracting authority. This catalogue shall be completed subsequently by the candidates, when they are informed of the contracting authority's intention to constitute tenders by means of the procedure in point (b) of paragraph (4).

*Article 35*  
*Centralised purchasing activities and central purchasing bodies*

1. Member States may provide that contracting authorities may acquire supplies and/or services from a central purchasing body offering the centralised purchasing activity referred to in point a of Article 2(16).

Member States may also provide that contracting authorities may acquire works, supplies and services by using contracts awarded by a central purchasing body, by using dynamic purchasing systems operated by a central purchasing body or, to the extent set out in Article 31(2) second subparagraph, by using a framework agreement concluded by a central purchasing body offering the centralised purchasing activity referred to in point b of Article 2(16). Where a dynamic purchasing system which is operated by a central purchasing body may be used by other contracting authorities, this shall be mentioned in the call for competition setting up the system.

In relation to subparagraphs 1 and 2, Member States may provide that certain procurements shall be made by having recourse to central purchasing bodies or to one or more specific central purchasing bodies.

3. A contracting authority fulfils its obligations pursuant to this Directive when it purchases supplies or services from a central purchasing body offering the centralised purchasing activity referred to in point a of Article 2(16).

Furthermore, a contracting authority also fulfils its obligations pursuant to this Directive where it purchases works, supplies and services by using contracts awarded by the central purchasing body, by using dynamic purchasing systems operated by the central purchasing body or, to the extent set out in Article 31(2) second subparagraph, by using a framework agreement concluded by the central purchasing body offering the centralised purchasing activity referred to in point b of Article 2(16).

However, the contracting authority concerned shall be responsible for fulfilling the obligations pursuant to this Directive in respect of the parts it conducts itself, such as:

- (a) awarding a contract under a dynamic purchasing system, which is operated by a central purchasing body;
  - (b) conducting a reopening of competition under a framework agreement that has been concluded by a central purchasing body;
  - (c) pursuant to Article 31(4)(a) or (aa), determining which of the economic operators, party to the framework agreement, shall perform a given task under a framework agreement that has been concluded by a central purchasing body.
4. All procurement procedures conducted by a central purchasing body shall be performed using electronic means of communication, in accordance with the requirements set out in Article 19.
5. Contracting authorities may, without applying the procedures provided for in this Directive, award a public service contract for the provision of centralised purchasing activities to a central purchasing body. Such public service contracts may also include the provision of ancillary purchasing activities.

*Article 37*  
*Occasional joint procurement*

1. Two or more contracting authorities may agree to perform certain specific procurements jointly.
2. Where the conduct of a procurement procedure in its entirety is carried out jointly in the name and on behalf of all the contracting authorities concerned, they shall be jointly responsible for fulfilling their obligations pursuant to this Directive. This applies also in cases where one contracting authority manages the procedure, acting on its own behalf and on the behalf of the other contracting authorities concerned.

Where the conduct of a procurement procedure is not in its entirety carried out in the name and on behalf of the contracting authorities concerned, they shall be jointly responsible only for those parts carried out jointly. Each contracting authority shall have sole responsibility for fulfilling its obligations pursuant to this Directive in respect of the parts it conducts in its own name and on its own behalf.

*Article 38*  
*Procurement implicating contracting authorities from different Member States*

1. Without prejudice to Article 11, contracting authorities from different Member States may act jointly in the award of public contracts by using one of the means provided in this Article.

Contracting authorities shall not use the means provided in this Article for the purpose of avoiding the application of mandatory public law provisions in conformity with Union law to which they are subject in the Member State where they are located.

2. A Member State shall not prohibit its contracting authorities from using centralised purchasing activities offered by central purchasing bodies established in another Member State.



In respect of centralised purchasing activities offered by a central purchasing body established in another Member State than the contracting authority, Member States may, however, choose to specify that their contracting authorities may only use the centralised purchasing activities as defined in either point a or in point b of Article 2(16).

- 2a. The provision of the centralised purchasing activities as defined in point a and b of Article 2(16) by a central purchasing body located in another Member State shall be conducted in accordance with the national provisions of the Member State where the central purchasing body is located.

The national provisions of the Member State where the central purchasing body is located shall also apply to the following:

- (a) the award of a contract under a dynamic purchasing system;
  - (b) the conduct of a reopening of competition under a framework agreement;
  - (c) the determination pursuant to Article 31(4)(a) or (aa) of which of the economic operators, party to the framework agreement, shall perform a given task.
3. Several contracting authorities from different Member States may jointly award a public contract, conclude a framework agreement or operate a dynamic purchasing system. They may also, to the extent set out in Article 31(2) second subparagraph, award contracts based on the framework agreement or on the dynamic purchasing system. Unless the necessary provisions have been regulated by an international agreement concluded between the Member States concerned, the participating contracting authorities shall conclude an agreement that determines:
- (a) the responsibilities of the parties and the ensuing applicable national provisions;
  - (b) the internal organisation of the procurement procedure, including the management of the procedure, the distribution of the works, supplies or services to be procured, and the conclusion of contracts.

A participating contracting authority fulfils its obligations pursuant to this Directive when it purchases works, supplies or services from a contracting authority which is responsible for the procurement procedure. When determining the responsibilities and the applicable national law in accordance with point (a), contracting authorities may choose to allocate responsibilities to one or more of the participating contracting authorities and the ensuing applicable national provisions of any Member State in which at least one of the participating authorities is located. The allocation of responsibilities and the ensuing applicable national law shall be mentioned in the procurement documents for jointly awarded public contracts.

4. Where several contracting authorities from different Member States have set up a joint legal entity, including European Groupings of territorial cooperation under Regulation (EC) N°1082/2006 of the European Parliament and of the Council<sup>30</sup> or other entities established under Union law, the participating contracting authorities shall, by a decision of the competent body of the joint legal entity, agree on the applicable national procurement rules of one of the following Member States:

- (a) the national provisions of the Member State where the joint legal entity has its registered office;
- (b) the national provisions of the Member State where the joint legal entity is carrying out its activities.

The agreement referred to in the first subparagraph may either apply for an undetermined period, when fixed in the constitutive act of the joint legal entity, or may be limited to a certain period of time, certain types of contracts or to one or more individual contract awards.

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<sup>30</sup> OJ L 210 of 31.7.2006, p. 19

## **CHAPTER III**

### **Conduct of the procedure**

#### **SECTION 1**

#### **PREPARATION**

##### *Article 39*

##### *Preliminary market consultations*

Before launching a procurement procedure, contracting authorities may conduct market consultations with a view to the preparation of the procurement and to inform economic operators of their procurement plans and requirements.

For this purpose, contracting authorities may for example seek or accept advice from independent experts or authorities or from market participants which may be used in the planning and conduct of the procurement procedure, provided that such advice does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency.

##### *Article 39a*

##### *Prior involvement of candidates or tenderers*

Where a candidate or tenderer or an undertaking related to a candidate or tenderer has advised the contracting authority, whether in the context of Article 39 or not, or has otherwise been involved in the preparation of the procurement procedure, the contracting authority shall take appropriate measures to ensure that competition is not distorted by the participation of that candidate or tenderer.

Such measures shall include the communication to the other candidates and tenderers of relevant information exchanged in the context of or resulting from the involvement of the candidate or tenderer in the preparation of the procurement procedure and the fixing of adequate time limits for the receipt of tenders. The candidate or tenderer concerned shall only be excluded from the procedure where there are no other means to ensure compliance with the duty to observe the principle of equal treatment.

Prior to any such exclusion, candidates or tenderers shall be given the opportunity to prove that their involvement in preparing the procurement procedure is not capable of distorting competition. The measures taken shall be documented in the individual report required by Article 85.

#### *Article 40* *Technical specifications*

1. The technical specifications as defined in point 1 of Annex VIII shall be set out in the procurement documents. They shall define the characteristics required of a works, service or supply.

These characteristics may also refer to the specific process or method of production or provision of the requested works, supplies or services or to a specific process for another stage of its life cycle even where such factors do not form part of their material substance *provided that they are linked to the subject-matter of the contract and proportionate to its value and its objectives.*

The technical specifications may also specify whether the transfer of intellectual property rights will be required.

For all procurement which is intended for use by natural persons, whether general public or staff of the contracting authority, those technical specifications shall, except in duly justified cases, be drawn up so as to take into account accessibility criteria for persons with disabilities or design for all users.

Where mandatory accessibility standards are adopted by a legislative act of the Union, technical specifications shall, as far as accessibility criteria for persons with disabilities or design for all users are concerned, be defined by reference thereto.

2. Technical specifications shall afford equal access of economic operators to the procurement procedure and shall not have the effect of creating unjustified obstacles to the opening up of public procurement to competition.
3. Without prejudice to mandatory national technical rules, to the extent that they are compatible with Union law, the technical specifications shall be formulated in one of the following ways:
  - (a) in terms of performance or functional requirements, including environmental characteristics, provided that the parameters are sufficiently precise to allow tenderers to determine the subject-matter of the contract and to allow contracting authorities to award the contract;
  - (b) by reference to technical specifications and, in order of preference, to national standards transposing European standards, European Technical Assessments, common technical specifications, international standards, other technical reference systems established by the European standardisation bodies or - when any of those do not exist - national standards, national technical approvals or national technical specifications relating to the design, calculation and execution of the works and use of the supplies; each reference shall be accompanied by the words ‘or equivalent’;
  - (c) in terms of performance or functional requirements as referred to in point (a), with reference to the technical specifications referred to in point (b) as a means of presuming conformity with such performance or functional requirements;

(d) by reference to the technical specifications referred to in point (b) for certain characteristics, and by reference to the performance or functional requirements referred to in point (a) for other characteristics.

4. Unless justified by the subject-matter of the contract, technical specifications shall not refer to a specific make or source, or a particular process which characterises the products or services provided by a specific economic operator, or to trade marks, patents, types or a specific origin or production with the effect of favouring or eliminating certain undertakings or certain products. Such reference shall be permitted on an exceptional basis, where a sufficiently precise and intelligible description of the subject-matter of the contract pursuant to paragraph 3 is not possible. Such reference shall be accompanied by the words "or equivalent".
5. Where a contracting authority uses the option of referring to the technical specifications referred to in point (b) of paragraph 3, it shall not reject a tender on the grounds that the works, supplies or services tendered for do not comply with the technical specifications to which it has referred, once the tenderer proves in its tender by any appropriate means, including the means of proof referred to in Article 42, that the solutions proposed satisfy in an equivalent manner the requirements defined by the technical specifications.

6. Where a contracting authority uses the option laid down in point (a) of paragraph 3 to formulate technical specifications in terms of performance or functional requirements, it shall not reject a tender for works, supplies or services which comply with a national standard transposing a European standard, a European technical approval, a common technical specification, an international standard or a technical reference system established by a European standardisation body, where those specifications address the performance or functional requirements which it has laid down.

In its tender, the tenderer shall prove by any appropriate means, including those referred to in Article 42, that the work, supply or service in compliance with the standard meets the performance or functional requirements of the contracting authority.

*Article 41*  
*Labels*

1. Where contracting authorities intend to purchase works, supplies or services with specific environmental, social or other characteristics they may, in the technical specifications, the award criteria or the contract performance conditions, require a specific label as means of proof that the works, services or supplies correspond to *the required characteristics*, provided that all of the following conditions are fulfilled:
  - (a) the label requirements only concern criteria which are linked to the subject-matter of the contract and are appropriate to define characteristics of the works, supplies or services that are the subject-matter of the contract;

- (b) the *label* requirements are based on objectively verifiable and non-discriminatory criteria;
- (c) the labels are established in an open and transparent procedure in which all relevant stakeholders, including government bodies, consumers, social partners manufacturers, distributors and non-governmental organisations, may participate;
- (d) the labels are accessible to all interested parties;
- (e) the *label* requirements are set by a third party *over which* the economic operator applying for the label *cannot exercise a decisive influence*.

Where contracting authorities do not require the works, supplies or services to meet all of the label requirements, they shall indicate which label requirements are referred to.

*Contracting authorities requiring a specific label shall accept all labels that confirm that the works, supplies or services meet equivalent label requirements*

*Where an economic operator has demonstrably no possibility of obtaining the specific label indicated by the contracting authority or an equivalent label within the relevant time limits for reasons that are not attributable to that economic operator, the contracting authority shall accept other appropriate means of proof, which may include a technical dossier from the manufacturer, provided that the economic operator concerned proves that the works, supplies or services to be provided by it fulfil the requirements of the specific label or the specific requirements indicated by the contracting authority*

2. Where a label fulfils the conditions provided in points (b), (c), (d) and (e) of paragraph 1 but also sets out requirements not linked to the subject-matter of the contract, contracting authorities shall not require the label as such but may define the technical specification by reference to those of the detailed specifications of that label, or, where necessary, parts thereof, that are linked to the subject-matter of the contract and are appropriate to define characteristics of this subject-matter.



*Article 42*  
*Test reports, certification and other means of proof*

1. Contracting authorities may require that economic operators provide a test report from a conformity assessment body or a certificate issued by such a body as means of proof of conformity with requirements or criteria set out in the technical specifications, the award criteria or the contract performance conditions.

Where contracting authorities require the submission of certificates drawn up by a specific conformity assessment body, certificates from equivalent other conformity assessment bodies shall also be accepted by the contracting authorities.

For the purpose of this paragraph, a conformity assessment body shall be a body that performs conformity assessment activities including calibration, testing, certification and inspection accredited in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council

2. Contracting authorities shall accept other appropriate means of proof than those referred to in paragraph 1, such as a technical dossier of the manufacturer where the economic operator concerned and has no access to the certificates or test reports referred to in paragraph 1, or no possibility of obtaining them within the relevant time limits, provided that the lack of access is not attributable to the economic operator concerned *provided that the economic operator concerned thereby proves that the works, supplies or services provided by it meet the requirements or criteria set out in the technical specifications, the award criteria or the contract performance conditions.*
3. Member States shall make available to other Member States, upon request, any information related to the evidence and documents submitted in accordance with Article 40(6), Article 41 and paragraphs 1 and 2 of this Article. The competent authorities of the Member State of establishment of the economic operator shall provide this information in accordance with Article 88.

*Article 43*  
*Variants*

1. Contracting authorities may authorise or require tenderers to submit variants. They shall indicate in the contract notice or, where a prior information notice is used as a means of calling for competition, in the invitation to confirm interest whether or not they authorise variants. Variants shall not be authorised without such indication and shall be linked to the subject matter of the contract.
2. Contracting authorities authorising or requiring variants shall state in the procurement documents the minimum requirements to be met by the variants and any specific requirements for their presentation, in particular whether variants may be submitted only where a tender, which is not a variant, has also been submitted. They shall also ensure that the chosen award criteria can be applied to variants meeting those minimum requirements as well as to conforming tenders which are not variants.
3. Only variants meeting the minimum requirements laid down by the contracting authorities shall be taken into consideration.

In procedures for awarding public supply or service contracts, contracting authorities that have authorised or required variants shall not reject a variant on the sole ground that it would, where successful, lead to either a service contract rather than a public supply contract or a supply contract rather than a public service contract.

*Article 44*  
*Division of contracts into lots*

1. Contracting authorities may decide to award a contract in the form of separate lots and may determine the size and subject-matter of such lots.

Contracting authorities shall, except in respect of contracts whose division has been made mandatory pursuant to paragraph 4, provide an indication of the main reasons for their decision not to subdivide into lots; this shall be included in procurement documents or the individual report referred to in Article 85.

2. Contracting authorities shall indicate, in the contract notice or in the invitation to confirm interest, whether tenders may be submitted for one, for several or for all of the lots.

Contracting authorities may, even where tenders may be submitted for several or all lots, limit the number of lots that may be awarded to one tenderer, provided that the maximum number of lots per tenderer is stated in the contract notice or in the invitation to confirm interest.

Contracting authorities shall indicate in the procurement documents the objective and non-discriminatory criteria or rules they intend to apply for determining which lots will be awarded where the application of the award criteria would result in one tenderer being awarded more lots than the maximum number.

3. Member States may provide that, where more than one lot may be awarded to the same tenderer, contracting authorities may award contracts combining several or all lots where they have specified in the contract notice or in the invitation to confirm interest that they reserve the possibility to do so and indicate how the lots or groups of lots that may be combined.
4. Member States may implement the second subparagraph of paragraph 1 by rendering it obligatory to award contracts in the form of separate lots under conditions to be specified in accordance with their national law and having regard for Union law. In such circumstances the first subparagraph of paragraph 2 and, where appropriate, paragraph 3 of this Article shall also apply.

#### *Article 45* *Setting time limits*

1. When fixing the time limits for the receipt of tenders and requests to participate, contracting authorities shall take account of the complexity of the contract and the time required for drawing up tenders, without prejudice to the minimum time limits set out in Articles 25 to 29.

2. Where tenders can be made only after a visit to the site or after on-the-spot inspection of the documents supporting the procurement documents, the time limits for the receipt of tenders, which shall be longer than the minimum time limits set out in Articles 25 to 29, shall be fixed so that all economic operators concerned may be aware of all the information needed to produce tenders.
3. Contracting authorities shall extend the time limits for the receipt of tenders so that all economic operators concerned may be aware of all the information needed to produce tenders in the following cases:
  - (a) where, for whatever reason, additional information, although requested in good time, is not supplied at the latest six days before the time limit fixed for the receipt of tenders. In the event of an accelerated procedure as referred to in Articles 25(3) and 26(6), that period shall be four days;
  - (b) where significant changes are made to the procurement documents.

The length of the extension shall be proportionate to the importance of the information or change.

Where the additional information has either not been requested in good time or its importance in view of preparing responsive tenders is insignificant, deadlines need not be prolonged.

## SECTION 2

### PUBLICATION AND TRANSPARENCY

#### *Article 46* *Prior information notices*

1. Contracting authorities may make known their intentions of planned procurements through the publication of a prior information notice. Those notices shall contain the information set out in Annex VI part B section I. They shall be published either by the Commission or by the contracting authorities on their buyer profiles in accordance with point 2(b) of Annex IX. Where the notice is published by the contracting authorities on their buyer profile, they shall send a notice of the publication on their buyer profile in accordance with point 3 of Annex IX. Those notices shall contain the information set out in Annex VI part A.
2. For restricted and competitive procedures with negotiation, sub-central contracting authorities may, to the extent provided for in Article 24(2), use a prior information notice as a call for competition pursuant to Article 24(2), provided that the notice fulfils all of the following conditions:
  - (a) it refers specifically to the supplies, works or services that will be the subject of the contract to be awarded;
  - (b) it indicates that the contract will be awarded by restricted or competitive procedure with negotiation without further publication of a call for competition and invites interested economic operators to express their interest in writing;
  - (c) it contains, in addition to the information set out in Annex VI part B section I, the information set out in Annex VI part B section II;
  - (d) it has been sent for publication between 35 days and 12 months prior to the date on which the invitation referred to in Article 52(1) is sent.

Such notices shall not be published on a buyer profile; however, the additional publication at national level pursuant to Article 50, if any, may be made on a buyer profile.

The period covered by the prior information notice shall at the most be a 12-month period from the date the notice is transmitted for publication. However, in the case of public contracts for social and other specific services, the prior information notice referred to in point b of Article 75(1) may cover a period which is longer than 12 months.

*Article 47*  
*Contract notices*

Contract notices shall be used as a means of calling for competition in respect of all procedures, without prejudice to Article 24(2) and Article 30. Contract notices shall contain the information set out in Annex VI part C and shall be published in accordance with Article 49.

*Article 48*  
*Contract award notices*

1. Not later than 30 days after the conclusion of a contract or of a framework agreement following the decision to award or conclude it, contracting authorities shall send a contract award notice on the results of the procurement procedure.

Such notices shall contain the information set out in Annex VI part D and be published in accordance with Article 49.

2. Where the call for competition for the contract concerned has been made in the form of a prior information notice and the contracting authority has decided that it will not award further contracts during the period covered by the prior information notice, the contract award notice shall contain a specific indication to that effect.

In the case of framework agreements concluded in accordance with Article 31, contracting authorities shall not be bound to send a notice of the results of the procurement procedure for each contract based on that agreement. Member States may provide that contracting authorities shall group notices of the results of the procurement procedure for contracts based on the framework agreement on a quarterly basis. In that case, contracting authorities shall send the grouped notices within 30 days of the end of each quarter.

3. Contracting authorities shall send a notice of the result of the award of contracts based on a dynamic purchasing system within 30 days of the award of each contract. They may, however, group such notices on a quarterly basis. In that case, they shall send the grouped notices within 30 days of the end of each quarter.
4. Certain information on the contract award or the conclusion of the framework agreement may be withheld from publication where its release would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.

*Article 49*  
*Form and manner of publication of notices*

1. Notices referred to in Articles 46, 47 and 48 shall include the information set out in Annex VI in the format of standard forms, including standard forms for corrigenda.

The Commission shall establish those standard forms by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 91(2).

2. Notices referred to in Articles 46, 47 and 48 shall be drawn up, transmitted by electronic means to the Commission and published in accordance with Annex IX. Notices shall be published not later than five days after they are sent. The costs of publication of the notices by the Commission shall be borne by the Union.

3. Notices referred to in Articles 46, 47 and 48 shall be published in full in the official language(s) of the Union as chosen by the contracting authority. That language version or those language versions shall constitute the sole authentic text(s). A summary of the important elements of each notice shall be published in the other official languages.
4. The Commission shall ensure that the full text and the summary of prior information notices referred to in Article 46(2) and calls for competition setting up a dynamic purchasing system, as referred to in Article 32(3)(a) continue to be published:
  - (a) in the case of prior information notices, for 12 months or until receipt of a contract award notice as provided for in Article 48 indicating that no further contracts will be awarded during the 12-month period covered by the call for competition. However, in the case of public contracts for social and other specific services, the prior information notice referred to in point b of Article 75(1) shall continue to be published until the end of its originally indicated period of validity or until receipt of a contract award notice as provided for in Article 48 indicating that no further contracts will be awarded during the period covered by the call for competition;
  - (b) in the case of calls for competition setting up a dynamic purchasing system, for the period of validity of the dynamic purchasing system.
5. Contracting authorities shall be able to supply proof of the dates on which notices are dispatched.

The Commission shall give the contracting authority confirmation of the receipt of the notice and of the publication of the information sent, indicating the date of that publication. Such confirmation shall constitute proof of publication.

6. Contracting authorities may publish notices for public contracts that are not subject to the publication requirement laid down in this Directive provided those notices are sent to the Commission by electronic means in accordance with the format and procedures for transmission indicated in Annex IX.



*Article 50*  
*Publication at national level*

1. Notices referred to in Articles 46, 47 and 48 and the information contained therein shall not be published at national level before the publication pursuant to Article 49. However, publication may in any case take place at the national level where contracting authorities have not been notified of the publication within 48 hours after confirmation of the receipt of the notice according to Article 49.
2. Notices published at national level shall not contain information other than that contained in the notices dispatched to the Commission or published on a buyer profile, but shall indicate the date of dispatch of the notice to the Commission or its publication on the buyer profile.
3. Prior information notices shall not be published on a buyer profile before the dispatch to the Commission of the notice of their publication in that form. They shall indicate the date of that dispatch.

*Article 51*  
*Electronic availability of procurement documents*

1. Contracting authorities shall by electronic means offer unrestricted and full direct access free of charge to the procurement documents from the date of publication of the notice in accordance with Article 49 or the date on which the invitation to confirm interest is sent. The text of the notice or the invitation to confirm interest shall specify the internet address at which this documentation is accessible.

Where unrestricted and full direct access free of charge by electronic means to certain procurement documents cannot be offered for one of the reasons set out in the second subparagraph of Article 19(1) of this Directive, contracting authorities may indicate in the notice or the invitation to confirm interest that the procurement documents concerned will be transmitted by other means than electronically in accordance with paragraph 2 of this Article. In such case, the time limit for the submission of tenders shall be prolonged by five days, except in the cases of duly substantiated urgency referred to in Articles 25(3), 26(6) and in the last subparagraph of Article 27(1).

Where unrestricted and full direct access free of charge by electronic means to certain procurement documents cannot be offered because contracting authorities intend to apply Article 18(2) of this Directive, they shall indicate in the notice or the invitation to confirm interest which measures aimed at protecting the confidential nature of the information they require and how access can be obtained to the documents concerned. In such case, the time limit for the submission of tenders shall be prolonged by five days, except in the cases of duly substantiated urgency referred to in Articles 25(3), 26(6) and in the last subparagraph of Article 27(1).

2. Provided that it has been requested in good time, the contracting authorities shall supply *to all tenderers taking part in the procurement procedure* additional information relating to the specifications and any supporting documents not later than six days before the time limit fixed for the receipt of tenders. In the event of an accelerated procedure as referred to in Articles 25(3) and 26(6), that period shall be four days.

#### *Article 52*

#### *Invitations to submit a tender or to participate in the dialogue; invitations to confirm interest*

1. In restricted procedures, competitive dialogue procedures, innovation partnerships and competitive procedures with negotiation, contracting authorities shall simultaneously and in writing invite the selected candidates to submit their tenders or, in the case of a competitive dialogue, to take part in the dialogue.  
Where a prior information notice is used as a call for competition pursuant to Article 46(2), contracting authorities shall simultaneously and in writing invite the economic operators which have expressed their interest to confirm their continuing interest.
2. The invitations referred to in paragraph 1 shall include a reference to the electronic address on which the procurement documents have been made directly available by electronic means. The invitations shall be accompanied by the procurement documents, where these documents have not been the subject of unrestricted and full direct access, free of charge, for the reasons set out in the second and third subparagraph of Article 51(1) and have not already been made otherwise available. In addition, the invitations referred to in paragraph 1 shall include the information set out in Annex X.

**Article 53**  
***Informing candidates and tenderers***

1. Contracting authorities shall as soon as possible inform each candidate and tenderer of decisions reached concerning the conclusion of a framework agreement, the award of the contract or admittance to a dynamic purchasing system, including the grounds for any decision not to conclude a framework agreement, not to award a contract for which there has been a call for competition, to recommence the procedure or not to implement a dynamic purchasing system.
2. On request from the party concerned, the contracting authority shall as quickly as possible, and in any case within 15 days from receipt of a written request, inform:
  - (a) any unsuccessful candidate of the reasons for the rejection of its request to participate,
  - (b) any unsuccessful tenderer of the reasons for the rejection of its tender, including, for the cases referred to in Article 40(5) and (6), the reasons for its decision of non-equivalence or its decision that the works, supplies or services do not meet the performance or functional requirements,
  - (c) any tenderer that has made an admissible tender of the characteristics and relative advantages of the tender selected as well as the name of the successful tenderer or the parties to the framework agreement,
  - (d) any tenderer that has made an admissible tender of the conduct and progress of negotiations and dialogue with tenderers.
3. Contracting authorities may decide to withhold certain information referred to in paragraphs 1 and 2, regarding the contract award, the conclusion of framework agreements or admittance to a dynamic purchasing system, where the release of such information would impede law enforcement, would otherwise be contrary to the public interest, would prejudice the legitimate commercial interests of economic operators, whether public or private, or might prejudice fair competition between them.

### SECTION 3

#### CHOICE OF PARTICIPANTS AND AWARD OF CONTRACTS

##### *Article 54* *General principles*

1. Contracts shall be awarded on the basis of criteria laid down in accordance with Articles 66 to 69, provided that the contracting authority has verified in accordance with Articles 57 to 58 that the following cumulative conditions are fulfilled:
  - (a) the tender complies with the requirements, conditions and criteria set out in the contract notice or the invitation to confirm interest and in the procurement documents, taking into account, where applicable, Article 43;
  - (b) the tender comes from a tenderer that is not excluded in accordance with Article 55 and that meets the selection criteria set out by the contracting authority in accordance with Article 56 and, where applicable, the non-discriminatory rules and criteria referred to in Article 64.

Contracting authorities may decide not to award a contract to the tenderer submitting the best tender where they have established that the tender does not comply with the applicable obligations referred to in Article 15(2).

2. In open procedures, contracting authorities may decide to examine tenders before verifying the absence of grounds for exclusion and fulfilment of the selection criteria in accordance with Articles 55 to 63. Where they make use of this possibility, they shall ensure that the verification of the grounds for exclusion and the selection criteria is done in an impartial and open manner so that no contract is awarded to a tenderer that should have been excluded pursuant to Article 55 or that does not meet the selection criteria set out by the contracting authority.

Member States may exclude the use of the procedure in the first subparagraph for or restrict it to certain types of procurement or specific circumstances.

4. Where information or documentation to be submitted by economic operators is or appears to be incomplete or erroneous or where specific documents are missing, contracting authorities may, unless otherwise provided by the applicable national law implementing this Directive; request the economic operators concerned to submit, supplement, clarify or complete the relevant information or documentation within an appropriate time limit, provided that such requests are made in full compliance with the principles of equal treatment and transparency.
6. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to amend the list in Annex XI, where necessary, to add new international agreements that have been ratified by all Member States or where the existing international agreements referred to are no longer ratified by all Member States or they are otherwise changed, for instance in respect of their scope, content or denomination.

## SUBSECTION 1

### CRITERIA FOR QUALITATIVE SELECTION

#### *Article 55*

#### *Exclusion grounds*

1. Contracting authorities shall exclude an economic operator from participation in a procurement procedure where they have established, by verifying in accordance with Articles 57 to 58, or are otherwise aware that that economic operator has been the subject of a conviction by final judgment for one of the following reasons:
  - (a) participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA<sup>31</sup>;
  - (b) corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union<sup>32</sup> and Article 2(1) of Council Framework Decision 2003/568/JHA<sup>33</sup> as well as corruption as defined in the national law of the contracting authority or the economic operator;

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<sup>31</sup> OJ L 300, 11.11.2008, p. 42.

<sup>32</sup> OJ C 195, 25.6.1997, p. 1.

<sup>33</sup> OJ L 192, 31.7.2003, p. 54.

- (c) fraud within the meaning of Article 1 of the Convention on the protection of the European Communities<sup>34</sup>, financial interests;
- (d) terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Framework Decision 2002/475/JHA<sup>35</sup> respectively, or inciting, aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision;
- (e) money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC<sup>36</sup>.
- (ea) child labour and other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims<sup>37</sup>.

The obligation to exclude an economic operator shall also apply where the person convicted by final judgment is a member of the administrative, management or supervisory body of that economic operator or has powers of representation, decision or control therein.

2. An economic operator shall be excluded from participation in a procurement procedure where the contracting authority is aware that the economic operator is in breach of its obligations relating to the payment of taxes or social security contributions and where this has been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the country in which it is established or with those of the Member State of the contracting authority.

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<sup>34</sup> OJ C 316, 27.11.1995, p. 48.

<sup>35</sup> OJ L 164, 22.6.2002, p.3.

<sup>36</sup> OJ L 309, 25.11.2005, p. 15.

<sup>37</sup> *OJ L 101, 15.4.2011.*

Furthermore, contracting authorities may exclude or may be required by Member States to exclude from participation in a procurement procedure an economic operator where the contracting authority can demonstrate by any appropriate means that the economic operator is in breach of its obligations relating to the payment of taxes or social security contributions.

This paragraph shall no longer apply when the economic operator has fulfilled its obligations by paying or entering into a binding arrangement with a view to paying the due taxes or social security contributions, including, where applicable, any interest accrued or fines.

- 2a. Member States may provide for a derogation from the mandatory exclusion provided for in paragraphs 1 and 2, on an exceptional basis, for overriding reasons relating to the public interest such as public health or protection of the environment.

Member States may also provide for a derogation from the mandatory exclusion provided in paragraph 2, where an exclusion would be clearly disproportionate, in particular where only minor amounts of taxes or social security contributions are unpaid or where the economic operator was informed of the exact amount due following its breach of its obligations relating to the payment of taxes or social security contributions at such time that it did not have the possibility to take measures as provided for in the third subparagraph of paragraph 2 before expiration of the deadline for requesting participation or, in open procedures, the deadline for submitting its tender.

3. Contracting authorities may exclude or may be required by Member States to exclude from participation in a procurement procedure any economic operator in any of the following situations:

- (a) where it can demonstrate by any appropriate means violations of applicable obligations referred to in Article 15(2);

- (b) where the economic operator is bankrupt or is the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under national laws and regulations; the contracting authority may, however, decide not to exclude or be required by the Member State not to so exclude an economic operator which is in one of the above situations where it has established that the economic operator in question will be able to perform the contract, taking into account the applicable national rules and measures on the continuation of business in the case of the above situations;
- (c) where the contracting authority can demonstrate by appropriate means that the economic operator is guilty of a grave professional misconduct, which renders its integrity questionable
- (d) where the contracting authority has sufficiently plausible indications to conclude that the economic operator has entered into agreements with other economic operators aimed at distorting competition;
- (da) where a conflict of interest within the meaning of Article 21 cannot be effectively remedied by other less intrusive measures;
- (db) where a distortion of competition from the prior involvement of the economic operators in the preparation of the procurement procedure, as defined in Article 39a, cannot be remedied by other, less intrusive measures;
- (e) where the economic operator has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity or a prior concession contract which led to early termination of that prior contract, damages or other comparable sanctions;
- (f) where the economic operator has been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria, has withheld such information or is not able to submit the supporting documents required pursuant to Article 57;



(g) where the economic operator has undertaken to unduly influence the decision-making process of the contracting authority, to obtain confidential information that may confer upon it undue advantages in the procurement procedure or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or award.

3a. Contracting authorities shall at any moment during the procedure exclude an economic operator where it turns out that the economic operator in question is, in view of acts committed or omitted either before or during procedure, in one of the situations referred to in paragraphs 1 and 2.

At any moment during the procedure, contracting authorities may exclude or may be required by Member States to exclude an economic operator where it turns out that the economic operator in question is, in view of acts committed or omitted either before or during procedure, in one of the situations referred to in paragraph 3.

4. Any economic operator that is in one of the situations referred to in paragraphs 1 and 3 may provide evidence to the effect that measures taken by the economic operator are sufficient to demonstrate its reliability despite the existence of a relevant ground for exclusion. If such evidence is considered as sufficient, the economic operator concerned shall not be excluded from the procurement procedure.

For this purpose, the economic operator shall prove that it has paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct, clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities and taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct.

The measures taken by the economic operators shall be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct. Where the measures are considered to be insufficient, the economic operator shall receive a statement of the reasons for that decision.

An economic operator which has been excluded by final judgment from participating in procurement or concession award procedures shall not be entitled to make use of the possibility provided under the present paragraph during the period of exclusion resulting from that judgment in the Member States where the judgment is effective.

- 4a. By law, regulation or administrative provision and having regard for Union law, Member States shall specify the implementing conditions for this article. They shall, in particular, determine the maximum period of exclusion if no measures as specified in paragraph 4 are taken by the economic operator to demonstrate its reliability. Where the period of exclusion has not been set by final judgment, that period shall not exceed five years from the date of the conviction by final judgment in the cases referred to in the first paragraph and three years from the date of the relevant event in the cases referred to in paragraph (3).

*Article 56*  
*Selection criteria*

1. Selection criteria may relate to:
  - (a) suitability to pursue the professional activity;
  - (b) economic and financial standing;
  - (c) technical and professional ability.

Contracting authorities may only impose criteria referred to in paragraphs 2, 3 and 4 of this Article on economic operators as requirements for participation. They shall limit any requirements to those that are appropriate to ensure that a candidate or tenderer has the legal and financial capacities and the technical and professional abilities to perform the contract to be awarded. All requirements shall be related and proportionate to the subject-matter of the contract.

2. With regard to suitability to pursue the professional activity, contracting authorities may require economic operators to be enrolled on one of the professional or trade registers kept in their Member State of establishment, as described in Annex XII or to comply with any other request set out in that Annex.

In procurement procedures for services, insofar as economic operators have to possess a particular authorisation or to be members of a particular organisation in order to be able to perform in their country of origin the service concerned, the contracting authority may require them to prove that they hold such authorisation or membership.

3. With regard to economic and financial standing, contracting authorities may impose requirements ensuring that economic operators possess the necessary economic and financial capacity to perform the contract. For that purpose, contracting authorities may require, in particular, that economic operators have a certain minimum yearly turnover, including a certain minimum turnover in the area covered by the contract. In addition, contracting authorities may require that economic operators provide information on their annual accounts showing the ratio, for instance, between assets and liabilities. They may also require an appropriate level of professional risk indemnity insurance.

The minimum yearly turnover that economic operators are required to have shall not exceed two times the estimated contract value, except in duly justified cases such as relating to the special risks attached to the nature of the works, services or supplies. The contracting authority shall indicate the main reasons for such requirement in the procurement documents or the individual report referred to in Article 85.

The ratio, for instance, between assets and liabilities may be taken into consideration where the contracting authority specifies the methods and criteria for such consideration in the procurement documents. Such methods and criteria shall be transparent, objective and non-discriminatory.

Where a contract is divided into lots this Article shall apply in relation to each individual lot. However, the contracting authority may set the minimum yearly turnover that economic operators are required to have by reference to groups of lots in the event that the successful tenderer is awarded several lots to be executed at the same time.

Where contracts based on a framework agreement are to be awarded following a reopening of competition, the maximum yearly turnover requirement referred to in the second subparagraph of this paragraph shall be calculated on the basis of the expected maximum size of specific contracts that will be performed at the same time, or, where it is not known, on the basis of the estimated value of the framework agreement. In the case of dynamic purchasing systems, the maximum yearly turnover requirement referred to in the second subparagraph shall be calculated on the basis of the expected maximum size of specific procurements to be awarded under the system.

4. With regard to technical and professional ability, contracting authorities may impose requirements ensuring that economic operators possess the necessary human and technical resources and experience to perform the contract to an appropriate quality standard.

Contracting authorities may require, in particular, that economic operators have a sufficient level of experience demonstrated by suitable references from contracts performed in the past. A contracting authority may assume that an economic operator does not possess the required professional abilities where the contracting authority has established that the economic operator in question has conflicting interests which may negatively affect the performance of the contract.

In procurement procedures for supplies requiring siting or installation work, services or works, the professional ability of economic operators to provide the service or to execute the installation or the work may be evaluated with regard to their skills, efficiency, experience and reliability.

5. Contracting authorities shall indicate the required conditions of participation, which may be expressed as minimum levels of ability, together with the appropriate means of proof, in the contract notice or in the invitation to confirm interest.

*Article 57*  
*European Single Procurement Document*

1. At the time of submission of requests to participate or of tenders, contracting authorities shall accept the European Single Procurement Document consisting of an updated self-declaration as preliminary evidence in replacement of certificates issued by public authorities or third parties confirming that the relevant economic operator fulfils any of the following conditions:
  - a) it is not in one of the situations referred to in Article 55 in which economic operators shall or may be excluded;
  - (b) it meets the relevant selection criteria that have been set out pursuant to Article 56;
  - (c) where applicable, it fulfils the objective rules and criteria that have been set out pursuant to Article 64.

Where the economic operator relies on the capacities of other entities pursuant to Article 62, the European Single Procurement Document shall also contain the information referred to under points a, b, and c in respect of such entities.

The European Single Procurement Document shall consist of a formal statement by the economic operator that the relevant ground for exclusion does not apply and/or that the relevant selection criterion is fulfilled and provide the pertinent information as required by the contracting authority. It shall further identify the public authority or third party responsible for establishing the supporting document and contain a formal statement to the effect that the economic operator will be able, upon request and without delay to provide that supporting document.

In a subsequent procurement procedure, economic operators may reuse the European Single Procurement Document which has already been used in a previous procurement procedure, provided that they confirm that the information contained therein continues to be correct.

The European Single Procurement Document shall be drawn up on the basis of a standard form, to be established by the Commission, by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 91(3). At the latest two years after the date provided for in Article 92(1), the European Single Procurement Document shall be provided exclusively in electronic form.

Where the contracting authority can obtain the supporting documents directly by accessing a database pursuant to paragraph 3, the European Single Procurement Document shall also contain the information required for this purpose, such as the internet address of the database, any identification data and, where applicable, the necessary declaration of consent.

Article 94 notwithstanding, the Commission shall review the practical application of the European Single Procurement Document taking into account the technical development of databases in the Member States and report thereon to the European Parliament and the Council three years after adoption of the Directive.

Where appropriate, it shall make proposals for solutions optimising the cross-border access to such database and the use of certificates and attestations in the internal market.

2. A contracting authority may ask tenderers and candidates at any moment during the procedure to submit all or part of the supporting documents where this is necessary to ensure the proper conduct of the procedure.

Before awarding the contract, the contracting authority shall, except in respect of contracts based on framework agreements where these are concluded in accordance with Article 31(3) or Article 31(4)(a), require the tenderer to which it has decided to award the contract to submit up to date supporting documents in accordance with Article 57 and, where appropriate, Article 61, unless, as of the date referred to in Article 92(2), the contracting authority having awarded the contract or concluded the framework agreement, already possesses these documents or can obtain these documents or the relevant information by accessing a national database pursuant to paragraph 3. The contracting authority may invite economic operators to supplement or clarify the certificates received pursuant to Articles 56a and 61.

3. Paragraph 2 notwithstanding, economic operators shall not be required to submit supporting documents or other documentary evidence where and insofar as the contracting authority has the possibility to obtain the certificates or the relevant information directly by accessing a national database in any Member State of the European Union that is available free of charge, such as a national procurement register, a virtual company dossier, an electronic document storage system or a prequalification system.

For the purpose of the first subparagraph, Member States shall ensure that databases which contain relevant information on economic operators and which may be consulted by their contracting authorities may also be consulted, under the same conditions, by contracting authorities of other Member States.

4. Member States shall make available and up-to-date in e-Certis a complete list of databases containing relevant information on economic operators which can be consulted by contracting authorities from other Member States. Upon request, they shall communicate to other Member States any information related to the databases referred to in this Article.

*Article 57a*  
*Means of proof*

1. Contracting authorities may require the certificates, statements and other means of proof referred to in paragraphs 2, 3 and 4 of this Article and Annex XIV as evidence for the absence of grounds for exclusion as referred to in Article 55(4) and for the fulfilment of the selection criteria in accordance with Article 56.

Contracting authorities shall not require means of proof other than those referred to in this Article and in Article 61; furthermore in respect of Article 62, economic operators may rely on any appropriate means to prove to the contracting authority that they will have the necessary resources at their disposal.

2. Contracting authorities shall accept the following as sufficient evidence that none of the cases specified in Article 55 apply to the economic operator:

- (a) as regards paragraph 1 of that Article, the production of an extract from the relevant register, such as judicial records or, failing that, of an equivalent document issued by a competent judicial or administrative authority in the country of origin or the country where the economic operator is established showing that those requirements have been met;
- (b) as regards paragraph 2 and point (b) of paragraph 3 of that Article, a certificate issued by the competent authority in the Member State concerned;
- (c) where the country in question does not issue such documents or certificates, or where these do not cover all the cases specified in paragraphs 1, 2 and point (b) of paragraph 3 of that Article, they may be replaced by a declaration on oath or, in Member States where there is no provision for declarations on oath, by a solemn declaration made by the person concerned before a competent judicial or administrative authority, a notary or a competent professional or trade body, in the country of origin or in the country where the economic operator is established.

A Member State shall, where relevant, provide an official declaration stating that the documents or certificates referred to in this paragraph are not issued or that these do not cover all the cases specified in paragraphs 1, 2 and point (b) of paragraph 3 of Article 55. Such official declarations shall be made available through the online repository of certificates (e-certis) referred to in Article 58.

3. Proof of the economic operator's economic and financial standing may, as a general rule, be provided by one or more of the references listed in Annex XIV, part 1.

Where, for any valid reason, the economic operator is unable to provide the references requested by the contracting authority, it may prove its economic and financial standing by any other document which the contracting authority considers appropriate.



4. Evidence of the economic operators' technical abilities may be provided by one or more of the means listed in Annex XIV, part 2, according to the nature, quantity or importance, and use of the works, supplies or services.
5. Upon request, Member States shall make available to other Member States any information relating to the grounds for exclusion listed in Article 55, the suitability to pursue the professional activity, and the financial and technical capacities of tenderers referred to in Article 56, and any information relating to the means of proof referred to in this Article.

*Article 58*  
*Online repository of certificates (e-Certis)*

1. With a view to facilitating cross-border tendering, Member States shall ensure that the information concerning certificates and other forms of documentary evidence introduced in e-Certis established by the Commission is constantly kept up to date.
2. Contracting authorities shall have recourse to e-Certis and contracting authorities shall require primarily such types of certificates or forms of documentary evidence that are covered by e-Certis.
3. The Commission shall make available all language versions of the European Single Procurement Document in e-Certis.

*Article 61*  
*Quality assurance standards and environmental management standards*

1. Contracting authorities shall, where they require the production of certificates drawn up by independent bodies attesting that the economic operator complies with certain quality assurance standards, including on accessibility for disabled persons, refer to quality assurance systems based on the relevant European standards series certified by accredited bodies. They shall recognise equivalent certificates from bodies established in other Member States. They shall also accept other evidence of equivalent quality assurance measures where the economic operator concerned has no possibility of obtaining such certificates within the relevant time limits for reasons that are not attributable to that economic operator provided that the economic operator proves that the proposed quality assurance measures comply with the required quality assurance standards.

2. Where contracting authorities require the production of certificates drawn up by independent bodies attesting that the economic operator complies with certain environmental management systems or standards, they shall refer to the European Union Eco-Management and Audit Scheme (EMAS) or to other environmental management systems as recognized in accordance with Article 45 of Regulation (EC) No 1221/2009 of the European Parliament and of the Council<sup>38</sup> or other environmental management standards based on the relevant European or international standards by accredited bodies. They shall recognise equivalent certificates from bodies established in other Member States.

Where an economic operator has demonstrably no access to such certificates, or no possibility of obtaining them within the relevant time limits for reasons that are not attributable to that economic operator, the contracting authority shall also accept other evidence of environmental management measures, provided that the economic operator concerned proves that these measures are equivalent to those required under the applicable environmental management system.

3. Upon request, Member States shall make available to other Member States, in accordance with Article 88, any information relating to the documents produced as evidence of compliance with quality and environmental standards referred to in paragraphs 1 and 2 of this Article.

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<sup>38</sup> OJ L 342, 22.12.2009, p. 1.

*Article 62*  
*Reliance on the capacities of other entities*

1. With regard to criteria relating to economic and financial standing as set out pursuant to Article 56(3), and to criteria relating to technical and professional ability as set out pursuant to Article 56(4), an economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. With regard to criteria relating to the educational and professional qualifications as set out in point e of Annex XIV, Part, II, or to the relevant professional experience, economic operators may however only rely on the capacities of other entities where the latter will perform the works or services for which these capacities are required. Where an economic operator wants to rely on the capacities of other entities, it shall prove to the contracting authority that it will have at its disposal the resources necessary, for example, by producing a commitment by those entities to that effect.

The contracting authority shall, in accordance with Articles 56a to 58, verify whether the entities on whose capacity the economic operator intends to rely fulfil the relevant selection criteria and whether there are grounds for exclusion pursuant to Article 55. The contracting authority shall require that the economic operator substitutes an entity which does not meet a relevant selection criterion, or in respect of which there are compulsory grounds for exclusion. The contracting authority may require that the economic operator substitutes an entity in respect of which there are non-compulsory grounds for exclusion.

Where an economic operator relies on the capacities of other entities with regard to criteria relating to economic and financial standing, the contracting authority may require that the economic operator and those entities be jointly liable for the execution of the contract.

Under the same conditions, a group of economic operators as referred to in Article 16 may rely on the capacities of participants in the group or of other entities.

2. In the case of works contracts, service contracts and siting or installation operations in the context of a supply contract, contracting authorities may require that certain critical tasks be performed directly by the tenderer itself or, where the tender is submitted by a group of economic operators as referred to in Article 16, by a participant in that group.

*Article 63*

*Official lists of approved economic operators and certification by bodies established under public or private law*

1. Member States may establish or maintain either official lists of approved contractors, suppliers or service providers or provide for a certification by certification bodies complying with European certification standards within the meaning of Annex VIII.

They shall inform the Commission and the other Member States of the address of the certification body or the body responsible for the official lists, to which applications shall be sent.

2. Member States shall adapt the conditions for registration on the lists referred to in paragraph 1 and for the issue of certificates by certification bodies to the provisions of this subsection.

Member States shall also adapt those conditions to Article 62 as regards applications for registration submitted by economic operators belonging to a group and claiming resources made available to them by the other companies in the group. In such cases, those operators shall prove to the authority establishing the official list that they will have those resources at their disposal throughout the period of validity of the certificate attesting to their registration in the official list and that throughout the same period those companies continue to fulfil the qualitative selection requirements encompassed by the official list or certificate on which operators rely for their registration.

3. Economic operators registered on the official lists or having a certificate may, for each contract, submit to the contracting authority a certificate of registration issued by the competent authority or the certificate issued by the competent certification body.

Those certificates shall state the references which enabled those economic operators to be registered in the list or to obtain certification and the classification given in that list.

4. Certified registration on official lists by the competent bodies or a certificate issued by the certification body shall constitute a presumption of suitability with regard to requirements for qualitative selection encompassed by the list or certificate.
5. Information that can be deduced from registration on official lists or certification shall not be questioned without justification. With regard to the payment of social security contributions and taxes, an additional certificate may be required of any registered economic operator whenever a contract is to be awarded.

The contracting authorities of other Member States shall apply paragraph 3 and the first subparagraph of this paragraph only in favour of economic operators established in the Member State holding the official list.

6. The requirements of proof for the criteria for qualitative selection encompassed by the list or certificate shall comply with Article 57 and, where appropriate, Article 61. For any registration of economic operators of other Member States in an official list or for their certification, no further proof or statements shall be required other than those requested of national economic operators.

Economic operators may request at any time their registration in an official list or for the issuance of a certificate. They shall be informed within a reasonably short period of time of the decision of the authority drawing up the list or of the competent certification body.

7. Economic operators from other Member States shall not be obliged to undergo such registration or certification in order to participate in a public contract. The contracting authorities shall recognise equivalent certificates from bodies established in other Member States. They shall also accept other equivalent means of proof.

8. Upon request, Member States shall make available to other Member States any information relating to the documents produced as evidence that the economic operators fulfil the requirements to be registered in the list of approved economic operators or as evidence that economic operators from another Member State possess an equivalent certification.

## **SUBSECTION 2**

### **REDUCTION OF NUMBERS OF CANDIDATES, TENDERS AND SOLUTIONS**

#### *Article 64*

#### *Reduction of the number of otherwise qualified candidates to be invited to participate*

1. *In restricted procedures, competitive procedures with negotiation, competitive dialogue procedures and innovation partnerships, contracting authorities may limit the number of candidates meeting the selection criteria that they will invite to tender or to conduct a dialogue, provided the minimum number, in accordance with paragraph 2, of qualified candidates is available.*
2. The contracting authorities shall indicate, in the contract notice or in the invitation to confirm interest, the objective and non-discriminatory criteria or rules they intend to apply, the minimum number of candidates they intend to invite and, where appropriate, the maximum number.

In the restricted procedure the minimum number of candidates shall be five. In the competitive procedure with negotiation, in the competitive dialogue procedure and in the innovation partnership the minimum shall be three. In any event the number of candidates invited shall be sufficient to ensure genuine competition.

The contracting authorities shall invite a number of candidates at least equal to the minimum number. Where the number of candidates meeting the selection criteria and the minimum levels of ability as referred to in Article 56(5) is below the minimum number, the contracting authority may continue the procedure by inviting the candidates with the required capabilities. In the context of the same procedure, the contracting authority shall not include other economic operators that did not request to participate, or candidates that do not have the required capabilities.

*Article 65*  
*Reduction of the number of tenders and solutions*

Where contracting authorities exercise the option of reducing the number of tenders to be negotiated as provided for in Article 27(5) or of solutions to be discussed as provided for in Article 28(4), they shall do so by applying the award criteria stated in the procurement documents. In the final stage, the number arrived at shall make for genuine competition insofar as there are enough solutions, qualified candidates or tenderers.

**SUBSECTION 3**  
**AWARD OF THE CONTRACT**

*Article 66*  
*Contract award criteria*

1. Without prejudice to national laws, regulations or administrative provisions concerning the price of certain supplies or the remuneration of certain services, contracting authorities shall base the award of public contracts on the most economically advantageous tender.
2. The most economically advantageous tender from the point of view of the contracting authority shall be identified on the basis of the price or cost, using a cost-effectiveness approach, such as life-cycle costing in accordance with Article 67, and *may* include the best price-quality ratio, which shall be assessed on the basis of -criteria including qualitative, environmental and/or social aspects linked to the subject-matter of the public contract in question. Such -criteria may comprise, for instance:
  - quality, including technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics, trading and its conditions,
  - organisation, qualification and experience of staff assigned to performing the contract, where the quality of the staff employed can significantly impact the level of performance of the contract,
  - after-sales service and technical assistance, delivery conditions such as delivery date, delivery process and delivery period or period of completion.

The cost element may also take the form of a fixed price or cost on the basis of which economic operators will compete on quality criteria only.

Member States may provide that contracting authorities may not use price only or cost only as the sole award criterion or restrict their use to certain categories of contracting authorities or certain types of contracts.

3. Award criteria shall be considered to be linked to the subject-matter of the public contract where they relate to the works, supplies or services to be provided under that contract in any respect and at any stage of their life cycle, including factors involved:
  - (a) in the specific process of production, provision or trading of those works, supplies or services, or
  - (b) in a specific process for another stage of their life cycle,even where such factors do not form part of their material substance.
4. Award criteria shall not have the effect of conferring an unrestricted freedom of choice on the contracting authority. They shall ensure the possibility of effective competition and shall be accompanied by specifications that allow the information provided by the tenderers to be effectively verified in order to assess how well the tenders meet the award criteria. In case of doubt, contracting authorities shall verify effectively the accuracy of the information and proof provided by the tenderers.
5. The contracting authority shall specify, in the procurement documents the relative weighting which it gives to each of the criteria chosen to determine the most economically advantageous tender, except where this is identified on the basis of price alone.



Those weightings may be expressed by providing for a range with an appropriate maximum spread.

Where weighting is not possible for objective reasons, the contracting authority shall indicate the criteria in decreasing order of importance.

*Article 67*  
*Life-cycle costing*

1. Life-cycle costing shall to the extent relevant cover parts or all of the following costs over the life cycle of a product, service or works:
  - (a) costs borne by the contracting authority or other users, such as:
    - (i) costs relating to acquisition,
    - (ii) costs of use, such as consumption of energy and other resources,
    - (iii) maintenance costs:
    - (iv) end of life costs, such as collection and recycling costs;
  - (b) costs imputed to environmental externalities linked to the product, service or works during its life cycle, provided their monetary value can be determined and verified; these costs may include the cost of emissions of greenhouse gases and of other pollutant emissions and other climate change mitigation costs.
2. Where contracting authorities assess the costs using a life-cycle costing approach, they shall indicate in the procurement documents the *data to be provided by the tenderers and the method which the contracting authority will use to determine* the life-cycle costs on the basis of these data.

The method used for the assessment of costs imputed to environmental externalities shall fulfil all of the following conditions:

- (a) it is based on objectively verifiable and non-discriminatory criteria. In particular, where it has not been established for repeated or continuous application, it shall not unduly favour or disadvantage certain economic operators;

(c) it is accessible to all interested parties;

(ca) *the data required can be provided with reasonable effort by normally diligent economic operators, including operators from third countries party to the Agreement or other international agreements by which the Union is bound.*

3. Whenever a common method for the calculation of life-cycle costs has been made mandatory by a legislative act of the Union, that common method shall be applied for the assessment of costs.

A list of such legislative acts, and where necessary the delegated acts supplementing them, is set out in Annex XV. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 concerning the update of that list, when an update of the list is necessary due to the adoption of new legislation making a common method mandatory or the repeal or modification of existing legislation.

*Article 69*  
*Abnormally low tenders*

1. Contracting authorities shall require economic operators to explain the price or costs proposed in the tender where tenders appear to be abnormally low in relation to the works, supplies or services.
2. The explanations referred to in paragraph 1 may in particular relate to:
  - (a) the economics of the construction method, the manufacturing process or the services provided;
  - (b) the technical solutions chosen or any exceptionally favourable conditions available to the tenderer for the execution of the work or for the supply of the goods or services;

(c) the originality of the work, supplies or services proposed by the tenderer;

(d) compliance with obligations referred to in Article 15(2);

(da) compliance with obligations referred to in Article 71;

(e) the possibility of the tenderer obtaining State aid.

3. The contracting authority shall assess the information provided by consulting the tenderer. It may only reject the tender where the evidence supplied does not satisfactorily account for the low level of price or costs proposed, taking into account the elements referred to in paragraph 2.

Contracting authorities shall reject the tender, where they have established that the tender is abnormally low because it does not comply with applicable obligations referred to in Article 15(2).

4. Where a contracting authority establishes that a tender is abnormally low because the tenderer has obtained State aid, the tender may be rejected on that ground alone only after consultation with the tenderer where the latter is unable to prove, within a sufficient time limit fixed by the contracting authority, that the aid in question was compatible with the internal market within the meaning of Article 107 of the Treaty. Where the contracting authority rejects a tender in those circumstances, it shall inform the Commission thereof.
5. Upon request, Member States shall make available to other Member States by way of administrative cooperation any information at its disposal, such as laws, regulations, universally applicable collective agreements or national technical standards, relating to the evidence and documents produced in relation to details listed in paragraph 2.

## **CHAPTER IV**

### ***Contract performance***

#### *Article 70* *Conditions for performance of contracts*

Contracting authorities may lay down special conditions relating to the performance of a contract, provided that they are linked to the subject-matter of the contract within the meaning of Article 66(3) and indicated in the call for competition or in the procurement documents. Those conditions may include economic, innovation-related, environmental, social or employment-related considerations.

#### *Article 71* *Subcontracting*

1. Observance of the obligations referred to in Article 15(2) by subcontractors is ensured through appropriate action by the competent national authorities acting within the scope of their responsibility and remit.
2. In the procurement documents, the contracting authority may ask or may be required by a Member State to ask the tenderer to indicate in its tender any share of the contract it may intend to subcontract to third parties and any proposed subcontractors.
3. Member States may provide that at the request of the subcontractor and where the nature of the contract so allows, the contracting authority shall transfer due payments directly to the subcontractor for services, supplies or works provided to the economic operator to whom the public contract has been awarded ( the main contractor). Such measures may include appropriate mechanisms permitting the main contractor to object to undue payments. The arrangements concerning that mode of payment shall be set out in the procurement documents.

4. Paragraphs 1 to 3 shall be without prejudice to the question of the main contractor's liability.
5. In the case of works contracts and in respect of services to be provided at the facilities under the direct oversight of the contracting authority, after the award of the contract and at the latest when the performance of the contract commences, the contracting authority shall require the main contractor to indicate to the contracting authority the name, contact details and legal representatives of its subcontractors, involved in such works or services, insofar as known at this point in time. The contracting authority shall require the main contractor to notify the contracting authority of any changes to this information during the course of the contract as well as of the required information for any new subcontractors which it subsequently involves in such works or services. Alternatively, Member States may impose the obligation to deliver the required information directly on the main contractor.

Where necessary for the purposes point b of paragraph 6 the required information shall be accompanied by the subcontractors' self-declarations as provided for in Article 57. The implementing measures pursuant to paragraph 8 may provide that subcontractors which are presented after the award of the contract shall provide the certificates and other supporting documents instead of the self-declaration.

The first subparagraph shall not apply to suppliers.

Contracting authorities may extend or may be required by a Member State to extend the obligations provided for in the first subparagraph for instance:

- (a) to supply contracts, to services contracts other than those concerning services to be provided at the facilities under the direct oversight of the contracting authority or to suppliers involved in works or services contracts;
- (b) to subcontractors of the main contractor's subcontractors or further down the subcontracting chain.

6. With the aim of avoiding breaches of the obligations referred to in Article 15(2), appropriate measures may be taken, such as:
- (a) Where the national law of a Member State provides for a mechanism of joint liability between subcontractors and the main contractor, the Member State concerned shall ensure that the relevant rules are applied in compliance with the conditions set in out in Article 15.2.
  - (b) Contracting authorities may, in accordance with Articles 56a to 58, verify or may be required by Member States to verify whether there are grounds for exclusion of subcontractors pursuant to Article 55. In such cases, the contracting authority shall require that the economic operator substitutes a subcontractor in respect of which the verification has shown that there are compulsory grounds for exclusion. The contracting authority may require or may be required by a Member State to require that the economic operator substitutes a subcontractor in respect of which the verification has shown that there are non-compulsory grounds for exclusion.
7. Member States may provide for more stringent liability rules under national law or to go further under national law on direct payments to subcontractors, for instance by providing for direct payments to subcontractors without it being necessary for them to request this.
8. Member States having chosen to provide for measures pursuant to paragraphs 3, 5 or 6 shall, by law, regulation or administrative provisions and having regard for Union law, specify the implementing conditions for those measures. In so doing, Member States may limit their applicability, for instance in respect of certain types of contracts, certain categories of contacting authorities or economic operators or as of certain amounts.

*Article 72*  
*Modification of contracts during their term*

1. Contracts and framework agreements may be modified without a new procurement procedure in accordance with this Directive in any of the following cases:
  - (a) where the modifications, irrespective of their monetary value, have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which may include *price revision clauses*, or options. Such clauses shall state the scope and nature of possible modifications or options as well as the conditions under which they may be used. They shall not provide for modifications or options that would alter the overall nature of the contract or the framework agreement;
  - (b) for additional works, services or supplies by the original contractor that have become necessary and that were not included in the initial procurement where a change of contractor:
    - (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement; and
    - (ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority.

However, any increase in price may not be higher than 50 % of the value of the original contract; Where several successive modifications are made, this limitation shall apply to the value of each modification. Such consecutive modifications shall not be aimed at circumventing the Directive;

- (c) where the following cumulative conditions are fulfilled:
  - (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not foresee;
  - (ii) the modification does not alter the overall nature of the contract;

- (iii) any increase in price is not higher than 50 % of the value of the original contract or framework agreement. Where several successive modifications are made, this limitation shall apply to the value of each modification. Such consecutive modifications shall not be aimed at circumventing the Directive.

Contracting authorities having modified a contract in the cases set out under points b and c shall publish in the *Official Journal of the European Union* a notice to that effect. Such notices shall contain the information set out in Annex VI part G and be published in accordance with Article 49;

- (d) where a new contractor replaces the one to which the contracting authority had initially awarded the contract as a consequence of either:
  - (i) an unequivocal review clause or option in conformity with point (a),
  - (ii) universal or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive; or
  - (iii) in the event that the contracting authority itself assumes the main contractor's obligations towards its subcontractors where this possibility is provided for under national legislation pursuant to Article 71;
- (e) where the modifications, irrespective of their value, are not substantial within the meaning of paragraph 4.

2. Furthermore, and without any need to verify whether the conditions set out under points a to d of paragraph 4 are met, contracts may equally be modified without a new procurement procedure in accordance with this Directive being necessary where the value of the modification is below both of the following values:

- (i) the thresholds set out in Article 4 and
- (ii) 10% of the initial contract value for service and supply contracts and below 15% of the initial contract value for works contracts.



However, the modification may not alter the overall nature of the contract or framework agreement. Where several successive modifications are made, the value shall be assessed on the basis of the net cumulative value of the successive modifications.

3. For the purpose of the calculation of the price mentioned in paragraph 2 and points b) and c) of paragraph 1 of this Article, the updated price shall be the reference value when the contract includes an indexation clause
4. A modification of a contract or a framework agreement during its term shall be considered substantial within the meaning of point (e) of paragraph 1, where it renders the contract or the framework agreement materially different in character from the one initially concluded. In any case, without prejudice to paragraphs 1 and 2, a modification shall be considered substantial where one of the following conditions is met:
  - (a) the modification introduces conditions which, had they been part of the initial procurement procedure, would have allowed for the admission of other candidates than those initially selected or for the acceptance of an offer other than that originally accepted or would have attracted additional participants in the procurement procedure;
  - (b) the modification changes the economic balance of the contract or the framework agreement in favour of the contractor in a manner which was not provided for in the initial contract or framework agreement;
  - (c) the modification extends the scope of the contract or framework agreement considerably;
  - (d) where a new contractor replaces the one to which the contracting authority had initially awarded the contract in other cases than those provided for under point d) of paragraph 1.

5. A new procurement procedure in accordance with this Directive shall be required for other modifications of the provisions of a public contract or a framework agreement during its term than those provided for under paragraphs 1 and 2.

*Article 73*  
*Termination of contracts*

Member States shall ensure that contracting authorities have the possibility, at least under the following circumstances and under the conditions determined by the applicable national law, to terminate a public contract during its term, where it turns out that

- (b) the contract has been subject to a substantial modification that constitutes a new award within the meaning of Article 72;
- (c) the contractor has been, at the time of contract award, in one of the situations referred to in Article 55 (1) and should therefore have been excluded from the procurement procedure;
- (d) the contract should not have been awarded to the contractor in view of a serious infringement of the obligations under the Treaties and this Directive that has been declared by the Court of Justice of the European Union in a procedure pursuant to Article 258 of the Treaty.

# **Title III**

## **Particular procurement regimes**

### **I. CHAPTER I**

#### ***Social and other specific services***

##### *Article 74*

##### *Award of contracts for social and other specific services*

Public contracts for social and other specific services listed in Annex XVI shall be awarded in accordance with this Chapter, where the value of the contracts is equal to or greater than the threshold indicated in Article 4(d).

##### *Article 75*

##### *Publication of notices*

1. Contracting authorities intending to award a public contract for the services referred to in Article 74 shall make known their intention by any of the following means:
  - (a) by means of a contract notice, which shall contain the information referred to in Annexe VI Part H, in accordance with the standard forms referred to in Article 49; or
  - (b) by means of a prior information notice, which shall be published continuously and contain the information set out in Annex VI part I. The prior information notice shall refer specifically to the types of services that will be the subject of the contracts to be awarded. It shall indicate that the contracts will be awarded without further publication and invite interested economic operators to express their interest in writing.

The first subparagraph shall, however, not apply where a negotiated procedure without prior publication could have been used in conformity with the provisions of Article 30 for the award of a public service contract.

2. Contracting authorities that have awarded a public contract for the services referred to in Article 74 shall make known the results of the procurement procedure by means of a contract award notice, which shall contain the information referred to in Annexes VI Part J, in accordance with the standard forms referred to in Article 49. They may, however, group such notices on a quarterly basis. In that case, they shall send the grouped notices within 30 days of the end of each quarter.
3. The Commission shall establish the standard forms referred to in paragraphs 1 and 2 by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 91(2).
4. The notices referred to in this Article shall be published in accordance with Article 49.

*Article 76*  
*Principles of awarding contracts*

1. Member States shall put in place national rules for the award of contracts subject to this Chapter in order to ensure contracting authorities comply with the principles of transparency and equal treatment of economic operators. Member States are free to determine the procedural rules applicable as long as such rules allow contracting authorities to take into account the specificities of the services in question.
2. Member States shall ensure that contracting authorities may take into account the need to ensure quality, continuity, accessibility, *affordability*, availability and comprehensiveness of the services, the specific needs of different categories of users, including disadvantaged and vulnerable groups, the involvement and empowerment of users and innovation. Member States may also provide that the choice of the service provider *shall be made on the basis of the most economically advantageous tender, taking into account quality and sustainability criteria for social services*.

*Article 76a*  
*Reserved contracts for certain services*

1. Member States may provide that contracting authorities may reserve the right for organisations to participate in procedures for the award of public contracts exclusively for those health, social and cultural services referred to in Article 74, as covered by CPV reference numbers 75121000-0, 75122000-7, 75123000-4, , 79622000-0, 79624000-4, 79625000-1, 80110000-8, 80300000-7, 8042000-4, 80430000-7, 80511000-9, 80520000-5, 80590000-6, from 85000000-9 to 85323000-9, 9250000-6, 92600000-7, 98133000-4, 98133110-8.
2. The organisation referred to in paragraph 1 must fulfil the following cumulative conditions:
  - (a) its objective is the pursuit of a public service mission linked to the delivery of the services referred to in Paragraph 1;
  - (b) profits are reinvested with a view to achieving the organisation's objective. Where profits are distributed or redistributed, this should be based on participatory considerations;
  - (c) the structures of management or ownership of the organisation performing the contract shall be based on employee ownership or participatory principles, or shall require the active participation of employees, users or stakeholders;
  - (d) the organisation shall not have been awarded a contract for the services concerned by the contracting authority concerned pursuant to this Article within the past three years.
3. The maximum duration of the contract shall not be longer than three years.
4. The call for competition shall make reference to this Article.
5. Notwithstanding the provisions of Article 94, the Commission shall assess the effects of this Article and report to the European Parliament and the Council by three years later than the date provided for in Article 92(1).

## **CHAPTER II**

### ***RULES GOVERNING DESIGN CONTESTS***

#### *Article 78* *Scope*

This Chapter shall apply to:

- (a) design contests organised as part of a procedure leading to the award of a public service contract;
- (b) design contests with prizes or payments to participants.

In the cases referred to in point (a), the threshold referred to in Article 4 is calculated on the basis of the estimated value net of VAT of the public service contract, including any possible prizes or payments to participants.

In the cases referred to in (b), the threshold refers to the total amount of the prizes and payments, including the estimated value net of VAT of the public services contract which might subsequently be concluded under Article 30(4) if the contracting authority has announced its intention to award such contract in the contest notice.

#### *Article 79* *Notices*

1. Contracting authorities that intend to carry out a design contest shall make known their intention by means of a contest notice.

Where they intend to award a subsequent service contract pursuant to Article 30(4), this shall be indicated in the contest notice.

2. Contracting authorities that have held a design contest shall send a notice of the results of the contest in accordance with Article 49 and shall be able to prove the date of dispatch.

Where the release of information on the outcome of the contest would impede law enforcement, be contrary to the public interest, or prejudice the legitimate commercial interests of a particular enterprise, whether public or private, or might prejudice fair competition between service providers, such information may be withheld from publication.

3. The notices referred to in paragraphs 1 and 2 of this Article shall be published in accordance with Article 49(2) to (6) and Article 50. They shall include the information set out respectively in Annex VI parts E and F in the format of the standard forms.

The Commission shall establish the standard forms by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 91(2).

#### *Article 80*

##### *Rules on the organisation of design contests and the selection of participants*

1. When organising design contests, contracting authorities shall apply procedures which are adapted to the provisions of Title I and this Chapter.
  - 1a. The admission of participants to design contests shall not be limited:
    - (a) by reference to the territory or part of the territory of a Member State;
    - (b) on the grounds that, under the law of the Member State in which the contest is organised, they would be required to be either natural or legal persons.
2. Where design contests are restricted to a limited number of participants, the contracting authorities shall lay down clear and non-discriminatory selection criteria. In any event, the number of candidates invited to participate shall be sufficient to ensure genuine competition.

*Article 81*  
*Composition of the jury*

The jury shall be composed exclusively of natural persons who are independent of participants in the contest. Where a particular professional qualification is required from participants in a contest, at least a third of the members of the jury shall have that qualification or an equivalent qualification.

*Article 82*  
*Decisions of the jury*

1. The jury shall be autonomous in its decisions or opinions.
2. The jury shall examine the plans and projects submitted by the candidates anonymously and solely on the basis of the criteria indicated in the contest notice.
3. The jury shall record its ranking of projects in a report, signed by its members, made according to the merits of each project, together with its remarks and any points that may need clarification.
4. Anonymity shall be observed until the jury has reached its opinion or decision.
5. Candidates may be invited, if need be, to answer questions that the jury has recorded in the minutes to clarify any aspect of the projects.
6. Complete minutes shall be drawn up of the dialogue between jury members and candidates.



## TITLE IV

# GOVERNANCE

### *Article 83* *Enforcement*

1. In order to effectively ensure correct and efficient implementation, Member States shall ensure that at least the tasks set out in this Article are performed by one or more authorities, bodies or structures. They shall indicate to the Commission all authorities, bodies or structures competent for these tasks.
2. Member States shall ensure that the application of public procurement rules is monitored.

Where monitoring authorities or structures identify by their own initiative or upon the receipt of information specific violations or systemic problems, they shall be empowered to indicate those problems to national auditing authorities, courts or tribunals or other appropriate authorities or structures, such as the ombudsman, national Parliaments or committees thereof.

3. The results of the monitoring activities pursuant to paragraph 2 shall be made available to the public through appropriate means of information. These results shall also be made available to the Commission. For instance, they may be integrated in the monitoring reports referred to in the second subparagraph of this paragraph.

Member States shall transmit to the Commission every three years, a monitoring report covering, where applicable, information on the most frequent sources of wrong application or of legal uncertainty, including possible structural or recurring problems in the application of the rules, on the level of SME participation in public procurement and about prevention, detection and adequate reporting of cases of procurement fraud, corruption, conflict of interest and other serious irregularities..

The Commission may, at most every three years, request Member States to provide information on the practical implementation of national strategic procurement policies. For the purposes of paragraphs 3 and 5, SME shall be understood as defined in Commission Recommendation 2003/361/EC.

4. On the basis of the data received under paragraph 3, the Commission shall regularly issue a report on the implementation and best practices of national procurement policies in the internal market.
5. Member States shall ensure that:
  - information and guidance on the interpretation and application of the Union public procurement law is available free of charge to assist contracting authorities and economic operators, in particular SMEs, in correctly applying the Union public procurement rules, and
  - that support is available to contracting authorities with regard to planning and carrying out procurement procedures.
6. Member States shall, without prejudice to the general procedures and working methods established by the Commission for its communications and contacts with Member States, designate a point of reference for cooperation with the Commission as regards the application of public procurement legislation.
7. Contracting authorities shall, at least for the duration of the contract, keep copies of all concluded contracts with a value equal to or greater than:
  - (a) 1 000 000 EUR in the case of public supply contracts or public service contracts;
  - (b) 10 000 000 EUR in the case of public works contracts.

They shall grant access to these contracts; however, access to specific documents or items of information may be denied to the extent and on the conditions provided for in the applicable Union or national rules on access to documents and data protection.

*Article 85*  
*Individual reports on procedures for the award of contracts*

1. For every contract or framework agreement covered by this Directive, and every time a dynamic purchasing system is established, contracting authorities shall draw up a written report which shall include at least the following:
  - (a) the name and address of the contracting authority, the subject-matter and value of the contract, framework agreement or dynamic purchasing system;
  - (b) where applicable, the results of the qualitative selection and/or reduction of numbers pursuant to Articles 64 and 65, namely:
    - the names of the selected candidates or tenderers and the reasons for their selection;
    - the names of the candidates or tenderers rejected and the reasons for their rejection;
  - (c) the reasons for the rejection of tenders found to be abnormally low;
  - (d) the name of the successful tenderer and the reasons why its tender was selected and, where known, the share of the contract or framework agreement which the successful tenderer intends to subcontract to third parties; where known at this point in time, the names of the main contractor's subcontractors, if any;
  - (e) for competitive procedures with negotiations and competitive dialogues, the circumstances as laid down in Article 24 which justify the use of those procedures;
  - (f) for negotiated procedures without prior publication, the circumstances referred to in Article 30 which justify the use of this procedure;

- (g) where applicable, the reasons why the contracting authority has decided not to award a contract or framework agreement or to establish a dynamic purchasing system;
- (h) where applicable, the reasons why other means of communication than electronic means for the e-submission have been used;
- (i) where applicable, conflicts of interests detected and subsequent measures taken.

This report shall not be required in respect of contracts based on framework agreements where these are concluded in accordance with Article 31(3) or Article 31(4)(a).

To the extent that the contract award notice drawn up pursuant to Article 48 or Article 75(2) contains the information required in this paragraph, contracting authorities may refer to that notice.

2. The contracting authorities shall document the progress of all procurement procedures, whether or not those are conducted by electronic means. To that end, they shall ensure that they keep sufficient documentation to justify decisions taken in all stages of the procurement procedure, such as documentation on communications with economic operators and internal deliberations, preparation of the procurement documents, dialogue or negotiation if any, selection and award of the contract. The documentation shall be kept at least for a period of three years from the date of award of the contract.
3. The report, or its main elements, shall be communicated to the Commission or the competent authorities, bodies or structures referred to in Article 83 where they so request.

*Article 86*  
*National reporting and statistical information*

1. The Commission shall review the quality and completeness of data that can be extracted from the notices, referred to in Articles 46, 47, 48, 75 and 79, which are published in accordance with Annex IX.

Where the quality and completeness of the data referred to in the first subparagraph of this Article is not compliant with the obligations stipulated in Articles 46(1), 47, 48(1), 75(2) and 79(3), the Commission shall request complementary information from the Member State concerned. Within a reasonable time, the Member State concerned shall supply the missing statistical information requested by the Commission.

2. Every three years, Member States shall forward to the Commission a statistical report for procurement which would have been covered by this Directive if its value had exceeded the relevant threshold laid down in Article 4 of this Directive, indicating an estimation of the aggregated total value of such procurement during the period concerned. This estimation may in particular be based on data available under national publication requirements or on sample-based estimates.

This report may be integrated in the report referred to in Article 83 paragraph 3.

3. Member States shall make available to the Commission information on their institutional organisation related to the implementation, monitoring and enforcement of this Directive, as well as on national initiatives taken to provide guidance on or assist in implementation of Union rules on public procurement, or to respond to challenges confronting the implementation of those rules.

This information may be integrated in the report referred to in Article 83 paragraph 3.

#### *Article 88* *Administrative cooperation*

1. Member States shall provide mutual assistance to each other, and shall put in place measures for effective cooperation with one another, in order to ensure exchange of information on issues referred to in Articles 40, 41, 42, 55, 56a, 57, 61, 63 and 69. They shall ensure the confidentiality of the information which they exchange.

2. The competent authorities of all Member States concerned shall exchange information in compliance with personal data protection legislation provided for in Directives 95/46/EC of the European Parliament and of the Council<sup>39</sup> and 2002/58/EC of the European Parliament and of the Council<sup>40</sup>.
3. To test the suitability of using the Internal Market Information System (IMI) established by Regulation (EU) No. 1024/2012 of the European Parliament and of the Council on administrative cooperation through the Internal Market Information System for the purpose of exchanging information covered by the Directive, a pilot project shall be launched at the latest 12 months after its entry into force.

## **TITLE V**

# **DELEGATED POWERS, IMPLEMENTING POWERS AND FINAL PROVISIONS**

### *Article 89* *Exercise of the delegation of powers*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Articles 6, 13, 19, 20, 54 and 67 shall be conferred on the Commission for an indeterminate period of time from the [date of entry into force of the present Directive].
3. The delegation of power referred to in Articles 6, 13, 19, 20, 54 and 67 may be revoked at any time by the European Parliament or by the Council. A revocation decision shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein.

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<sup>39</sup> OJ L 281, 23.11.1995, p. 31.

<sup>40</sup> OJ L 201, 31.7.2002, p. 37.

It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to this Article shall enter into force only where no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of the act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

*Article 90*  
*Urgency procedure*

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 89(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or the Council.

*Article 91*  
*Committee procedure*

1. The Commission shall be assisted by the Advisory Committee on Public Procurement established by Council Decision 71/306/EEC<sup>41</sup>. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

*Article 92*  
*Transposition and transitional provisions*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 24 months following the entry into force pursuant to Article 95. They shall forthwith communicate to the Commission the text of those provisions.
2. Notwithstanding paragraph 1, Member States may postpone the application of Article 19(1) until 54 months after the entry into force of this Directive, except where use of electronic means is mandatory pursuant to Articles 32, 33, 34, 35(4), 49(2) or 51.

Notwithstanding paragraph 1, the application of Article 19(1) for central purchasing bodies pursuant to Articles 35(4) may be postponed by Member States until 36 months after the entry into force of this Directive.

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<sup>41</sup> OJ L 185, 16.8.1971, p. 15.



Where a Member State chooses to postpone the application of Article 19(1), that Member State shall provide that contracting authorities may choose between the following means of communication for all communication and information exchange:

- (a) electronic means in accordance with Article 19;
- (b) post;
- (c) fax;
- (d) a combination of those means.

- 2a. Notwithstanding paragraph 1, Member States may postpone the application of Article 58(2) until [until 54 months after the entry into force of this Directive].
- 3. When Member States adopt the measures referred to in paragraphs 1, 2 and 2a, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
- 4. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 93*  
*Repeals*

Directive 2004/18/EC shall be repealed with effect from 24 months following the entry into force pursuant to Article 95.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex XVII.

*Article 94*  
*Review*

The Commission shall review the economic effects on the internal market, in particular in terms of factors such as cross-border award of contracts and transaction costs, resulting from the application of the thresholds set in Article 4 and report thereon to the European Parliament and the Council by [3 years later than the date provided for in Article 92(1)].

The Commission shall, where possible and appropriate, consider suggesting an increase of the threshold amounts applicable under the Agreement during the next round of negotiations. In the event of any change to the threshold amounts applicable under the Agreement, the report shall, where appropriate, be followed by a legislative proposal amending the thresholds set out in this Directive.

*Article 95*  
*Entry into force*

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

*Article 96*  
*Addressees*

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*

*The President*

*For the Council*

*The President*

## Annex I

### (1) CENTRAL GOVERNMENT AUTHORITIES

#### **Belgium**

1. Services publics fédéraux (Ministries):	1. Federale Overheidsdiensten (Ministries):
SPF Chancellerie du Premier Ministre;	FOD Kanselarij van de Eerste Minister;
SPF Personnel et Organisation;	FOD Kanselarij Personeel en Organisatie;
SPF Budget et Contrôle de la Gestion;	FOD Budget en Beheerscontrole;
SPF Technologie de l'Information et de la	FOD Informatie- en
Communication (Fedict);	Communicatietechnologie (Fedict);
SPF Affaires étrangères, Commerce extérieur	FOD Buitenlandse Zaken, Buitenlandse
et Coopération au Développement;	Handel en Ontwikkelingssamenwerking;
SPF Intérieur;	FOD Binnenlandse Zaken;
SPF Finances;	FOD Financiën;
SPF Mobilité et Transports;	FOD Mobiliteit en Vervoer;
SPF Emploi, Travail et Concertation sociale;	FOD Werkgelegenheid, Arbeid en sociaal overleg
SPF Sécurité Sociale et Institutions publiques	FOD Sociale Zekerheid en Openbare
de Sécurité Sociale;	Instellingen van sociale Zekerheid
SPF Santé publique, Sécurité de la Chaîne	FOD Volksgezondheid, Veiligheid van de
alimentaire et Environnement;	Voedselketen en Leefmilieu;
SPF Justice;	FOD Justitie;
SPF Economie, PME, Classes moyennes et	FOD Economie, KMO, Middenstand en
Energie;	Energie;
Ministère de la Défense;	Ministerie van Landsverdediging;
Service public de programmation Intégration	Programmatorische Overheidsdienst
sociale, Lutte contre la pauvreté et Economie	Maatschappelijke Integratie,
sociale;	Armoedsbestrijding en sociale Economie;
Service public fédéral de Programmation	Programmatorische federale Overheidsdienst
Développement durable;	Duurzame Ontwikkeling;
Service public fédéral de Programmation	Programmatorische federale Overheidsdienst
Politique scientifique;	Wetenschapsbeleid;

2. Régie des Bâtiments;	2. Regie der Gebouwen;
Office national de Sécurité sociale;	Rijksdienst voor sociale Zekerheid;
Institut national d'Assurance sociales pour travailleurs indépendants	Rijksinstituut voor de sociale Verzekeringen der Zelfstandigen;
Institut national d'Assurance Maladie- Invalidité;	Rijksinstituut voor Ziekte- en Invaliditeitsverzekering;
Office national des Pensions;	Rijksdienst voor Pensioenen;
Caisse auxiliaire d'Assurance Maladie- Invalidité;	Hulpkas voor Ziekte-en Invaliditeitsverzekering;
Fond des Maladies professionnelles;	Fonds voor Beroepsziekten;
Office national de l'Emploi;	Rijksdienst voor Arbeidsvoorziening

## **Bulgaria**

Администрация на Народното събрание

Администрация на Президента

Администрация на Министерския съвет

Конституционен съд

Българска народна банка

Министерство на външните работи

Министерство на вътрешните работи

Министерство на държавната администрация и административната реформа

Министерство на извънредните ситуации

Министерство на земеделието и храните

Министерство на здравеопазването

Министерство на икономиката и енергетиката

Министерство на културата

Министерство на образованието и науката

Министерство на околната среда и водите

Министерство на отбраната

Министерство на правосъдието

Министерство на регионалното развитие и благоустройството

Министерство на транспорта

Министерство на труда и социалната политика

Министерство на финансите

State agencies, state commissions, executive agencies and other state authorities established by law or by Council of Ministers' decree having a function relating to the exercise of executive power:

Агенция за ядрено регулиране

Висшата атестационна комисия

Държавна комисия за енергийно и водно регулиране

Държавна комисия по сигурността на информацията

Комисия за защита на конкуренцията  
Комисия за защита на личните данни  
Комисия за защита от дискриминация  
Комисия за регулиране на съобщенията  
Комисия за финансов надзор  
Патентно ведомство на Република България  
Сметна палата на Република България  
Агенция за приватизация  
Агенция за следприватизационен контрол  
Български институт по метрология  
Държавна агенция ‘Архиви’  
Държавна агенция ‘Държавен резерв и военновременни запаси’  
Държавна агенция ‘Национална сигурност’  
Държавна агенция за бежанците  
Държавна агенция за българите в чужбина  
Държавна агенция за закрила на детето  
Държавна агенция за информационни технологии и съобщения  
Държавна агенция за метрологичен и технически надзор  
Държавна агенция за младежта и спорта  
Държавна агенция по горите  
Държавна агенция по туризма  
Държавна комисия по стоковите борси и тържища  
Институт по публична администрация и европейска интеграция  
Национален статистически институт  
Национална агенция за оценяване и акредитация  
Националната агенция за професионално образование и обучение  
Национална комисия за борба с трафика на хора  
Агенция ‘Митници’

Агенция за държавна и финансова инспекция

Агенция за държавни вземания

Агенция за социално подпомагане

Агенция за хората с увреждания

Агенция по вписванията

Агенция по геодезия, картография и кадастър

Агенция по енергийна ефективност

Агенция по заетостта

Агенция по обществени поръчки

Българска агенция за инвестиции

Главна дирекция 'Гражданска въздухоплавателна администрация'

Дирекция 'Материално-техническо осигуряване и социално обслужване' на Министерство на вътрешните работи

Дирекция 'Оперативно издирване' на Министерство на вътрешните работи

Дирекция 'Финансово-ресурсно осигуряване' на Министерство на вътрешните работи

Дирекция за национален строителен контрол

Държавна комисия по хазарта

Изпълнителна агенция 'Автомобилна администрация'

Изпълнителна агенция 'Борба с градушките'

Изпълнителна агенция 'Българска служба за акредитация'

Изпълнителна агенция 'Военни клубове и информация'

Изпълнителна агенция 'Главна инспекция по труда'

Изпълнителна агенция 'Държавна собственост на Министерството на отбраната'

Изпълнителна агенция 'Железопътна администрация'

Изпълнителна агенция 'Изпитвания и контролни измервания на въоръжение, техника и имущества'

Изпълнителна агенция 'Морска администрация'

Изпълнителна агенция 'Национален филмов център'

Изпълнителна агенция ‘Пристанищна администрация’  
Изпълнителна агенция ‘Проучване и поддържане на река Дунав’  
Изпълнителна агенция ‘Социални дейности на Министерството на отбраната’  
Изпълнителна агенция за икономически анализи и прогнози  
Изпълнителна агенция за насърчаване на малките и средни предприятия  
Изпълнителна агенция по лекарствата  
Изпълнителна агенция по лозата и виното  
Изпълнителна агенция по околна среда  
Изпълнителна агенция по почвените ресурси  
Изпълнителна агенция по рибарство и аквакултури  
Изпълнителна агенция по селекция и репродукция в животновъдството  
Изпълнителна агенция по сортоизпитване, апробация и семеконтрол  
Изпълнителна агенция по трансплантация  
Изпълнителна агенция по хидромелиорации  
Комисията за защита на потребителите  
Контролно-техническата инспекция  
Национален център за информация и документация  
Национален център по радиобиология и радиационна защита  
Национална агенция за приходите  
Национална ветеринарномедицинска служба  
Национална служба ‘Полиция’  
Национална служба ‘Пожарна безопасност и защита на населението’  
Национална служба за растителна защита  
Национална служба за съвети в земеделието  
Национална служба по зърното и фуражите



Служба ‘Военна информация’

Служба ‘Военна полиция’

Фонд ‘Републиканска пътна инфраструктура’

Авиоотряд 28

## **Czech Republic**

Ministerstvo dopravy Ministerstvo financí

Ministerstvo kultury

Ministerstvo obrany

Ministerstvo pro místní rozvoj

Ministerstvo práce a sociálních věcí

Ministerstvo průmyslu a obchodu

Ministerstvo spravedlnosti

Ministerstvo školství, mládeže a tělovýchovy

Ministerstvo vnitra

Ministerstvo zahraničních věcí

Ministerstvo zdravotnictví

Ministerstvo zemědělství

Ministerstvo životního prostředí

Poslanecká sněmovna PČR

Senát PČR

Kancelář prezidenta

Český statistický úřad

Český úřad zeměměřičský a katastrální

Úřad průmyslového vlastnictví

Úřad pro ochranu osobních údajů

Bezpečnostní informační služba

Národní bezpečnostní úřad

Česká akademie věd

Vězeňská služba

Český báňský úřad

Úřad pro ochranu hospodářské soutěže

Správa státních hmotných rezerv

Státní úřad pro jadernou bezpečnost

Česká národní bankaEnergetický regulační úřad

Úřad vlády České republiky

Ústavní soud

Nejvyšší soud

Nejvyšší správní soud

Nejvyšší státní zastupitelství

Nejvyšší kontrolní úřad

Kancelář Veřejného ochránce práv

Grantová agentura České republiky

Státní úřad inspekce práce

Český telekomunikační úřad

## **Denmark**

Folketinget

Rigsrevisionen

Statsministeriet

Udenrigsministeriet

Beskæftigelsesministeriet

5 styrelser og institutioner (5 agencies and institutions)

Domstolsstyrelsen

Finansministeriet

5 styrelser og institutioner (5 agencies and institutions)

Forsvarsministeriet

5 styrelser og institutioner (5 agencies and institutions)

Ministeriet for Sundhed og Forebyggelse

Adskillige styrelser og institutioner, herunder Statens Serum Institut (Several agencies and institutions, including Statens Serum Institut)

Justitsministeriet

Rigspolitichefen, anklagemyndigheden samt 1 direktorat og et antal styrelser (Commissioner of Police, the public prosecutor, 1 directorate and a number of agencies)

Kirkeministeriet

10 stiftsøvrigheder (10 diocesan authorities)

Kulturministeriet — Ministry of Culture

4 styrelser samt et antal statsinstitutioner (4 departments and a number of institutions)

Miljøministeriet

5 styrelser (5 agencies)

Ministeriet for Flygtninge, Invandrere og Integration

1 styrelse (1 agency)

Ministeriet for Fødevarer, Landbrug og Fiskeri

4 direktorater og institutioner (4 directorates and institutions)

Ministeriet for Videnskab, Teknologi og Udvikling

Adskillige styrelser og institutioner, Forskningscenter Risø og Statens uddannelsesbygninger  
(Several agencies and institutions, including Risoe National Laboratory and Danish National  
Research and Education Buildings)

Skatteministeriet

1 styrelse og institutioner (1 agency and several institutions)

Velfærdsministeriet

3 styrelser og institutioner (3 agencies and several institutions)

Transportministeriet

7 styrelser og institutioner, herunder Øresundsbrosortiet (7 agencies and institutions, including  
Øresundsbrosortiet)

Undervisningsministeriet

3 styrelser, 4 undervisningsinstitutioner og 5 andre institutioner (3 agencies, 4 educational  
establishments, 5 other institutions)

Økonomi- og Erhvervsministeriet

Adskilligestyrelser og institutioner (Several agencies and institutions)

Klima- og Energiministeriet

3 styrelse og institutioner (3 agencies and institutions)

## **Germany**

Auswärtiges Amt

Bundeskanzleramt

Bundesministerium für Arbeit und Soziales

Bundesministerium für Bildung und Forschung

Bundesministerium für Ernährung, Landwirtschaft und Verbraucherschutz

Bundesministerium der Finanzen

Bundesministerium des Innern (only civil goods)

Bundesministerium für Gesundheit

Bundesministerium für Familie, Senioren, Frauen und Jugend

Bundesministerium der Justiz

Bundesministerium für Verkehr, Bau und Stadtentwicklung

Bundesministerium für Wirtschaft und Technologie

Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung

Bundesministerium der Verteidigung (no military goods)

Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit

## **Estonia**

Vabariigi Presidendi Kantselei;

Eesti Vabariigi Riigikogu;

Eesti Vabariigi Riigikohus;

Riigikontroll;

Õiguskantsler;

Riigikantselei;

Rahvusarhiiv;

Haridus- ja Teadusministeerium;

Justiitsministeerium;

Kaitseministeerium;

Keskkonnaministeerium;

Kultuuriministeerium;

Majandus- ja Kommunikatsiooniministeerium;

Põllumajandusministeerium;

Rahandusministeerium;

Siseministeerium;

Sotsiaalministeerium;

Välisministeerium;

Keeleinspeksioon;

Riigiprokuratuur;

Teabeamet;

Maa-amet;

Keskkonnainspeksioon;

Metsakaitse- ja Metsauuenduskeskus;

Muinsuskaitseamet;

Patendiamet;

Tarbijakaitseamet;  
Riigihangete Amet;  
Taimetoodangu Inspeksioon;  
Põllumajanduse Registrite ja Informatsiooni Amet;  
Veterinaar- ja Toiduamet  
Konkurentsiamet;  
Maksu –ja Tolliamet;  
Statistikaamet;  
Kaitsepolitseiamet;  
Kodakondsus- ja Migratsiooniamet;  
Piirivalveamet;  
Politseiamet;  
Eesti Kohtuekspertiisi Instituut;  
Keskkriminaalpolitsei;  
Päästeamet;  
Andmekaitse Inspeksioon;  
Ravimiamet;  
Sotsiaalkindlustusamet;  
Tööturuamet;  
Tervishoiuamet;  
Tervisekaitseinspeksioon;  
Tööinspeksioon;  
Lennuamet;  
Maanteeamet;  
Veeteede Amet;  
Julgestuspolitsei;



Kaitseressursside Amet;

Kaitseväe Logistikakeskus;

Tehnilise Järelevalve Amet.

## **Ireland**

President's Establishment

Houses of the Oireachtas — [Parliament]

Department of the Taoiseach — [Prime Minister]

Central Statistics Office

Department of Finance

Office of the Comptroller and Auditor General

Office of the Revenue Commissioners

Office of Public Works

State Laboratory

Office of the Attorney General

Office of the Director of Public Prosecutions

Valuation Office

Office of the Commission for Public Service Appointments

Public Appointments Service

Office of the Ombudsman

Chief State Solicitor's Office

Department of Justice, Equality and Law Reform

Courts Service

Prisons Service

Office of the Commissioners of Charitable Donations and Bequests

Department of the Environment, Heritage and Local Government

Department of Education and Science

Department of Communications, Energy and Natural Resources

Department of Agriculture, Fisheries and Food

Department of Transport

Department of Health and Children

Department of Enterprise, Trade and Employment

Department of Arts, Sports and Tourism

Department of Defence

Department of Foreign Affairs

Department of Social and Family Affairs

Department of Community, Rural and Gaeltacht — [Gaelic speaking regions] Affairs

Arts Council

National Gallery.

## Greece

Υπουργείο Εσωτερικών;

Υπουργείο Εξωτερικών;

Υπουργείο Οικονομίας και Οικονομικών;

Υπουργείο Ανάπτυξης;

Υπουργείο Δικαιοσύνης;

Υπουργείο Εθνικής Παιδείας και Θρησκευμάτων;

Υπουργείο Πολιτισμού;

Υπουργείο Υγείας και Κοινωνικής Αλληλεγγύης;

Υπουργείο Περιβάλλοντος, Χωροταξίας και Δημοσίων Έργων;

Υπουργείο Απασχόλησης και Κοινωνικής Προστασίας;

Υπουργείο Μεταφορών και Επικοινωνιών;

Υπουργείο Αγροτικής Ανάπτυξης και Τροφίμων;

Υπουργείο Εμπορικής Ναυτιλίας, Αιγαίου και Νησιωτικής Πολιτικής;

Υπουργείο Μακεδονίας- Θράκης;

Γενική Γραμματεία Επικοινωνίας;

Γενική Γραμματεία Ενημέρωσης;

Γενική Γραμματεία Νέας Γενιάς;

Γενική Γραμματεία Ισότητας;

Γενική Γραμματεία Κοινωνικών Ασφαλίσεων;

Γενική Γραμματεία Απόδημου Ελληνισμού;

Γενική Γραμματεία Βιομηχανίας;

Γενική Γραμματεία Έρευνας και Τεχνολογίας;

Γενική Γραμματεία Αθλητισμού;

Γενική Γραμματεία Δημοσίων Έργων;

Γενική Γραμματεία Εθνικής Στατιστικής Υπηρεσίας Ελλάδος;

Εθνικό Συμβούλιο Κοινωνικής Φροντίδας;

Οργανισμός Εργατικής Κατοικίας;  
Εθνικό Τυπογραφείο;  
Γενικό Χημείο του Κράτους;  
Ταμείο Εθνικής Οδοποιίας;  
Εθνικό Καποδιστριακό Πανεπιστήμιο Αθηνών;  
Αριστοτέλειο Πανεπιστήμιο Θεσσαλονίκης;  
Δημοκρίτειο Πανεπιστήμιο Θράκης;  
Πανεπιστήμιο Αιγαίου;  
Πανεπιστήμιο Ιωαννίνων;  
Πανεπιστήμιο Πατρών;  
Πανεπιστήμιο Μακεδονίας;  
Πολυτεχνείο Κρήτης;  
Σιβιτανίδειος Δημόσια Σχολή Τεχνών και Επαγγελμάτων;  
Αιγινήτειο Νοσοκομείο;  
Αρεταίειο Νοσοκομείο;  
Εθνικό Κέντρο Δημόσιας Διοίκησης;  
Οργανισμός Διαχείρισης Δημοσίου Υλικού;  
Οργανισμός Γεωργικών Ασφαλίσεων;  
Οργανισμός Σχολικών Κτιρίων;  
Γενικό Επιτελείο Στρατού;  
Γενικό Επιτελείο Ναυτικού;  
Γενικό Επιτελείο Αεροπορίας;  
Ελληνική Επιτροπή Ατομικής Ενέργειας;  
Γενική Γραμματεία Εκπαίδευσης Ενηλίκων;  
Υπουργείο Εθνικής Άμυνας;  
Γενική Γραμματεία Εμπορίου.

## **Spain**

Presidencia de Gobierno

Ministerio de Asuntos Exteriores y de Cooperación

Ministerio de Justicia

Ministerio de Defensa

Ministerio de Economía y Hacienda

Ministerio del Interior

Ministerio de Fomento

Ministerio de Educación, Política Social y Deportes

Ministerio de Industria, Turismo y Comercio

Ministerio de Trabajo e Inmigración

Ministerio de la Presidencia

Ministerio de Administraciones Públicas

Ministerio de Cultura

Ministerio de Sanidad y Consumo

Ministerio de Medio Ambiente y Medio Rural y Marino

Ministerio de Vivienda

Ministerio de Ciencia e Innovación

Ministerio de Igualdad

## **France**

### 1. Ministries

Services du Premier ministre

Ministère chargé de la santé, de la jeunesse et des sports

Ministère chargé de l'intérieur, de l'outre-mer et des collectivités territoriales

Ministère chargé de la justice

Ministère chargé de la défense

Ministère chargé des affaires étrangères et européennes

Ministère chargé de l'éducation nationale

Ministère chargé de l'économie, des finances et de l'emploi

Secrétariat d'Etat aux transports

Secrétariat d'Etat aux entreprises et au commerce extérieur

Ministère chargé du travail, des relations sociales et de la solidarité

Ministère chargé de la culture et de la communication

Ministère chargé du budget, des comptes publics et de la fonction publique

Ministère chargé de l'agriculture et de la pêche

Ministère chargé de l'enseignement supérieur et de la recherche

Ministère chargé de l'écologie, du développement et de l'aménagement durables

Secrétariat d'Etat à la fonction publique

Ministère chargé du logement et de la ville

Secrétariat d'Etat à la coopération et à la francophonie

Secrétariat d'Etat à l'outre-mer

Secrétariat d'Etat à la jeunesse, des sports et de la vie associative

Secrétariat d'Etat aux anciens combattants

Ministère chargé de l'immigration, de l'intégration, de l'identité nationale et du co-développement

Secrétariat d'Etat en charge de la prospective et de l'évaluation des politiques publiques

Secrétariat d'Etat aux affaires européennes,

Secrétariat d'Etat aux affaires étrangères et aux droits de l'homme

Secrétariat d'Etat à la consommation et au tourisme

Secrétariat d'Etat à la politique de la ville

Secrétariat d'Etat à la solidarité

Secrétariat d'Etat en charge de l'industrie et de la consommation

Secrétariat d'Etat en charge de l'emploi

Secrétariat d'Etat en charge du commerce, de l'artisanat, des PME, du tourisme et des services

Secrétariat d'Etat en charge de l'écologie

Secrétariat d'Etat en charge du développement de la région-capitale

Secrétariat d'Etat en charge de l'aménagement du territoire

## 2. Institutions, independent authorities and jurisdictions

Présidence de la République

Assemblée Nationale

Sénat

Conseil constitutionnel

Conseil économique et social

Conseil supérieur de la magistrature

Agence française contre le dopage

Autorité de contrôle des assurances et des mutuelles

Autorité de contrôle des nuisances sonores aéroportuaires

Autorité de régulation des communications électroniques et des postes

Autorité de sûreté nucléaire

Autorité indépendante des marchés financiers

Comité national d'évaluation des établissements publics à caractère scientifique, culturel et professionnel

Commission d'accès aux documents administratifs

Commission consultative du secret de la défense nationale

Commission nationale des comptes de campagne et des financements politiques



Commission nationale de contrôle des interceptions de sécurité

Commission nationale de déontologie de la sécurité

Commission nationale du débat public

Commission nationale de l'informatique et des libertés

Commission des participations et des transferts

Commission de régulation de l'énergie

Commission de la sécurité des consommateurs

Commission des sondages

Commission de la transparence financière de la vie politique

Conseil de la concurrence

Conseil des ventes volontaires de meubles aux enchères publiques

Conseil supérieur de l'audiovisuel

Défenseur des enfants

Haute autorité de lutte contre les discriminations et pour l'égalité

Haute autorité de santé

Médiateur de la République

Cour de justice de la République

Tribunal des Conflits

Conseil d'Etat

Cours administratives d'appel

Tribunaux administratifs

Cour des Comptes

Chambres régionales des Comptes

Cours et tribunaux de l'ordre judiciaire (Cour de Cassation, Cours d'Appel, Tribunaux d'instance et Tribunaux de grande instance)

3. National public establishments

Académie de France à Rome

Académie de marine

Académie des sciences d'outre-mer  
Académie des technologies  
Agence centrale des organismes de sécurité sociale (ACOSS)  
Agence de biomédecine  
Agence pour l'enseignement du français à l'étranger  
Agence française de sécurité sanitaire des aliments  
Agence française de sécurité sanitaire de l'environnement et du travail  
Agence Nationale pour la cohésion sociale et l'égalité des chances  
Agence nationale pour la garantie des droits des mineurs  
Agences de l'eau  
Agence Nationale de l'Accueil des Etrangers et des migrations  
Agence nationale pour l'amélioration des conditions de travail (ANACT)  
Agence nationale pour l'amélioration de l'habitat (ANAH)  
Agence Nationale pour la Cohésion Sociale et l'Egalité des Chances  
Agence nationale pour l'indemnisation des français d'outre-mer (ANIFOM)  
Assemblée permanente des chambres d'agriculture (APCA)  
Bibliothèque publique d'information  
Bibliothèque nationale de France  
Bibliothèque nationale et universitaire de Strasbourg  
Caisse des Dépôts et Consignations  
Caisse nationale des autoroutes (CNA)  
Caisse nationale militaire de sécurité sociale (CNMSS)  
Caisse de garantie du logement locatif social  
Casa de Velasquez  
Centre d'enseignement zootechnique  
Centre d'études de l'emploi  
Centre d'études supérieures de la sécurité sociale  
Centres de formation professionnelle et de promotion agricole

Centre hospitalier des Quinze-Vingts

Centre international d'études supérieures en sciences agronomiques (Montpellier Sup Agro)

Centre des liaisons européennes et internationales de sécurité sociale

Centre des Monuments Nationaux

Centre national d'art et de culture Georges Pompidou

Centre national des arts plastiques

Centre national de la cinématographie

Centre National d'Etudes et d'expérimentation du machinisme agricole, du génie rural, des eaux et des forêts (CEMAGREF)

Centre national du livre

Centre national de documentation pédagogique

Centre national des œuvres universitaires et scolaires (CNOUS)

Centre national professionnel de la propriété forestière

Centre National de la Recherche Scientifique (C.N.R.S)

Centres d'éducation populaire et de sport (CREPS)

Centres régionaux des œuvres universitaires (CROUS)

Collège de France

Conservatoire de l'espace littoral et des rivages lacustres

Conservatoire National des Arts et Métiers

Conservatoire national supérieur de musique et de danse de Paris

Conservatoire national supérieur de musique et de danse de Lyon

Conservatoire national supérieur d'art dramatique

Ecole centrale de Lille

Ecole centrale de Lyon

École centrale des arts et manufactures

École française d'archéologie d'Athènes

École française d'Extrême-Orient

École française de Rome

École des hautes études en sciences sociales  
Ecole du Louvre  
École nationale d'administration  
École nationale de l'aviation civile (ENAC)  
École nationale des Chartes  
École nationale d'équitation  
Ecole Nationale du Génie de l'Eau et de l'environnement de Strasbourg  
Écoles nationales d'ingénieurs  
Ecole nationale d'ingénieurs des industries des techniques agricoles et alimentaires de Nantes  
Écoles nationales d'ingénieurs des travaux agricoles  
École nationale de la magistrature  
Écoles nationales de la marine marchande  
École nationale de la santé publique (ENSP)  
École nationale de ski et d'alpinisme  
École nationale supérieure des arts décoratifs  
École nationale supérieure des arts et techniques du théâtre  
École nationale supérieure des arts et industries textiles Roubaix  
Écoles nationales supérieures d'arts et métiers  
École nationale supérieure des beaux-arts  
École nationale supérieure de céramique industrielle  
École nationale supérieure de l'électronique et de ses applications (ENSEA)  
Ecole nationale supérieure du paysage de Versailles  
Ecole Nationale Supérieure des Sciences de l'information et des bibliothécaires  
Ecole nationale supérieure de la sécurité sociale  
Écoles nationales vétérinaires  
École nationale de voile  
Écoles normales supérieures  
École polytechnique

École technique professionnelle agricole et forestière de Meymac (Corrèze)

École de sylviculture Crogny (Aube)

École de viticulture et d'œnologie de la Tour- Blanche (Gironde)

École de viticulture — Avize (Marne)

Etablissement national d'enseignement agronomique de Dijon

Établissement national des invalides de la marine (ENIM)

Établissement national de bienfaisance Koenigswarter

Établissement public du musée et du domaine national de Versailles

Fondation Carnegie

Fondation Singer-Polignac

Haras nationaux

Hôpital national de Saint-Maurice

Institut des hautes études pour la science et la technologie

Institut français d'archéologie orientale du Caire

Institut géographique national

Institut National de l'origine et de la qualité

Institut national des hautes études de sécurité

Institut de veille sanitaire

Institut National d'enseignement supérieur et de recherche agronomique et agroalimentaire de Rennes

Institut National d'Etudes Démographiques (I.N.E.D)

Institut National d'Horticulture

Institut National de la jeunesse et de l'éducation populaire

Institut national des jeunes aveugles — Paris

Institut national des jeunes sourds — Bordeaux

Institut national des jeunes sourds — Chambéry

Institut national des jeunes sourds — Metz

Institut national des jeunes sourds — Paris

Institut national de physique nucléaire et de physique des particules (I.N.P.N.P.P)

Institut national de la propriété industrielle

Institut National de la Recherche Agronomique (I.N.R.A)

Institut National de la Recherche Pédagogique (I.N.R.P)

Institut National de la Santé et de la Recherche Médicale (I.N.S.E.R.M)

Institut national d'histoire de l'art (I.N.H.A.)

Institut national de recherches archéologiques préventives

Institut National des Sciences de l'Univers

Institut National des Sports et de l'Education Physique

Institut national supérieur de formation et de recherche pour l'éducation des jeunes handicapés et les enseignements inadaptés

Instituts nationaux polytechniques

Instituts nationaux des sciences appliquées

Institut national de recherche en informatique et en automatique (INRIA)

Institut national de recherche sur les transports et leur sécurité (INRETS)

Institut de Recherche pour le Développement

Instituts régionaux d'administration

Institut des Sciences et des Industries du vivant et de l'environnement (Agro Paris Tech)

Institut supérieur de mécanique de Paris

Institut Universitaires de Formation des Maîtres

Musée de l'armée

Musée Gustave-Moreau

Musée national de la marine

Musée national J.-J.-Henner

Musée du Louvre

Musée du Quai Branly

Muséum National d'Histoire Naturelle

Musée Auguste-Rodin

Observatoire de Paris

Office français de protection des réfugiés et apatrides

Office National des Anciens Combattants et des Victimes de Guerre (ONAC)

Office national de la chasse et de la faune sauvage

Office National de l'eau et des milieux aquatiques

Office national d'information sur les enseignements et les professions (ONISEP)

Office universitaire et culturel français pour l'Algérie

Ordre national de la Légion d'honneur

Palais de la découverte

Parcs nationaux

Universités

4. Other national public bodies

Union des groupements d'achats publics (UGAP)

Agence Nationale pour l'emploi (A.N.P.E)

Caisse Nationale des Allocations Familiales (CNAF)

Caisse Nationale d'Assurance Maladie des Travailleurs Salariés (CNAMS)

Caisse Nationale d'Assurance-Vieillesse des Travailleurs Salariés (CNAVTS)

## **Italy**

- Purchasing bodies

Presidenza del Consiglio dei Ministri

Ministero degli Affari Esteri

Ministero dell'Interno

Ministero della Giustizia e Uffici giudiziari (esclusi i giudici di pace)

Ministero della Difesa

Ministero dell'Economia e delle Finanze

Ministero dello Sviluppo Economico

Ministero delle Politiche Agricole, Alimentari e Forestali

Ministero dell'Ambiente — Tutela del Territorio e del Mare

Ministero delle Infrastrutture e dei Trasporti

Ministero del Lavoro, della Salute e delle Politiche Sociali

Ministero dell'Istruzione, Università e Ricerca

Ministero per i Beni e le Attività culturali, comprensivo delle sue articolazioni periferiche

- Other national public bodies:

CONSIP (Concessionaria Servizi Informatici Pubblici)



## Cyprus

Προεδρία και Προεδρικό Μέγαρο

Γραφείο Συντονιστή Εναρμόνισης

Υπουργικό Συμβούλιο

Βουλή των Αντιπροσώπων

Δικαστική Υπηρεσία

Νομική Υπηρεσία της Δημοκρατίας

Ελεγκτική Υπηρεσία της Δημοκρατίας

Επιτροπή Δημόσιας Υπηρεσίας

Επιτροπή Εκπαιδευτικής Υπηρεσίας

Γραφείο Επιτρόπου Διοικήσεως

Επιτροπή Προστασίας Ανταγωνισμού

Υπηρεσία Εσωτερικού Ελέγχου

Γραφείο Προγραμματισμού

Γενικό Λογιστήριο της Δημοκρατίας

Γραφείο Επιτρόπου Προστασίας Δεδομένων Προσωπικού Χαρακτήρα

Γραφείο Εφόρου Δημοσίων Ενισχύσεων

Αναθεωρητική Αρχή Προσφορών

Υπηρεσία Εποπτείας και Ανάπτυξης Συνεργατικών Εταιρειών

Αναθεωρητική Αρχή Προσφύγων

Υπουργείο Άμυνας

Υπουργείο Γεωργίας, Φυσικών Πόρων και Περιβάλλοντος

Τμήμα Γεωργίας

Κτηνιατρικές Υπηρεσίες

Τμήμα Δασών

Τμήμα Αναπτύξεως Υδάτων

Τμήμα Γεωλογικής Επισκόπησης

Μετεωρολογική Υπηρεσία

Τμήμα Αναδασμού

Υπηρεσία Μεταλλείων

Ινστιτούτο Γεωργικών Ερευνών

Τμήμα Αλιείας και Θαλάσσιων Ερευνών

Υπουργείο Δικαιοσύνης και Δημοσίας Τάξεως

Αστυνομία

Πυροσβεστική Υπηρεσία Κύπρου

Τμήμα Φυλακών

Υπουργείο Εμπορίου, Βιομηχανίας και Τουρισμού

Τμήμα Εφόρου Εταιρειών και Επίσημου Παραλήπτη

Υπουργείο Εργασίας και Κοινωνικών Ασφαλίσεων

Τμήμα Εργασίας

Τμήμα Κοινωνικών Ασφαλίσεων

Τμήμα Υπηρεσιών Κοινωνικής Ευημερίας

Κέντρο Παραγωγικότητας Κύπρου

Ανώτερο Ξενοδοχειακό Ινστιτούτο Κύπρου

Ανώτερο Τεχνολογικό Ινστιτούτο

Τμήμα Επιθεώρησης Εργασίας

Τμήμα Εργασιακών Σχέσεων

Υπουργείο Εσωτερικών

Επαρχιακές Διοικήσεις

Τμήμα Πολεοδομίας και Οικήσεως

Τμήμα Αρχείου Πληθυσμού και Μεταναστεύσεως

Τμήμα Κτηματολογίου και Χωρομετρίας

Γραφείο Τύπου και Πληροφοριών

Πολιτική Άμυνα

Υπηρεσία Μέριμνας και Αποκαταστάσεων Εκτοπισθέντων

Υπηρεσία Ασύλου

Υπουργείο Εξωτερικών

Υπουργείο Οικονομικών

Τελωνεία

Τμήμα Εσωτερικών Προσόδων

Στατιστική Υπηρεσία

Τμήμα Κρατικών Αγορών και Προμηθειών

Τμήμα Δημόσιας Διοίκησης και Προσωπικού

Κυβερνητικό Τυπογραφείο

Τμήμα Υπηρεσιών Πληροφορικής

Υπουργείο Παιδείας και Πολιτισμού

Υπουργείο Συγκοινωνιών και Έργων

Τμήμα Δημοσίων Έργων

Τμήμα Αρχαιοτήτων

Τμήμα Πολιτικής Αεροπορίας

Τμήμα Εμπορικής Ναυτιλίας

Τμήμα Οδικών Μεταφορών

Τμήμα Ηλεκτρομηχανολογικών Υπηρεσιών

Τμήμα Ηλεκτρονικών Επικοινωνιών

Υπουργείο Υγείας

Φαρμακευτικές Υπηρεσίες

Γενικό Χημείο

Ιατρικές Υπηρεσίες και Υπηρεσίες Δημόσιας Υγείας

Οδοντιατρικές Υπηρεσίες

Υπηρεσίες Ψυχικής Υγείας

## **Latvia**

- Ministries, secretariats of ministers for special assignments, and their subordinate institutions

Aizsardzības ministrija un tās padotībā esošās iestādes

Ārlietu ministrija un tās padotībā esošās iestādes

Bērnu un ģimenes lietu ministrija un tās padotībā esošās iestādes

Ekonomikas ministrija un tās padotībā esošās iestādes

Finanšu ministrija un tās padotībā esošās iestādes

Iekšlietu ministrija un tās padotībā esošās iestādes

Izglītības un zinātnes ministrija un tās padotībā esošās iestādes

Kultūras ministrija un tās padotībā esošās iestādes

Labklājības ministrija un tās padotībā esošās iestādes

Reģionālās attīstības un pašvaldības lietu ministrija un tās padotībā esošās iestādes

Satiksmes ministrija un tās padotībā esošās iestādes

Tieslietu ministrija un tās padotībā esošās iestādes

Veselības ministrija un tās padotībā esošās iestādes

Vides ministrija un tās padotībā esošās iestādes

Zemkopības ministrija un tās padotībā esošās iestādes

Īpašu uzdevumu ministra sekretariāti un to padotībā esošās iestādes

Satversmes aizsardzības birojs

- Other state institution

Augstākā tiesa

Centrālā vēlēšanu komisija

Finanšu un kapitāla tirgus komisija

Latvijas Banka

Prokuratūra un tās pārraudzībā esošās iestādes

Saeimas kanceleja un tās padotībā esošās iestādes

Satversmes tiesa

Valsts kanceleja un tās padotībā esošās iestādes

Valsts kontrole

Valsts prezidenta kanceleja

Tiesībsarga birojs

Nacionālā radio un televīzijas padome

Citas valsts iestādes, kuras nav ministriju padotībā (Other state institutions not subordinate to ministries)

## **Lithuania**

Prezidentūros kanceliarija

Seimo kanceliarija

Institutions accountable to the Seimas [Parliament]: Lietuvos mokslo taryba;

Seimo kontrolierių įstaiga;

Valstybės kontrolė;

Specialiųjų tyrimų tarnyba;

Valstybės saugumo departamentas;

Konkurencijos taryba;

Lietuvos gyventojų genocido ir rezistencijos tyrimo centras;

Vertybinių popierių komisija;

Ryšių reguliavimo tarnyba;

Nacionalinė sveikatos taryba;

Etninės kultūros globos taryba;

Lygių galimybių kontrolieriaus tarnyba;

Valstybinė kultūros paveldo komisija;

Vaiko teisių apsaugos kontrolieriaus įstaiga;

Valstybinė kainų ir energetikos kontrolės komisija;

Valstybinė lietuvių kalbos komisija;

Vyriausioji rinkimų komisija;

Vyriausioji tarnybinės etikos komisija;

Žurnalistų etikos inspektoriaus tarnyba.

Vyriausybės kanceliarija

Institutions accountable to the Vyriausybės [Government]:

Ginklų fondas;

Informacinės visuomenės plėtros komitetas;

Kūno kultūros ir sporto departamentas;

Lietuvos archyvų departamentas;  
Mokestinių ginčų komisija;  
Statistikos departamentas;  
Tautinių mažumų ir išeivijos departamentas;  
Valstybinė tabako ir alkoholio kontrolės tarnyba;  
Viešųjų pirkimų tarnyba;  
Narkotikų kontrolės departamentas;  
Valstybinė atominės energetikos saugos inspekcija;  
Valstybinė duomenų apsaugos inspekcija;  
Valstybinė lošimų priežiūros komisija;  
Valstybinė maisto ir veterinarijos tarnyba;  
Vyriausioji administracinių ginčų komisija;  
Draudimo priežiūros komisija;  
Lietuvos valstybinis mokslo ir studijų fondas;  
Lietuvių grįžimo į Tėvynę informacijos centras

Konstitucinis Teismas

Lietuvos bankas

Aplinkos ministerija

Institutions under the Aplinkos ministerija [Ministry of Environment]:

Generalinė miškų urėdija;  
Lietuvos geologijos tarnyba;  
Lietuvos hidrometeorologijos tarnyba;  
Lietuvos standartizacijos departamentas;  
Nacionalinis akreditacijos biuras;  
Valstybinė metrologijos tarnyba;  
Valstybinė saugomų teritorijų tarnyba;  
Valstybinė teritorijų planavimo ir statybos inspekcija.

Finansų ministerija

Institutions under the Finansų ministerija [Ministry of Finance]:

Muitinės departamentas;

Valstybės dokumentų technologinės apsaugos tarnyba;

Valstybinė mokesčių inspekcija;

Finansų ministerijos mokymo centras.

Krašto apsaugos ministerija

Institutions under the Krašto apsaugos ministerijos [Ministry of National Defence]:

Antrasis operatyvinių tarnybų departamentas;

Centralizuota finansų ir turto tarnyba;

Karo prievolės administravimo tarnyba;

Krašto apsaugos archyvas;

Krizių valdymo centras;

Mobilizacijos departamentas;

Ryšių ir informacinių sistemų tarnyba;

Infrastruktūros plėtros departamentas;

Valstybinis pilietinio pasipriešinimo rengimo centras.

Lietuvos kariuomenė

Krašto apsaugos sistemos kariniai vienetai ir tarnybos

Kultūros ministerija

Institutions under the Kultūros ministerijos [Ministry of Culture]:

Kultūros paveldo departamentas;

Valstybinė kalbos inspekcija.

Socialinės apsaugos ir darbo ministerija

Institutions under the Socialinės apsaugos ir darbo ministerijos [Ministry of Social Security and Labour]:

Garantinio fondo administracija;

Valstybės vaiko teisių apsaugos ir įvaikinimo tarnyba;

Lietuvos darbo birža;



Lietuvos darbo rinkos mokymo tarnyba;  
Trišalės tarybos sekretoriatas;  
Socialinių paslaugų priežiūros departamentas;  
Darbo inspekcija;  
Valstybinio socialinio draudimo fondo valdyba;  
Neįgalumo ir darbingumo nustatymo tarnyba;  
Ginčų komisija;  
Techninės pagalbos neįgaliesiems centras;  
Neįgaliųjų reikalų departamentas.

#### Susisiekimo ministerija

Institutions under the Susisiekimo ministerijos [Ministry of Transport and Communications]:

Lietuvos automobilių kelių direkcija;  
Valstybinė geležinkelio inspekcija;  
Valstybinė kelių transporto inspekcija;  
Pasienio kontrolės punktų direkcija.

#### Sveikatos apsaugos ministerija

Institutions under the Sveikatos apsaugos ministerijos [Ministry of Health]:

Valstybinė akreditavimo sveikatos priežiūros veiklai tarnyba;  
Valstybinė ligonių kasa;  
Valstybinė medicininio audito inspekcija;  
Valstybinė vaistų kontrolės tarnyba;  
Valstybinė teismo psichiatrijos ir narkologijos tarnyba;  
Valstybinė visuomenės sveikatos priežiūros tarnyba;  
Farmacijos departamentas;  
Sveikatos apsaugos ministerijos Ekstremalių sveikatai situacijų centras;  
Lietuvos bioetikos komitetas;  
Radiacinės saugos centras.

#### Švietimo ir mokslo ministerija

Institutions under the Švietimo ir mokslo ministerijos [Ministry of Education and Science]:

Nacionalinis egzaminų centras;

Studijų kokybės vertinimo centras.

Teisingumo ministerija

Institutions under the Teisingumo ministerijos [Ministry of Justice]:

Kalėjimų departamentas;

Nacionalinė vartotojų teisių apsaugos taryba;

Europos teisės departamentas

Ūkio ministerija

Įstaigos prie the Ūkio ministerijos [Ministry of Economy]:

Įmonių bankroto valdymo departamentas;

Valstybinė energetikos inspekcija;

Valstybinė ne maisto produktų inspekcija;

Valstybinis turizmo departamentas

Užsienio reikalų ministerija

Diplomatinės atstovybės ir konsulinės įstaigos užsienyje bei atstovybės prie tarptautinių organizacijų

Vidaus reikalų ministerija

Institutions under the Vidaus reikalų ministerijos [Ministry of the Interior]:

Asmens dokumentų išrašymo centras;

Finansinių nusikaltimų tyrimo tarnyba;

Gyventojų registro tarnyba;

Policijos departamentas;

Priešgaisrinės apsaugos ir gelbėjimo departamentas;

Turto valdymo ir ūkio departamentas;

Vadovybės apsaugos departamentas;

Valstybės sienos apsaugos tarnyba;

Valstybės tarnybos departamentas;

Informatikos ir ryšių departamentas;

Migracijos departamentas;

Sveikatos priežiūros tarnyba;

Bendrasis pagalbos centras.

#### Žemės ūkio ministerija

Institutions under the Žemės ūkio ministerijos [Ministry of Agriculture]:

Nacionalinė mokėjimo agentūra;

Nacionalinė žemės tarnyba;

Valstybinė augalų apsaugos tarnyba;

Valstybinė gyvulių veislininkystės priežiūros tarnyba;

Valstybinė sėklų ir grūdų tarnyba;

Žuvininkystės departamentas

#### Teismai [Courts]:

Lietuvos Aukščiausiasis Teismas;

Lietuvos apeliacinis teismas;

Lietuvos vyriausiasis administracinis teismas;

apygardų teismai;

apygardų administraciniai teismai;

apylinkių teismai;

Nacionalinė teismų administracija

#### Generalinė prokuratūra

Other Central Public Administration Entities (institucijos [institutions], įstaigos [establishments], tarnybos[agencies])

Aplinkos apsaugos agentūra;

Valstybinė aplinkos apsaugos inspekcija;

Aplinkos projektų valdymo agentūra;

Miško genetinių išteklių, sėklų ir sodmenų tarnyba;

Miško sanitarinės apsaugos tarnyba;

Valstybinė miškotvarkos tarnyba;  
Nacionalinis visuomenės sveikatos tyrimų centras;  
Lietuvos AIDS centras;  
Nacionalinis organų transplantacijos biuras;  
Valstybinis patologijos centras;  
Valstybinis psichikos sveikatos centras;  
Lietuvos sveikatos informacijos centras;  
Slaugos darbuotojų tobulinimosi ir specializacijos centras;  
Valstybinis aplinkos sveikatos centras;  
Respublikinis mitybos centras;  
Užkrečiamųjų ligų profilaktikos ir kontrolės centras;  
Trakų visuomenės sveikatos priežiūros ir specialistų tobulinimosi centras;  
Visuomenės sveikatos ugdymo centras;  
Muitinės kriminalinė tarnyba;  
Muitinės informacinių sistemų centras;  
Muitinės laboratorija;  
Muitinės mokymo centras;  
Valstybinis patentų biuras;  
Lietuvos teismo ekspertizės centras;  
Centrinė hipotekos įstaiga;  
Lietuvos metrologijos inspekcija;  
Civilinės aviacijos administracija;  
Lietuvos saugios laivybos administracija;  
Transporto investicijų direkcija;  
Valstybinė vidaus vandenų laivybos inspekcija;  
Pabėgėlių priėmimo centras

## **Luxembourg**

Ministère d'Etat

Ministère des Affaires Etrangères et de l'Immigration

Ministère de l'Agriculture, de la Viticulture et du Développement Rural

Ministère des Classes moyennes, du Tourisme et du Logement

Ministère de la Culture, de l'Enseignement Supérieur et de la Recherche

Ministère de l'Economie et du Commerce extérieur

Ministère de l'Education nationale et de la Formation professionnelle

Ministère de l'Egalité des chances

Ministère de l'Environnement

Ministère de la Famille et de l'Intégration

Ministère des Finances

Ministère de la Fonction publique et de la Réforme administrative

Ministère de l'Intérieur et de l'Aménagement du territoire

Ministère de la Justice

Ministère de la Santé

Ministère de la Sécurité sociale

Ministère des Transports

Ministère du Travail et de l'Emploi

Ministère des Travaux publics

## **Hungary**

Egészségügyi Minisztérium

Földművelésügyi és Vidékfejlesztési Minisztérium

Gazdasági és Közlekedési Minisztérium

Honvédelmi Minisztérium

Igazságügyi és Rendészeti Minisztérium

Környezetvédelmi és Vízügyi Minisztérium

Külügyminisztérium

Miniszterelnöki Hivatal

Oktatási és Kulturális Minisztérium

Önkormányzati és Területfejlesztési Minisztérium

Pénzügyminisztérium

Szociális és Munkaügyi Minisztérium

Központi Szolgáltatási Főigazgatóság

## **Malta**

Uffiċċju tal-Prim Ministru (Office of the Prime Minister)

Ministeru għall-Familja u Solidarjeta' Soċjali (Ministry for the Family and Social Solidarity)

Ministeru ta' l-Edukazzjoni Zghazagh u Impjieg (Ministry for Education Youth and Employment)

Ministeru tal-Finanzi (Ministry of Finance)

Ministeru tar-Riżorsi u l-Infrastruttura (Ministry for Resources and Infrastructure)

Ministeru tat-Turiżmu u Kultura (Ministry for Tourism and Culture)

Ministeru tal-Ġustizzja u l-Intern (Ministry for Justice and Home Affairs)

Ministeru għall-Affarijiet Rurali u l-Ambjent (Ministry for Rural Affairs and the Environment)

Ministeru għal Għawdex (Ministry for Gozo)

Ministeru tas-Saħħa, l-Anzjani u Kura fil-Kommunita' (Ministry of Health, the Elderly and Community Care)

Ministeru ta' l-Affarijiet Barranin (Ministry of Foreign Affairs)

Ministeru għall-Investimenti, Industrija u Teknologija ta' Informazzjoni (Ministry for Investment, Industry and Information Technology)

Ministeru għall-Kompetittivà u Komunikazzjoni (Ministry for Competitiveness and Communications)

Ministeru għall-Iżvilupp Urban u Toroq (Ministry for Urban Development and Roads)

## **Netherlands**

### Ministerie van Algemene Zaken

Bestuursdepartement

Bureau van de Wetenschappelijke Raad voor het Regeringsbeleid

Rijksvoorlichtingsdienst

### Ministerie van Binnenlandse Zaken en Koninkrijksrelaties

Bestuursdepartement

Centrale Archiefselectiedienst (CAS)

Algemene Inlichtingen- en Veiligheidsdienst (AIVD)

Agentschap Basisadministratie Persoonsgegevens en Reisdocumenten (BPR)

Agentschap Korps Landelijke Politiediensten

### Ministerie van Buitenlandse Zaken

Directoraat-generaal Regiobeleid en Consulaire Zaken (DGRC)

Directoraat-generaal Politieke Zaken (DGPZ)

Directoraat-generaal Internationale Samenwerking (DGIS)

Directoraat-generaal Europese Samenwerking (DGES)

Centrum tot Bevordering van de Import uit Ontwikkelingslanden (CBI)

Centrale diensten ressorterend onder S/PlvS (Support services falling under the Secretary-general and Deputy Secretary-general)

Buitenlandse Posten (ieder afzonderlijk)

### Ministerie van Defensie — (Ministry of Defence)

Bestuursdepartement

Commando Diensten Centra (CDC)

Defensie Telematica Organisatie (DTO)

Centrale directie van de Defensie Vastgoed Dienst

De afzonderlijke regionale directies van de Defensie Vastgoed Dienst

Defensie Materieel Organisatie (DMO)

Landelijk Bevoorradingsbedrijf van de Defensie Materieel Organisatie



Logistiek Centrum van de Defensie Materieel Organisatie

Marinebedrijf van de Defensie Materieel Organisatie

Defensie Pijpleiding Organisatie (DPO)

Ministerie van Economische Zaken

Bestuursdepartement

Centraal Planbureau (CPB)

SenterNovem

Staatstoezicht op de Mijnen (SodM)

Nederlandse Mededingingsautoriteit (NMa)

Economische Voorlichtingsdienst (EVD)

Agentschap Telecom

Kenniscentrum Professioneel & Innovatief Aanbesteden, Netwerk voor  
Overheidsopdrachtgevers (PIANOo)

Regiebureau Inkoop Rijksoverheid

Octrooicentrum Nederland

Consumentenautoriteit

Ministerie van Financiën

Bestuursdepartement

Belastingdienst Automatiseringscentrum

Belastingdienst

de afzonderlijke Directies der Rijksbelastingen (the various Divisions of the Tax and  
Customs Administration throughout the Netherlands)

Fiscale Inlichtingen- en Opsporingsdienst (incl. Economische Controle dienst (ECD))

Belastingdienst Opleidingen

Dienst der Domeinen

Ministerie van Justitie

Bestuursdepartement

Dienst Justitiële Inrichtingen

Raad voor de Kinderbescherming

Centraal Justitie Incasso Bureau

Openbaar Ministerie

Immigratie en Naturalisatiedienst

Nederlands Forensisch Instituut

Dienst Terugkeer & Vertrek

Ministerie van Landbouw, Natuur en Voedselkwaliteit

Bestuursdepartement

Dienst Regelingen (DR)

Agentschap Plantenziektenkundige Dienst (PD)

Algemene Inspectiedienst (AID)

Dienst Landelijk Gebied (DLG)

Voedsel en Waren Autoriteit (VWA)

Ministerie van Onderwijs, Cultuur en Wetenschappen

Bestuursdepartement

Inspectie van het Onderwijs

Erfgoedinspectie

Centrale Financiën Instellingen

Nationaal Archief

Adviesraad voor Wetenschaps- en Technologiebeleid

Onderwijsraad

Raad voor Cultuur

Ministerie van Sociale Zaken en Werkgelegenheid

Bestuursdepartement

Inspectie Werk en Inkomen

Agentschap SZW

Ministerie van Verkeer en Waterstaat

Bestuursdepartement

Directoraat-Generaal Transport en Luchtvaart

Directoraat-generaal Personenvervoer

Directoraat-generaal Water

Centrale diensten (Central Services)

Shared services Organisatie Verkeer en Watersaat

Koninklijke Nederlandse Meteorologisch Instituut KNMI

Rijkswaterstaat, Bestuur

De afzonderlijke regionale Diensten van Rijkswaterstaat (Each individual regional service of the Directorate-general of Public Works and Water Management)

De afzonderlijke specialistische diensten van Rijkswaterstaat (Each individual specialist service of the Directorate-general of Public Works and Water Management)

Adviesdienst Geo-Informatie en ICT

Adviesdienst Verkeer en Vervoer (AVV)

Bouwdienst

Corporate Dienst

Data ICT Dienst

Dienst Verkeer en Scheepvaart

Dienst Weg- en Waterbouwkunde (DWW)

Rijksinstituut voor Kunst en Zee (RIKZ)

Rijksinstituut voor Integraal Zoetwaterbeheer en Afvalwaterbehandeling (RIZA)

Waterdienst

Inspectie Verkeer en Waterstaat, Hoofddirectie

Port state Control

Directie Toezichtontwikkeling Communicatie en Onderzoek (TCO)

Toeziethouder Beheer Eenheid Lucht

Toeziethouder Beheer Eenheid Water

Toeziethouder Beheer Eenheid Land

Ministerie van Volkshuisvesting, Ruimtelijke Ordening en Milieubeheer

Bestuursdepartement

Directoraat-generaal Wonen, Wijken en Integratie

Directoraat-generaal Ruimte

Directoraat-generaal Milieubeheer

Rijksgebouwendienst

VROM Inspectie

Ministerie van Volksgezondheid, Welzijn en Sport

Bestuursdepartement

Inspectie Gezondheidsbescherming, Waren en Veterinaire Zaken

Inspectie Gezondheidszorg

Inspectie Jeugdhulpverlening en Jeugdbescherming

Rijksinstituut voor de Volksgezondheid en Milieu (RIVM)

Sociaal en Cultureel Planbureau

Agentschap t.b.v. het College ter Beoordeling van Geneesmiddelen

Tweede Kamer der Staten-Generaal

Eerste Kamer der Staten-Generaal

Raad van State

Algemene Rekenkamer

Nationale Ombudsman

Kanselarij der Nederlandse Orden

Kabinet der Koningin

Raad voor de rechtspraak en de Rechtbanken

## **Austria**

Bundeskanzleramt

Bundesministerium für europäische und internationale Angelegenheiten

Bundesministerium für Finanzen

Bundesministerium für Gesundheit, Familie und Jugend

Bundesministerium für Inneres

Bundesministerium für Justiz

Bundesministerium für Landesverteidigung

Bundesministerium für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft

Bundesministerium für Soziales und Konsumentenschutz

Bundesministerium für Unterricht, Kunst und Kultur

Bundesministerium für Verkehr, Innovation und Technologie

Bundesministerium für Wirtschaft und Arbeit

Bundesministerium für Wissenschaft und Forschung

Österreichische Forschungs- und Prüfzentrum Arsenal Gesellschaft m.b.H

Bundesbeschaffung G.m.b.H

Bundesrechenzentrum G.m.b.H

## **Poland**

Kancelaria Prezydenta RP

Kancelaria Sejmu RP

Kancelaria Senatu RP

Kancelaria Prezesa Rady Ministrów

Sąd Najwyższy

Naczelny Sąd Administracyjny

Wojewódzkie sądy administracyjne

Sądy powszechne — rejonowe, okręgowe i apelacyjne

Trybunał Konstytucyjny

Najwyższa Izba Kontroli

Biuro Rzecznika Praw Obywatelskich

Biuro Rzecznika Praw Dziecka

Biuro Ochrony Rządu

Biuro Bezpieczeństwa Narodowego

Centralne Biuro Antykorupcyjne

Ministerstwo Pracy i Polityki Społecznej

Ministerstwo Finansów

Ministerstwo Gospodarki

Ministerstwo Rozwoju Regionalnego

Ministerstwo Kultury i Dziedzictwa Narodowego

Ministerstwo Edukacji Narodowej

Ministerstwo Obrony Narodowej

Ministerstwo Rolnictwa i Rozwoju Wsi

Ministerstwo Skarbu Państwa

Ministerstwo Sprawiedliwości

Ministerstwo Infrastruktury

Ministerstwo Nauki i Szkolnictwa Wyższego  
Ministerstwo Środowiska  
Ministerstwo Spraw Wewnętrznych i Administracji  
Ministerstwo Spraw Zagranicznych  
Ministerstwo Zdrowia  
Ministerstwo Sportu i Turystyki  
Urząd Komitetu Integracji Europejskiej  
Urząd Patentowy Rzeczypospolitej Polskiej  
Urząd Regulacji Energetyki  
Urząd do Spraw Kombatantów i Osób Represjonowanych  
Urząd Transportu Kolejowego  
Urząd Dozoru Technicznego  
Urząd Rejestracji Produktów Leczniczych, Wyrobów Medycznych i Produktów Biobójczych  
Urząd do Spraw Repatriacji i Cudzoziemców  
Urząd Zamówień Publicznych  
Urząd Ochrony Konkurencji i Konsumentów  
Urząd Lotnictwa Cywilnego  
Urząd Komunikacji Elektronicznej  
Wyższy Urząd Górniczy  
Główny Urząd Miar  
Główny Urząd Geodezji i Kartografii  
Główny Urząd Nadzoru Budowlanego  
Główny Urząd Statystyczny  
Krajowa Rada Radiofonii i Telewizji  
Generalny Inspektor Ochrony Danych Osobowych  
Państwowa Komisja Wyborcza  
Państwowa Inspekcja Pracy  
Rządowe Centrum Legislacji

Narodowy Fundusz Zdrowia  
Polska Akademia Nauk  
Polskie Centrum Akredytacji  
Polskie Centrum Badań i Certyfikacji  
Polska Organizacja Turystyczna  
Polski Komitet Normalizacyjny  
Zakład Ubezpieczeń Społecznych  
Komisja Nadzoru Finansowego  
Naczelną Dyrekcję Archiwów Państwowych  
Kasa Rolniczego Ubezpieczenia Społecznego  
Generalna Dyrekcja Dróg Krajowych i Autostrad  
Państwowa Inspekcja Ochrony Roślin i Nasiennictwa  
Komenda Główna Państwowej Straży Pożarnej  
Komenda Główna Policji  
Komenda Główna Straży Granicznej  
Inspekcja Jakości Handlowej Artykułów Rolno-Spożywczych  
Główny Inspektorat Ochrony Środowiska  
Główny Inspektorat Transportu Drogowego  
Główny Inspektorat Farmaceutyczny  
Główny Inspektorat Sanitarny  
Główny Inspektorat Weterynarii  
Agencja Bezpieczeństwa Wewnętrznego  
Agencja Wywiadu  
Agencja Mienia Wojskowego  
Wojskowa Agencja Mieszkaniowa  
Agencja Restrukturyzacji i Modernizacji Rolnictwa  
Agencja Rynku Rolnego  
Agencja Nieruchomości Rolnych



Państwowa Agencja Atomistyki

Polska Agencja Żeglugi Powietrznej

Polska Agencja Rozwiązywania Problemów Alkoholowych

Agencja Rezerw Materiałowych

Narodowy Bank Polski

Narodowy Fundusz Ochrony Środowiska i Gospodarki Wodnej

Państwowy Fundusz Rehabilitacji Osób Niepełnosprawnych

Instytut Pamięci Narodowej — Komisja Ścigania Zbrodni Przeciwko Narodowi Polskiemu

Rada Ochrony Pamięci Walk i Męczeństwa

Służba Celną Rzeczypospolitej Polskiej

Państwowe Gospodarstwo Leśne ‘Lasy Państwowe’

Polska Agencja Rozwoju Przedsiębiorczości

Urzędy wojewódzkie

Samodzielne Publiczne Zakłady Opieki Zdrowotnej, jeśli ich organem założycielskim jest minister,  
centralny organ administracji rządowej lub wojewoda

## **Portugal**

Presidência do Conselho de Ministros

Ministério das Finanças e da Administração Pública

Ministério da Defesa Nacional

Ministério dos Negócios Estrangeiros

Ministério da Administração Interna

Ministério da Justiça

Ministério da Economia e da Inovação

Ministério da Agricultura, Desenvolvimento Rural e Pescas

Ministério da Educação

Ministério da Ciência, Tecnologia e do Ensino Superior

Ministério da Cultura

Ministério da Saúde

Ministério do Trabalho e da Solidariedade Social

Ministério das Obras Públicas, Transportes e Comunicações

Ministério do Ambiente, do Ordenamento do Território e do Desenvolvimento Regional

Presidência da República

Tribunal Constitucional

Tribunal de Contas

Provedoria de Justiça

## **Romania**

Administrația Prezidențială

Senatul României

Camera Deputaților

Inalta Curte de Casație și Justiție

Curtea Constituțională

Consiliul Legislativ

Curtea de Conturi

Consiliul Superior al Magistraturii

Parchetul de pe lângă Inalta Curte de Casație și Justiție

Secretariatul General al Guvernului

Cancelaria primului ministru

Ministerul Afacerilor Externe

Ministerul Economiei și Finanțelor

Ministerul Justiției

Ministerul Apărării

Ministerul Internelor și Reformei Administrative

Ministerul Muncii, Familiei și Egalității de Sanse

Ministerul pentru Intreprinderi Mici și Mijlocii, Comerț, Turism și Profesii Liberale

Ministerul Agriculturii și Dezvoltării Rurale

Ministerul Transporturilor

Ministerul Dezvoltării, Lucrărilor Publice și Locuinței

Ministerul Educației Cercetării și Tineretului

Ministerul Sănătății Publice

Ministerul Culturii și Cultelor

Ministerul Comunicațiilor și Tehnologiei Informației

Ministerul Mediului și Dezvoltării Durabile

Serviciul Român de Informații  
Serviciul de Informații Externe  
Serviciul de Protecție și Pază  
Serviciul de Telecomunicații Speciale  
Consiliul Național al Audiovizualului  
Consiliul Concurenței (CC)  
Direcția Națională Anticorupție  
Inspectoratul General de Poliție  
Autoritatea Națională pentru Reglementarea și Monitorizarea Achizițiilor Publice  
Consiliul Național de Soluționare a Contestațiilor  
Autoritatea Națională de Reglementare pentru Serviciile Comunitare de Utilități Publice(ANRSC)  
Autoritatea Națională Sanitară Veterinară și pentru Siguranța Alimentelor  
Autoritatea Națională pentru Protecția Consumatorilor  
Autoritatea Navală Română  
Autoritatea Feroviară Română  
Autoritatea Rutieră Română  
Autoritatea Națională pentru Protecția Drepturilor Copilului  
Autoritatea Națională pentru Persoanele cu Handicap  
Autoritatea Națională pentru Turism  
Autoritatea Națională pentru Restituirea Proprietăților  
Autoritatea Națională pentru Tineret  
Autoritatea Națională pentru Cercetare Științifică  
Autoritatea Națională pentru Reglementare în Comunicații și Tehnologia Informației  
Autoritatea Națională pentru Serviciile Societății Informaționale  
Autoritatea Electorală Permanente  
Agenția pentru Strategii Guvernamentale  
Agenția Națională a Medicamentului  
Agenția Națională pentru Sport

Agencia Națională pentru Ocuparea Forței de Muncă  
Agencia Națională de Reglementare în Domeniul Energiei  
Agencia Română pentru Conservarea Energiei  
Agencia Națională pentru Resurse Minerale  
Agencia Română pentru Investiții Străine  
Agencia Națională pentru Intreprinderi Mici și Mijlocii și Cooperație  
Agencia Națională a Funcționarilor Publici  
Agencia Națională de Administrare Fiscală  
Agencia de Compensare pentru Achiziții de Tehnică Specială  
Agencia Națională Anti-doping  
Agencia Nucleară  
Agencia Națională pentru Protecția Familiei  
Agencia Națională pentru Egalitatea de Sanse între Bărbați și Femei  
Agencia Națională pentru Protecția Mediului  
Agencia națională Antidrog

## **Slovenia**

Predsednik Republike Slovenije

Državni zbor Republike Slovenije

Državni svet Republike Slovenije

Varuh človekovih pravic

Ustavno sodišče Republike Slovenije

Računsko sodišče Republike Slovenije

Državna revizijska komisija za revizijo postopkov oddaje javnih naročil

Slovenska akademija znanosti in umetnosti

Vladne službe

Ministrstvo za finance

Ministrstvo za notranje zadeve

Ministrstvo za zunanje zadeve

Ministrstvo za obrambo

Ministrstvo za pravosodje

Ministrstvo za gospodarstvo

Ministrstvo za kmetijstvo, gozdarstvo in prehrano

Ministrstvo za promet

Ministrstvo za okolje in, prostor

Ministrstvo za delo, družino in socialne zadeve

Ministrstvo za zdravje

Ministrstvo za javno upravo

Ministrstvo za šolstvo in šport

Ministrstvo za visoko šolstvo, znanost in tehnologijo

Ministrstvo za kulturo

Vrhovno sodišče Republike Slovenije

višja sodišča

okrožna sodišča

okrajna sodišča

Vrhovno državno tožilstvo Republike Slovenije

Okrožna državna tožilstva

Državno pravobranilstvo

Upravno sodišče Republike Slovenije

Višje delovno in socialno sodišče

delovna sodišča

Davčna uprava Republike Slovenije

Carinska uprava Republike Slovenije

Urad Republike Slovenije za preprečevanje pranja denarja

Urad Republike Slovenije za nadzor prirejanja iger na srečo

Uprava Republike Slovenije za javna plačila

Urad Republike Slovenije za nadzor proračuna

Policija

Inšpektorat Republike Slovenije za notranje zadeve

General štab Slovenske vojske

Uprava Republike Slovenije za zaščito in reševanje

Inšpektorat Republike Slovenije za obrambo

Inšpektorat Republike Slovenije za varstvo pred naravnimi in drugimi nesrečami

Uprava Republike Slovenije za izvrševanje kazenskih sankcij

Urad Republike Slovenije za varstvo konkurence

Urad Republike Slovenije za varstvo potrošnikov

Tržni inšpektorat Republike Slovenije

Urad Republike Slovenije za intelektualno lastnino

Inšpektorat Republike Slovenije za elektronske komunikacije, elektronsko podpisovanje in pošto

Inšpektorat za energetiko in rudarstvo

Agencija Republike Slovenije za kmetijske trge in razvoj podeželja

Inšpektorat Republike Slovenije za kmetijstvo, gozdarstvo in hrano

Fitosanitarna uprava Republike Slovenije

Veterinarska uprava Republike Slovenije

Uprava Republike Slovenije za pomorstvo

Direkcija Republike Slovenije za caste

Prometni inšpektorat Republike Slovenije

Direkcija za vodenje investicij v javno železniško infrastrukturo

Agencija Republike Slovenije za okolje

Geodetska uprava Republike Slovenije

Uprava Republike Slovenije za jedrsko varstvo

Inšpektorat Republike Slovenije za okolje in prostor

Inšpektorat Republike Slovenije za delo

Zdravstveni inšpektorat

Urad Republike Slovenije za kemikalije

Uprava Republike Slovenije za varstvo pred sevanji

Urad Republike Slovenije za meroslovje

Urad za visoko šolstvo

Urad Republike Slovenije za mladino

Inšpektorat Republike Slovenije za šolstvo in šport

Arhiv Republike Slovenije

Inšpektorat Republike Slovenije za kulturo in medije

Kabinet predsednika Vlade Republike Slovenije

Generalni sekretariat Vlade Republike Slovenije

Služba vlade za zakonodajo

Služba vlade za evropske zadeve

Služba vlade za lokalno samoupravo in regionalno politiko

Urad vlade za komuniciranje

Urad za enake možnosti



Urad za verske skupnosti  
Urad za narodnosti  
Urad za makroekonomske analize in razvoj  
Statistični urad Republike Slovenije  
Slovenska obveščevalno-varnostna agencija  
Protokol Republike Slovenije  
Urad za varovanje tajnih podatkov  
Urad za Slovence v zamejstvu in po svetu  
Služba Vlade Republike Slovenije za razvoj  
Informacijski pooblaščenec  
Državna volilna komisija

## **Slovakia**

Ministries and other central government authorities referred to as in Act No. 575/2001 Coll. on the structure of activities of the Government and central state administration authorities in wording of later regulations:

Kancelária Prezidenta Slovenskej republiky

Národná rada Slovenskej republiky

Ministerstvo hospodárstva Slovenskej republiky

Ministerstvo financií Slovenskej republiky

Ministerstvo dopravy, pôšt a telekomunikácií Slovenskej republiky

Ministerstvo pôdohospodárstva Slovenskej republiky

Ministerstvo výstavby a regionálneho rozvoja Slovenskej republiky

Ministerstvo vnútra Slovenskej republiky

Ministerstvo obrany Slovenskej republiky

Ministerstvo spravodlivosti Slovenskej republiky

Ministerstvo zahraničných vecí Slovenskej republiky

Ministerstvo práce, sociálnych vecí a rodiny Slovenskej republiky

Ministerstvo životného prostredia Slovenskej republiky

Ministerstvo školstva Slovenskej republiky

Ministerstvo kultúry Slovenskej republiky

Ministerstvo zdravotníctva Slovenskej republiky

Úrad vlády Slovenskej republiky

Protimonopolný úrad Slovenskej republiky

Štatistický úrad Slovenskej republiky

Úrad geodézie, kartografie a katastra Slovenskej republiky

Úrad jadrového dozoru Slovenskej republiky

Úrad pre normalizáciu, metrológiu a skúšobníctvo Slovenskej republiky

Úrad pre verejné obstarávanie

Úrad priemyselného vlastníctva Slovenskej republiky

Správa štátnych hmotných rezerv Slovenskej republiky

Národný bezpečnostný úrad

Ústavný súd Slovenskej republiky

Najvyšší súd Slovenskej republiky

Generálna prokuratúra Slovenskej republiky

Najvyšší kontrolný úrad Slovenskej republiky

Telekomunikačný úrad Slovenskej republiky

Úrad priemyselného vlastníctva Slovenskej republiky

Úrad pre finančný trh

Úrad na ochranu osobných údajov

Kancelária verejného ochrany práv

## **Finland**

Oikeuskanslerinvirasto — Justitiekanslersämbetet

Liikenne- Ja Viestintäministeriö — Kommunikationsministeriet

Ajoneuvohallintokeskus AKE — Fordonsförvaltningscentralen AKE

Ilmailuhallinto — Luftfartsförvaltningen

Ilmatieteen laitos — Meteorologiska institutet

Merenkulkulaitos — Sjöfartsverket

Merentutkimuslaitos — Havsforskningsinstitutet

Ratahallintokeskus RHK — Banförvaltningscentralen RHK

Rautatievirasto — Järnvägsverket

Tiehallinto — Vägförvaltningen

Viestintävirasto — Kommunikationsverket

Maa- Ja Metsätalousministeriö — Jord- Och Skogsbruksministeriet

Elintarviketurvallisuusvirasto — Livsmedelssäkerhetsverket

Maanmittauslaitos — Lantmäteriverket

Maaseutuvirasto — Landsbygdsverket

Oikeusministeriö — Justitieministeriet

Tietosuojavaltuutetun toimisto — Dataombudsmannens byrå

Tuomioistuimet — domstolar

Korkein oikeus — Högsta domstolen

Korkein hallinto-oikeus — Högsta förvaltningsdomstolen

Hovioikeudet — hovrätter

Käräjäoikeudet — tingsrätter

Hallinto-oikeudet — förvaltningsdomstolar

Markkinaoikeus — Marknadsdomstolen

Työtuomioistuin — Arbetsdomstolen

Vakuutuslaitos — Försäkringsdomstolen

Kuluttajariitalautakunta — Konsumenttvistenämnden

Vankeinhoitolaitos — Fångvårdsväsendet

HEUNI — Yhdistyneiden Kansakuntien yhteydessä toimiva Euroopan kriminaalipolitiikan instituutti — HEUNI — Europeiska institutet för kriminalpolitik, verksamt i anslutning till Förenta Nationerna

Konkurssiasiamiehen toimisto — Konkursombudsmannens byrå

Kuluttajariitalautakunta — Konsumenttvistenämnden

Oikeushallinnon palvelukeskus — Justitieförvaltningens servicecentral

Oikeushallinnon tietotekniikkakeskus — Justitieförvaltningens datateknikcentral

Oikeuspoliittinen tutkimuslaitos (Optula) — Rättspolitiska forskningsinstitutet

Oikeusrekisterikeskus — Rättsregistercentralen

Onnettomuustutkintakeskus — Centralen för undersökning av olyckor

Rikosseuraamusvirasto — Brottspåföljdsverket

Rikosseuraamusalan koulutuskeskus — Brottspåföljdsområdets utbildningscentral

Rikoksentorjuntaneuvosto Rådet för brottsförebyggande

Saamelaiskäräjät — Sametinget

Valtakunnansyyttäjänvirasto — Riksåklagarämbetet

Vankeinhoitolaitos — Fångvårdsväsendet

Opetusministeriö — Undervisningsministeriet

Opetushallitus — Utbildningsstyrelsen

Valtion elokuvatarkastamo — Statens filmgranskningsbyrå

Puolustusministeriö — Försvarsministeriet

Puolustusvoimat — Försvarsmakten

Sisäasiainministeriö — Inrikesministeriet

Väestörekisterikeskus — Befolkningsregistercentralen

Keskusrikospoliisi — Centralkriminalpolisen

Liikkuva poliisi — Rörliga polisen

Rajavartiolaitos — Gränsbevakningsväsendet

Lääninhallitukset — Länstyrelserna  
 Suojelupoliisi — Skyddspolisen  
 Poliisiammattikorkeakoulu — Polisyreshögskolan  
 Poliisin tekniikkakeskus — Polisens teknikcentral  
 Poliisin tietohallintokeskus — Polisens datacentral  
 Helsingin kihlakunnan poliisilaitos — Polisinrättningen i Helsingfors  
 Pelastusopisto — Räddningsverket  
 Hätäkeskuslaitos — Nödcentralsverket  
 Maahanmuuttovirasto — Migrationsverket  
 Sisäasiainhallinnon palvelukeskus — Inrikesförvaltningens servicecentral  
 Sosiaali- Ja Terveysministeriö — Social- Och Hälsovårdsministeriet  
 Työttömyysturvan muutoksenhakulautakunta — Besvärnsämnden för  
 utkomstskyddsärenden  
 Sosiaaliturvan muutoksenhakulautakunta — Besvärnsämnden för socialtrygghet  
 Lääkelaitos — Läkemedelsverket  
 Terveysturvan oikeusturvakeskus — Rättsskyddscentralen för hälsovården  
 Säteilyturvakeskus — Strålsäkerhetscentralen  
 Kansanterveyslaitos — Folkhälsoinstitutet  
 Lääkehoidon kehittämiskeskus ROHTO — Utvecklingscentralen för läkemedelsbe-  
 handling  
 Sosiaali- ja terveydenhuollon tuotevalvontakeskus — Social- och hälsovårdens produktill-  
 synscentral  
 Sosiaali- ja terveystieteiden tutkimus- ja kehittämiskeskus Stakes — Forsknings- och  
 utvecklingscentralen för social- och hälsovården Stakes  
 Vakuutusvalvontavirasto — Försäkringsinspektionen  
 Työ- Ja Elinkeinoministeriö — Arbets- Och Näringsministeriet  
 Kuluttajavirasto — Konsumentverket  
 Kilpailuvirasto — Konkurrensverket  
 Patentti- ja rekisterihallitus — Patent- och registerstyrelsen

Valtakunnansovittelijain toimisto — Riksförlikningsmännens byrå

Valtion turvapaikanhakijoiden vastaanottokeskukset— Statliga förläggningar för asylsökande

Energiamarkkinavirasto — Energimarknadsverket

Geologian tutkimuskeskus — Geologiska forskningscentralen

Huoltovarmuuskeskus — Försörjningsberedskapscentralen

Kuluttajatutkimuskeskus — Konsumentforskningscentralen

Matkailun edistämiskeskus (MEK) — Centralen för turistfrämjande

Mittatekniikan keskus (MIKES) — Mätteknikcentralen

Tekes — teknologian ja innovaatioiden kehittämiskeskus —Tekes — utvecklingscentralen för teknologi och innovationer

Turvatekniikan keskus (TUKES) — Säkerhetsteknikcentralen

Valtion teknillinen tutkimuskeskus (VTT) — Statens tekniska forskningscentral

Syrjintälautakunta — Nationella diskrimineringsnämnden

Työneuvosto — Arbetsrådet

Vähemmistövaltuutetun toimisto — Minoritetsombudsmannens byrå

Ulkoasiainministeriö — Utrikesministeriet

Valtioneuvoston Kanslia — Statsrådets Kansli

Valtiovarainministeriö — Finansministeriet

Valtiokonttori — Statskontoret

Verohallinto — Skatteförvaltningen

Tullilaitos — Tullverket

Tilastokeskus — Statistikcentralen

Valtiontaloudellinen tutkimuskeskus — Statens ekonomiska forskningscentral

Ympäristöministeriö — Miljöministeriet

Suomen ympäristökeskus — Finlands miljöcentral

Asumisen rahoitus- ja kehityskeskus — Finansierings- och utvecklingscentralen för boendet

Valtiontalouden Tarkastusvirasto — Statens Revisionsverk

## Sweden

### A

Affärsverket svenska kraftnät

Akademien för de fria konsterna

Alkohol- och läkemedelssortiments-nämnden

Allmänna pensionsfonden

Allmänna reklamationsnämnden

Ambassader

Ansvarsnämnd, statens

Arbetsdomstolen

Arbetsförmedlingen

Arbetsgivarverk, statens

Arbetslivsinstitutet

Arbetsmiljöverket

Arkitekturmuseet

Arrendenämnder

Arvsfondsdelegationen

Arvsfondsdelegationen

### B

Banverket

Barnombudsmannen

Beredning för utvärdering av medicinsk metodik, statens

Bergsstaten

Biografbyrå, statens

Biografiskt lexikon, svenskt

Birgittaskolan

Blekinge tekniska högskola

Bokföringsnämnden



Bolagsverket  
Bostadsnämnd, statens  
Bostadskreditnämnd, statens  
Boverket  
Brottsförebyggande rådet  
Brottsoffermyndigheten  
C  
Centrala studiestödsnämnden  
D  
Danshögskolan  
Datainspektionen  
Departementen  
Domstolsverket  
Dramatiska institutet  
E  
Ekeskolan  
Ekobrottsmyndigheten  
Ekonomistyrningsverket  
Ekonomiska rådet  
Elsäkerhetsverket  
Energimarknadsinspektionen  
Energimyndighet, statens  
EU/FoU-rådet  
Exportkreditnämnden  
Exportråd, Sveriges  
F  
Fastighetsmäklarnämnden  
Fastighetsverk, statens

Fideikommissnämnden  
Finansinspektionen  
Finanspolitiska rådet  
Finsk-svenska gränsälvskommisionen  
Fiskeriverket  
Flygmedicincentrum  
Folkhälsoinstitut, statens  
Fonden för fukt- och mögelskador  
Forskningsrådet för miljö, areella näringar och samhällsbyggande, Formas  
Folke Bernadotte Akademin  
Forskarskattenämnden  
Forskningsrådet för arbetsliv och socialvetenskap  
Fortifikationsverket  
Forum för levande historia  
Försvarets materielverk  
Försvarets radioanstalt  
Försvarets underrättelsenämnd  
Förvarshistoriska museer, statens  
Förvarshögskolan  
Förvarsmakten  
Försäkringskassan  
G  
Gentekniknämnden  
Geologiska undersökning  
Geotekniska institut, statens  
Giftinformationscentralen  
Glesbygdsverket  
Grafiska institutet och institutet för högre kommunikation- och reklamutbildning

Granskningsnämnden för radio och TV  
Granskningsnämnden för försvarsuppfinningar  
Gymnastik- och Idrottshögskolan  
Göteborgs universitet

H

Handelsflottans kultur- och fritidsråd  
Handelsflottans pensionsanstalt  
Handelssekreterare  
Handelskamrar, auktoriserade  
Handikappombudsmannen  
Handikappråd, statens  
Harpunds nämnden  
Haverikommission, statens  
Historiska museer, statens  
Hjälpmedelsinstitutet  
Hovrätterna  
Hyresnämnder  
Häkterna  
Hälso- och sjukvårdens ansvarsnämnd  
Högskolan Dalarna  
Högskolan i Borås  
Högskolan i Gävle  
Högskolan i Halmstad  
Högskolan i Kalmar  
Högskolan i Karlskrona/Ronneby  
Högskolan i Kristianstad  
Högskolan i Skövde

Högskolan i Trollhättan/Uddevalla

Högskolan på Gotland

Högskolans avskiljandenämnd

Högskoleverket

Högsta domstolen

I

ILO kommittén

Inspektionen för arbetslöshetsförsäkringen

Inspektionen för strategiska produkter

Institut för kommunikationsanalys, statens

Institut för psykosocial medicin, statens

Institut för särskilt utbildningsstöd, statens

Institutet för arbetsmarknadspolitisk utvärdering

Institutet för rymdfysik

Institutet för tillväxtpolitiska studier

Institutionsstyrelse, statens

Insättningsgarantinämnden

Integrationsverket

Internationella programkontoret för utbildningsområdet

J

Jordbruksverk, statens

Justitiekanslern

Jämställdhetsombudsmannen

Jämställdhetsnämnden

Järnvägar, statens

Järnvägsstyrelsen

K

Kammarkollegiet

Kammarrätterna  
Karlstads universitet  
Karolinska Institutet  
Kemikalieinspektionen  
Kommerskollegium  
Konjunkturinstitutet  
Konkurrensverket  
Konstfack  
Konsthögskolan  
Konstnärsnämnden  
Konstråd, statens  
Konsulat  
Konsumentverket  
Krigsvetenskapsakademin  
Krigsförsäkringsnämnden  
Kriminaltekniska laboratorium, statens  
Kriminalvården  
Krisberedskapsmyndigheten  
Kristinaskolan  
Kronofogdemyndigheten  
Kulturråd, statens  
Kungl. Biblioteket  
Kungl. Konsthögskolan  
Kungl. Musikhögskolan i Stockholm  
Kungl. Tekniska högskolan  
Kungl. Vitterhets-, historie- och antikvitetsakademien  
Kungl Vetenskapsakademin  
Kustbevakningen

Kvalitets- och kompetensråd, statens  
Kärnavfallsfondens styrelse  
L  
Lagrådet  
Lantbruksuniversitet, Sveriges  
Lantmäteriverket  
Linköpings universitet  
Livrustkammaren, Skoklosters slott och Hallwylska museet  
Livsmedelsverk, statens  
Livsmedelsekonomiska institutet  
Ljud- och bildarkiv, statens  
Lokala säkerhetsnämnderna vid kärnkraftverk  
Lotteriinspektionen  
Luftfartsverket  
Luftfartsstyrelsen  
Luleå tekniska universitet  
Lunds universitet  
Läkemedelsverket  
Läkemedelsförmånsnämnden  
Länsrätterna  
Länsstyrelserna  
Lärarhögskolan i Stockholm  
M  
Malmö högskola  
Manillaskolan  
Maritima muséer, statens  
Marknadsdomstolen  
Medlingsinstitutet

Meteorologiska och hydrologiska institut, Sveriges  
Migrationsverket  
Militärhögskolor  
Mittuniversitetet  
Moderna museet  
Museer för världskultur, statens  
Musikaliska Akademien  
Musiksamlingar, statens  
Myndigheten för handikappolitisk samordning  
Myndigheten för internationella adoptionsfrågor  
Myndigheten för skolutveckling  
Myndigheten för kvalificerad yrkesutbildning  
Myndigheten för nätverk och samarbete inom högre utbildning  
Myndigheten för Sveriges nätuniversitet  
Myndigheten för utländska investeringar i Sverige  
Mälardalens högskola  
N  
Nationalmuseum  
Nationellt centrum för flexibelt lärande  
Naturhistoriska riksmuseet  
Naturvårdsverket  
Nordiska Afrikainstitutet  
Notarienämnden  
Nämnd för arbetstagares uppfinningar, statens  
Nämnden för statligt stöd till trossamfund  
Nämnden för styrelserepresentationsfrågor  
Nämnden mot diskriminering  
Nämnden för elektronisk förvaltning

Nämnden för RH anpassad utbildning

Nämnden för hemslöjdsfrågor

O

Oljekrisnämnden

Ombudsmannen mot diskriminering på grund av sexuell läggning

Ombudsmannen mot etnisk diskriminering

Operahögskolan i Stockholm

P

Patent- och registreringsverket

Patentbesvärsrätten

Pensionsverk, statens

Personregisternämnd statens, SPAR-nämnden

Pliktverk, Totalförsvarets

Polarforskningssekretariatet

Post- och telestyrelsen

Premiepensionsmyndigheten

Presstödsnämnden

R

Radio- och TV-verket

Rederinämnden

Regeringskansliet

Regeringsrätten

Resegarantinämnden

Registernämnden

Revisorsnämnden

Riksantikvarieämbetet

Riksarkivet

Riksbanken



Riksdagsförvaltningen  
Riksdagens ombudsmän  
Riksdagens revisorer  
Riksgäldskontoret  
Rikshemvärnsrådet  
Rikspolisstyrelsen  
Riksrevisionen  
Rikstrafiken  
Riksutställningar, Stiftelsen  
Riksvärderingsnämnden  
Rymdstyrelsen  
Rådet för Europeiska socialfonden i Sverige  
Räddningsverk, statens  
Rättshjälpsmyndigheten  
Rättshjälpsnämnden  
Rättsmedicinalverket  
S  
Samarbetsnämnden för statsbidrag till trossamfund  
Sameskolstyrelsen och sameskolor  
Sametinget  
SIS, Standardiseringen i Sverige  
Sjöfartsverket  
Skatterättsnämnden  
Skatteverket  
Skaderegleringsnämnd, statens  
Skiljenämnden i vissa trygghetsfrågor  
Skogsstyrelsen  
Skogsvårdsstyrelserna

Skogs och lantbruksakademien  
Skolverk, statens  
Skolväsendets överklagandenämnd  
Smittskyddsinstitutet  
Socialstyrelsen  
Specialpedagogiska institutet  
Specialskolemyndigheten  
Språk- och folkminnesinstitutet  
Sprängämnesinspektionen  
Statistiska centralbyrån  
Statskontoret  
Stockholms universitet  
Stockholms internationella miljöinstitut  
Strålsäkerhetsmyndigheten  
Styrelsen för ackreditering och teknisk kontroll  
Styrelsen för internationellt utvecklingssamarbete, SIDA  
Styrelsen för Samefonden  
Styrelsen för psykologiskt försvar  
Stängselnämnden  
Svenska institutet  
Svenska institutet för europapolitiska studier  
Svenska ESF rådet  
Svenska Unescorådet  
Svenska FAO kommittén  
Svenska Språknämnden  
Svenska Skeppshypotekskassan  
Svenska institutet i Alexandria  
Sveriges författarfond

Säkerhetspolisen

Säkerhets- och integritetsskyddsnämnden

Södertörns högskola

T

Taltidningsnämnden

Talboks- och punktskriftsbiblioteket

Teaterhögskolan i Stockholm

Tingsrätterna

Tjänstepensions och grupplivnämnd, statens

Tjänsteförslagsnämnden för domstolsväsendet

Totalförsvarets forskningsinstitut

Totalförsvarets pliktverk

Tullverket

Turistdelegationen

U

Umeå universitet

Ungdomsstyrelsen

Uppsala universitet

Utlandslönenämnd, statens

Utlänningsnämnden

Utrikesförvaltningens antagningsnämnd

Utrikesnämnden

Utsädeskontroll, statens

V

Valideringsdelegationen

Valmyndigheten

Vatten- och avloppsnämnd, statens

Vattenöverdomstolen

Verket för förvaltningsutveckling  
Verket för högskoleservice  
Verket för innovationssystem (VINNOVA)  
Verket för näringslivsutveckling (NUTEK)  
Vetenskapsrådet  
Veterinärmedicinska anstalt, statens  
Veterinära ansvarsnämnden  
Väg- och transportforskningsinstitut, statens  
Vägverket  
Vänerskolan  
Växjö universitet  
Växsortnämnd, statens  
Å  
Åklagarmyndigheten  
Åsbackaskolan  
Ö  
Örebro universitet  
Örlogsmannasällskapet  
Östervångsskolan  
Överbefälhavaren  
Överklagandenämnden för högskolan  
Överklagandenämnden för nämndemanna-uppdrag  
Överklagandenämnden för studiestöd  
Överklagandenämnden för totalförsvaret

## **United Kingdom**

Cabinet Office

Office of the Parliamentary Counsel

Central Office of Information

Charity Commission

Crown Estate Commissioners (Vote Expenditure Only)

Crown Prosecution Service

Department for Business, Enterprise and Regulatory Reform

Competition Commission

Gas and Electricity Consumers' Council

Office of Manpower Economics

Department for Children, Schools and Families

Department of Communities and Local Government

Rent Assessment Panels

Department for Culture, Media and Sport

British Library

British Museum

Commission for Architecture and the Built Environment

The Gambling Commission

Historic Buildings and Monuments Commission for England (English Heritage)

Imperial War Museum

Museums, Libraries and Archives Council

National Gallery

National Maritime Museum

National Portrait Gallery

Natural History Museum

Science Museum

Tate Gallery

Victoria and Albert Museum

Wallace Collection

Department for Environment, Food and Rural Affairs

Agricultural Dwelling House Advisory Committees

Agricultural Land Tribunals

Agricultural Wages Board and Committees

Cattle Breeding Centre

Countryside Agency

Plant Variety Rights Office

Royal Botanic Gardens, Kew

Royal Commission on Environmental Pollution

Department of Health

Dental Practice Board

National Health Service Strategic Health Authorities

NHS Trusts

Prescription Pricing Authority

Department for Innovation, Universities and Skills

Higher Education Funding Council for England

National Weights and Measures Laboratory

Patent Office

Department for International Development

Department of the Procurator General and Treasury Solicitor

Legal Secretariat to the Law Officers

Department for Transport

Maritime and Coastguard Agency

Department for Work and Pensions

Disability Living Allowance Advisory Board

Independent Tribunal Service

Medical Boards and Examining Medical Officers (War Pensions)

Occupational Pensions Regulatory Authority

Regional Medical Service

Social Security Advisory Committee

Export Credits Guarantee Department

Foreign and Commonwealth Office

Wilton Park Conference Centre

Government Actuary's Department

Government Communications Headquarters

Home Office

HM Inspectorate of Constabulary

House of Commons

House of Lords

Ministry of Defence

Defence Equipment & Support

Meteorological Office

Ministry of Justice

Boundary Commission for England

Combined Tax Tribunal

Council on Tribunals

Court of Appeal — Criminal

Employment Appeals Tribunal

Employment Tribunals

HMCS Regions, Crown, County and Combined Courts (England and Wales)

Immigration Appellate Authorities

Immigration Adjudicators

Immigration Appeals Tribunal

Lands Tribunal  
Law Commission  
Legal Aid Fund (England and Wales)  
Office of the Social Security Commissioners  
Parole Board and Local Review Committees  
Pensions Appeal Tribunals  
Public Trust Office  
Supreme Court Group (England and Wales)  
Transport Tribunal

The National Archives

National Audit Office

National Savings and Investments

National School of Government

Northern Ireland Assembly Commission

Northern Ireland Court Service

Coroners Courts

County Courts

Court of Appeal and High Court of Justice in Northern Ireland

Crown Court

Enforcement of Judgements Office

Legal Aid Fund

Magistrates' Courts

Pensions Appeals Tribunals

Northern Ireland, Department for Employment and Learning

Northern Ireland, Department for Regional Development

Northern Ireland, Department for Social Development

Northern Ireland, Department of Agriculture and Rural Development

Northern Ireland, Department of Culture, Arts and Leisure



Northern Ireland, Department of Education

Northern Ireland, Department of Enterprise, Trade and Investment

Northern Ireland, Department of the Environment

Northern Ireland, Department of Finance and Personnel

Northern Ireland, Department of Health, Social Services and Public Safety

Northern Ireland, Office of the First Minister and Deputy First Minister

Northern Ireland Office

Crown Solicitor's Office

Department of the Director of Public Prosecutions for Northern Ireland

Forensic Science Laboratory of Northern Ireland

Office of the Chief Electoral Officer for Northern Ireland

Police Service of Northern Ireland

Probation Board for Northern Ireland

State Pathologist Service

Office of Fair Trading

Office for National Statistics

National Health Service Central Register

Office of the Parliamentary Commissioner for Administration and Health Service Commissioners

Paymaster General's Office

Postal Business of the Post Office

Privy Council Office

Public Record Office

HM Revenue and Customs

The Revenue and Customs Prosecutions Office

Royal Hospital, Chelsea

Royal Mint

Rural Payments Agency

Scotland, Auditor-General

Scotland, Crown Office and Procurator Fiscal Service

Scotland, General Register Office

Scotland, Queen's and Lord Treasurer's Remembrancer

Scotland, Registers of Scotland

The Scotland Office

The Scottish Ministers

Architecture and Design Scotland

Crofters Commission

Deer Commission for Scotland

Lands Tribunal for Scotland

National Galleries of Scotland

National Library of Scotland

National Museums of Scotland

Royal Botanic Garden, Edinburgh

Royal Commission on the Ancient and Historical Monuments of Scotland

Scottish Further and Higher Education Funding Council

Scottish Law Commission

Community Health Partnerships

Special Health Boards

Health Boards

The Office of the Accountant of Court

High Court of Justiciary

Court of Session

HM Inspectorate of Constabulary

Parole Board for Scotland

Pensions Appeal Tribunals

Scottish Land Court

Sheriff Courts

Scottish Police Services Authority

Office of the Social Security Commissioners

The Private Rented Housing Panel and Private Rented Housing Committees

Keeper of the Records of Scotland

The Scottish Parliamentary Body Corporate

HM Treasury

Office of Government Commerce

United Kingdom Debt Management Office

The Wales Office (Office of the Secretary of State for Wales)

The Welsh Ministers

Higher Education Funding Council for Wales

Local Government Boundary Commission for Wales

The Royal Commission on the Ancient and Historical Monuments of Wales

Valuation Tribunals (Wales)

Welsh National Health Service Trusts and Local Health Boards

Welsh Rent Assessment Panels

## Annex II

### (2) LIST OF THE ACTIVITIES REFERRED TO IN ARTICLE 2(8)(a)

In the event of any difference of interpretation between the CPV and the NACE, the CPV nomenclature will apply.

NACE Rev. 1 <a href="#">(1)</a>					CPV code
SECTION F			CONSTRUCTION		
Division	Group	Class	Subject	Notes	
45			Construction	This division includes: — construction of new buildings and works, restoring and common repairs.	45000000
	45.1		Site preparation		45100000
		45.11	Demolition and wrecking of buildings; earth moving	This class includes: — demolition of buildings and other structures, — clearing of building sites, — earth moving: excavation, landfill, levelling and grading of construction sites, trench digging, rock removal, blasting, etc. — site preparation for mining: — overburden removal and other development and preparation of mineral properties and sites. This class also includes: — building site drainage. — drainage of agricultural or forestry land.	45110000
		45.12	Test drilling and boring	This class includes: — test drilling, test boring and core sampling for construction, geophysical, geological or similar purposes.	45120000

				<p>This class excludes:</p> <ul style="list-style-type: none"> <li>— drilling of production oil or gas wells, see 11.20.</li> <li>— water well drilling, see 45.25,</li> <li>— shaft sinking, see 45.25,</li> <li>— oil and gas field exploration, geophysical, geological and seismic surveying, see 74.20.</li> </ul>	
	45.2		Building of complete constructions or parts thereof; civil engineering		45200000
		45.21	General construction of buildings and civil engineering works	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— construction of all types of buildings construction of civil engineering constructions,</li> <li>— bridges, including those for elevated highways, viaducts, tunnels and subways,</li> <li>— long-distance pipelines, communication and power lines,</li> <li>— urban pipelines, urban communication and power lines,</li> <li>— ancillary urban works,</li> <li>— assembly and erection of prefabricated constructions on the site.</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>— service activities incidental to oil and gas extraction, see 11.20,</li> <li>— erection of complete prefabricated constructions from self-manufactured parts not of concrete, see divisions 20, 26 and 28,</li> <li>— construction work, other than buildings,</li> </ul>	<p>45210000</p> <p>Except:</p> <p>-</p> <p>45213316</p> <p>45220000</p> <p>45231000</p> <p>45232000</p>

				for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations, see 45.23, — building installation, see 45.3, — building completion, see 45.4, — architectural and engineering activities, see 74.20, — project management for construction, see 74.20.	
		45.22	Erection of roof covering and frames	This class includes: — erection of roofs, — roof covering, — waterproofing.	45261000
		45.23	Construction of highways, roads, airfields and sport facilities	This class includes: — construction of highways, streets, roads, other vehicular and pedestrian ways, — construction of railways, — construction of airfield runways, — construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations, — painting of markings on road surfaces and car parks.  This class excludes: — preliminary earth moving, see 45.11.	45212212 and DA03 45230000 except: - 45231000 - 45232000 - 45234115
		45.24	Construction of water projects	This class includes — construction of: — waterways, harbour and river works, pleasure ports (marinas), locks, etc., — dams and dykes, — dredging, — subsurface work.	45240000

		45.25	Other construction work involving special trades	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— construction activities specialising in one aspect common to different kinds of structures, requiring specialised skill or equipment,</li> <li>— construction of foundations, including pile driving,</li> <li>— water well drilling and construction, shaft sinking,</li> <li>— erection of non-self-manufactured steel elements,</li> <li>— steel bending,</li> <li>— bricklaying and stone setting,</li> <li>— scaffolds and work platform erecting and dismantling, including renting of scaffolds and work platforms,</li> <li>— erection of chimneys and industrial ovens.</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>— renting of scaffolds without erection and dismantling, see 71.32</li> </ul>	45250000 45262000
	45.3		Building installation		45300000
		45.31	Installation of electrical wiring and fittings	<p>This class includes:</p> <p>installation in buildings or other construction projects of:</p> <ul style="list-style-type: none"> <li>— electrical wiring and fittings,</li> <li>— telecommunications systems,</li> <li>— electrical heating systems,</li> <li>— residential antennas and aerials,</li> <li>— fire alarms,</li> <li>— burglar alarm systems,</li> <li>— lifts and escalators,</li> <li>— lightning conductors, etc.</li> </ul>	45213316 45310000 Except: - 45316000

		45.32	Insulation work activities	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— installation in buildings or other construction projects of thermal, sound or vibration insulation.</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>— waterproofing, see 45.22.</li> </ul>	45320000
		45.33	Plumbing	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— installation in buildings or other construction projects of:</li> <li>— plumbing and sanitary equipment,</li> <li>— gas fittings,</li> <li>— heating, ventilation, refrigeration or air-conditioning equipment and ducts,</li> <li>— sprinkler systems.</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>— installation of electrical heating systems, see 45.31.</li> </ul>	45330000
		45.34	Other building installation	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— installation of illumination and signalling systems for roads, railways, airports and harbours,</li> <li>— installation in buildings or other construction projects of fittings and fixtures n.e.c.</li> </ul>	45234115 45316000 45340000
	45.4		Building completion		45400000
		45.41	Plastering	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— application in buildings or other construction projects of interior and exterior plaster or stucco, including related lathing materials.</li> </ul>	45410000
		45.42	Joinery	<p>This class includes:</p>	45420000



			installation	<p>— installation of not self-manufactured doors, windows, door and window frames, fitted kitchens, staircases, shop fittings and the like, of wood or other materials,</p> <p>— interior completion such as ceilings, wooden wall coverings, movable partitions, etc.</p> <p>This class excludes:</p> <p>— laying of parquet and other wood floor coverings, see 45.43.</p>	
		45.43	Floor and wall covering	<p>This class includes:</p> <p>— laying, tiling, hanging or fitting in buildings or other construction projects of:</p> <p>—</p> <p>— ceramic, concrete or cut stone wall or floor tiles,</p> <p>— parquet and other wood floor coverings</p> <p>carpets and linoleum floor coverings,</p> <p>— including of rubber or plastic,</p> <p>— terrazzo, marble, granite or slate floor or wall coverings,</p> <p>— wallpaper.</p>	45430000
		45.44	Painting and glazing	<p>This class includes:</p> <p>— interior and exterior painting of buildings,</p> <p>— painting of civil engineering structures,</p> <p>— installation of glass, mirrors, etc.</p> <p>This class excludes:</p> <p>— installation of windows, see 45.42,</p>	45440000
		45.45	Other building completion	<p>This class includes:</p> <p>— installation of private swimming pools,</p> <p>— steam cleaning, sand blasting and similar activities for building exteriors,</p> <p>— other building completion and finishing</p>	<p>45212212</p> <p>and</p> <p>DA04</p> <p>45450000</p>

				work n.e.c. This class excludes: — interior cleaning of buildings and other structures, see 74.70.	
	45.5		Renting of construction or demolition equipment with operator		45500000
		45.50	Renting of construction or demolition equipment with operator	This class excludes: — renting of construction or demolition machinery and equipment without operators, see 71.32.	45500000

(1) Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1), regulation as amended by Commission Regulation (EEC) No 761/93 (OJ L 83, 3.4.1993, p. 1).

(3)

### Annex III

#### (4) LIST OF PRODUCTS REFERRED TO IN ARTICLE 4(b) WITH REGARD TO CONTRACTS AWARDED BY CONTRACTING AUTHORITIES IN THE FIELD OF DEFENCE

The only text applicable for the purposes of this Directive is that in Annex 1 point 3 of the Government Procurement Agreement on which the following indicative list of products is based:

Chapter 25:	Salt, sulphur, earths and stone, plastering materials, lime and cement
Chapter 26:	Metallic ores, slag and ash
Chapter 27:	Mineral fuels, mineral oils and products of their distillation, bituminous substances, mineral waxes except: ex 27.10: special engine fuels
Chapter 28:	Chemicals, organic and inorganic compounds of precious metals, of rare-earth metals, of elements and of isotopes except: ex 28.09: explosives ex 28.13: explosives ex 28.14: tear gas ex 28.28: explosives ex 28.32: explosives ex 28.39: explosives ex 28.50: toxic products ex 28.51: toxic products ex 28.54: explosives
Chapter 29:	Organic chemicals except: ex 29.03: explosives ex 29.04: explosives ex 29.07: explosives

	ex 29.08: explosives ex 29.11: explosives ex 29.12: explosives ex 29.13: toxic products ex 29.14: toxic products ex 29.15: toxic products ex 29.21: toxic products ex 29.22: toxic products ex 29.23: toxic products ex 29.26: explosives ex 29.27: toxic products ex 29.29: explosives
Chapter 30:	Pharmaceutical products
Chapter 31:	Fertilisers
Chapter 32:	Tanning and dyeing extracts, tannings and their derivatives, dyes, colours, paints and varnishes, putty, fillers and stoppings, inks
Chapter 33:	Essential oils and resinoids, perfumery, cosmetic or toilet preparations
Chapter 34:	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing and scouring preparations, candles and similar articles, modelling pastes and 'dental waxes'
Chapter 35:	Albuminoidal substances, glues, enzymes
Chapter 37:	Photographic and cinematographic goods
Chapter 38:	Miscellaneous chemical products, except: ex 38.19: toxic products
Chapter 39:	Artificial resins and plastic materials, celluloses esters and ethers, articles thereof, except:

	ex 39.03: explosives
Chapter 40:	Rubber, synthetic rubber, factice, and articles thereof, except: ex 40.11: bullet-proof tyres
Chapter 41:	Raw hides and skins (other than fur skins) and leather
Chapter 42:	Articles of leather, saddlery and harness, travel goods, handbags and similar containers, articles of animal gut (other than silk-worm gut)
Chapter 43:	Fur skins and artificial fur, manufactures thereof
Chapter 44:	Wood and articles of wood, wood charcoal
Chapter 45:	Cork and articles of cork
Chapter 46:	Manufactures of straw of esparto and of other plaiting materials, basketware and wickerwork
Chapter 47:	Paper-making material
Chapter 48:	Paper and paperboard, articles of paper pulp, of paper or of paperboard
Chapter 49:	Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans
Chapter 65:	Headgear and parts thereof
Chapter 66:	Umbrellas, sunshades, walking-sticks, whips, riding-crops and parts thereof
Chapter 67:	Prepared feathers and down and articles made of feathers or of down, artificial flowers, articles of human hair
Chapter 68:	Articles of stone, of plaster, of cement, of asbestos, of mica and of similar materials

Chapter 69:	Ceramic products
Chapter 70:	Glass and glassware
Chapter 71:	Pearls, precious and semi-precious stones, precious metals, rolled precious metals, and articles thereof; imitation jewellery
Chapter 73:	Iron and steel and articles thereof
Chapter 74:	Copper and articles thereof
Chapter 75:	Nickel and articles thereof
Chapter 76:	Aluminium and articles thereof
Chapter 77:	Magnesium and beryllium and articles thereof
Chapter 78:	Lead and articles thereof
Chapter 79:	Zinc and articles thereof
Chapter 80:	Tin and articles thereof
Chapter 81:	Other base metals employed in metallurgy and articles thereof
Chapter 82:	Tools, implements, cutlery, spoons and forks, of base metal, parts thereof, except: ex 82.05: tools ex 82.07: tools, parts
Chapter 83:	Miscellaneous articles of base metal
Chapter	Boilers, machinery and mechanical appliances, parts thereof,

84:	<p>except:</p> <p>ex 84.06: engines</p> <p>ex 84.08: other engines</p> <p>ex 84.45: machinery</p> <p>ex 84.53: automatic data-processing machines</p> <p>ex 84.55: parts of machines under heading No 84.53</p> <p>ex 84.59: nuclear reactors</p>
Chapter 85:	<p>Electrical machinery and equipment, parts thereof,</p> <p>except:</p> <p>ex 85.13: telecommunication equipment</p> <p>ex 85.15: transmission apparatus</p>
Chapter 86:	<p>Railway and tramway locomotives, rolling-stock and parts thereof, railway and tramway tracks fixtures and fittings, traffic signalling equipment of all kinds (not electrically powered),</p> <p>except:</p> <p>ex 86.02: armoured locomotives, electric</p> <p>ex 86.03: other armoured locomotives</p> <p>ex 86.05: armoured wagons</p> <p>ex 86.06: repair wagons</p> <p>ex 86.07: wagons</p>
Chapter 87:	<p>Vehicles, other than railway or tramway rolling-stock, and parts thereof,</p> <p>except:</p> <p>ex 87.08: tanks and other armoured vehicles</p> <p>ex 87.01: tractors</p> <p>ex 87.02: military vehicles</p> <p>ex 87.03: breakdown lorries</p> <p>ex 87.09: motorcycles</p> <p>ex 87.14: trailers</p>
Chapter 89:	<p>Ships, boats and floating structures,</p> <p>except:</p> <p>ex 89.01A: warships</p>

Chapter 90:	Optical, photographic, cinematographic, measuring, checking, precision, medical and surgical instruments and apparatus, parts thereof, except: ex 90.05: binoculars ex 90.13: miscellaneous instruments, lasers ex 90.14: telemeters ex 90.28: electrical and electronic measuring instruments ex 90.11: microscopes ex 90.17: medical instruments ex 90.18: mechano-therapy appliances ex 90.19: orthopaedic appliances ex 90.20: X-ray apparatus
Chapter 91:	Manufacture of watches and clocks
Chapter 92:	Musical instruments, sound recorders or reproducers, television image and sound recorders or reproducers, parts and accessories of such articles
Chapter 94:	Furniture and parts thereof, bedding, mattresses, mattress supports, cushions and similar stuffed furnishings, except: ex 94.01A: aircraft seats
Chapter 95:	Articles and manufactures of carving or moulding material
Chapter 96:	Brooms, brushes, powder-puffs and sieves
Chapter 98:	Miscellaneous manufactured articles



#### Annex IV

### REQUIREMENTS RELATING TO TOOLS AND DEVICES FOR THE ELECTRONIC RECEIPT OF TENDERS, REQUESTS FOR PARTICIPATION AS WELL AS PLANS AND PROJECTS IN CONTESTS

Tools and devices for the electronic receipt of tenders, requests for participation as well as plans and projects in contests must at least guarantee, through technical means and appropriate procedures, that:

- (a) the exact time and date of the receipt of tenders, requests to participate and the submission of plans and projects can be determined precisely;
- (b) it may be reasonably ensured that, before the time limits laid down, no-one can have access to data transmitted under these requirements;
- (d) only authorised persons may set or change the dates for opening data received;
- (e) during the different stages of the procurement procedure or of the contest access to all data submitted, or to part thereof, must be possible only for authorised persons;
- (f) only authorised persons must give access to data transmitted and only after the prescribed date;
- (g) data received and opened in accordance with these requirements must remain accessible only to persons authorised to acquaint themselves therewith;
- (h) where the access prohibitions or conditions referred to under points b, d, e, f and g are infringed or there is an attempt to do so, it may be reasonably ensured that the infringements or attempts are clearly detectable.

## Annex VI - PART A

### INFORMATION TO BE INCLUDED IN NOTICES OF THE PUBLICATION OF A PRIOR INFORMATION NOTICE ON A BUYER PROFILE

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. Type of contracting authority and main activity exercised.
3. Where appropriate, indication that the contracting authority is a centralised purchasing body; or that any other form of joint procurement is or may be involved.
4. CPV Nomenclature reference No(s).
5. Internet address of the "buyer profile" (URL).
6. Date of dispatch of the notice of the publication of the prior information notice on the buyer profile.

## Annex VI - PART B

### INFORMATION TO BE INCLUDED IN PRIOR INFORMATION NOTICES

(as referred to in Article 46)

#### *I. INFORMATION TO BE INCLUDED IN ALL CASES*

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. Email or internet address at which the procurement documents will be available for unrestricted and full direct access, free of charge.

Where unrestricted and full direct access, free of charge, is not available for the reasons set out in the second and third subparagraph of Article 51(1), an indication of how the procurement documents can be accessed.

3. Type of contracting authority and main activity exercised.
4. Where appropriate, indication that the contracting authority is a centralised purchasing body or that any other form of joint procurement is or may be involved.
5. CPV Nomenclature reference No(s); where the contract is divided into lots, this information shall be provided for each lot.
6. NUTS code for the main location of works in case of works contracts or NUTS code for the main place of delivery or performance in supply and service contracts; where the contract is divided into lots, this information shall be provided for each lot.
7. Brief description of the procurement: nature and extent of works, nature and quantity or value of supplies, nature and extent of services.
8. Where this notice is not used as a means of calling for competition, estimated date(s) for publication of a contract notice or contract notices in respect of the contract(s) referred to in this prior information notice.
9. Date of dispatch of the notice.
10. Any other relevant information.
11. Indication whether the contract is covered by the Agreement.

## II. ADDITIONAL INFORMATION TO BE SUPPLIED WHERE THE NOTICE IS USED AS A MEANS OF CALLING FOR COMPETITION (ARTICLE 46(2))

1. A reference to the fact that interested economic operators shall advise the authority of their interest in the contract or contracts.
2. Type of award procedure (restricted procedures, whether or not involving a dynamic purchasing system, or competitive procedures with negotiation ).
3. Where appropriate, indication whether:
  - (a) a framework agreement is involved,
  - (b) a dynamic purchasing system is involved.
4. As far as already known, time-frame for delivery or provision of goods, works or services and duration of the contract.
5. As far as already known, conditions for participation, including:
  - (a) where appropriate, indication whether the public contract is restricted to sheltered workshops, or whether its execution is restricted to the framework of protected job programmes,
  - (b) where appropriate, indication whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession,
  - (c) brief description of selection criteria.

6. As far as already known, brief description of criteria to be used for award of the contract:
7. As far as already known, estimated total magnitude for contract(s); where the contract is divided into lots, this information shall be provided for each lot.
8. Time limits for receipt of expressions of interest.
9. Address where expressions of interest shall be transmitted.
10. Language or languages authorised for the presentation of candidatures or tenders.
11. Where appropriate, indication whether:
  - (a) E-submission of tenders or requests to participate will be required/accepted,
  - (b) E-ordering will be used,
  - (c) E-invoicing will be used,
  - (d) E-payment will be accepted.
12. Information whether the contract is related to a project and /or programme financed by European Union funds.
13. Name and address of the body responsible for review and, where appropriate, mediation procedures. Precise information concerning time limits for review procedures, or, if need be, the name, address, telephone number, fax number and e-mail address of the service from which this information may be obtained.

Annex VI - PART C  
INFORMATION TO BE INCLUDED IN CONTRACT NOTICES  
(as referred to in Article 47)

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. Email or internet address at which the procurement documents will be available for unrestricted and full direct access, free of charge.

Where unrestricted and full direct access, free of charge, is not available for the reasons set out in the second and third subparagraph of Article 51(1), an indication of how the procurement documents can be accessed.

3. Type of contracting authority and main activity exercised.
4. Where appropriate, indication that the contracting authority is a central purchasing body or that any other form of joint procurement is involved.
5. CPV Nomenclature reference No(s); where the contract is divided into lots, this information shall be provided for each lot.
6. NUTS code for the main location of works in case of works contracts or NUTS code for the main place of delivery or performance in supply and service contracts; where the contract is divided into lots, this information shall be provided for each lot.
7. Description of the procurement: nature and extent of works, nature and quantity or value of supplies, nature and extent of services. Where the contract is divided into lots, this information shall be provided for each lot. Where appropriate, description of any options.

8. Estimated total order of magnitude of contract(s); where the contract is divided into lots, this information shall be provided for each lot.
9. Admission or prohibition of variants.
10. Time-frame for delivery or provision of supplies, works or services and, as far as possible, duration of the contract.
  - (a) In the case of a framework agreement, indication of the planned duration of the framework agreement, stating, where appropriate, the reasons for any duration exceeding four years; as far as possible, indication of value or order of magnitude and frequency of contracts to be awarded, number and, where appropriate, proposed maximum number of economic operators to participate.
  - (b) In the case of a dynamic purchasing system, indication of the planned duration of the system; as far as possible, indication of value or order of magnitude and frequency of contracts to be awarded.
11. Conditions for participation, including:
  - (a) where appropriate, indication whether the public contract is restricted to sheltered workshops, or whether its execution is restricted to the framework of protected job programmes,
  - (b) where appropriate, indication whether the provision of the service is reserved by law, regulation or administrative provision to a particular profession; reference to the relevant law, regulation or administrative provision,
  - (c) a list and brief description of criteria regarding the personal situation of economic operators that may lead to their exclusion and of selection criteria; minimum level(s) of standards possibly required; indication of required information (self-declarations, documentation).

12. Type of award procedure; where appropriate, reasons for use of an accelerated procedure (in open, restricted and competitive procedure with negotiation);
13. Where appropriate, indication whether:
  - (a) a framework agreement is involved,
  - (b) a dynamic purchasing system is involved,
  - (c) an electronic auction is involved (in the event of open, restricted or competitive procedures with negotiation).
14. Where the contract is to be subdivided into lots, indication of the possibility of tendering for one, for several or for all of the lots; indication of any possible limitation of the number of lots that may be awarded to any one tenderer. Where the contract is not subdivided into lots, indication of the reasons therefore, unless this information is provided in the individual report.
15. In the case of a restricted procedure, a competitive procedure with negotiation, a competitive dialogue or an innovation partnership, where recourse is made to the option of reducing the number of candidates to be invited to submit tenders, to negotiate or to engage in dialogue: minimum and, where appropriate, proposed maximum number of candidates and objective criteria to be used to choose the candidates in question.
16. In the case of a competitive procedure with negotiation, a competitive dialogue or an innovation partnership, indication, where appropriate, of recourse to a staged procedure in order gradually to reduce the number of tenders to be negotiated or solutions to be discussed.
17. Where appropriate, particular conditions to which performance of the contract is subject.
18. Criteria to be used for award of the contract or contracts. Criteria representing the most economically advantageous tender as well as their weighting shall be indicated where they do not appear in the specifications or, in the event of a competitive dialogue, in the descriptive document.



19. Time limit for receipt of tenders (open procedures) or requests to participate (restricted procedures, competitive procedures with negotiation, dynamic purchasing systems, competitive dialogues, innovation partnerships).
20. Address where tenders or requests to participate shall be transmitted.
21. In the case of open procedures:
  - (a) time frame during which the tenderer must maintain its tender,
  - (b) date, time and place for the opening of tenders,
  - (c) persons authorised to be present at such opening.
22. Language or languages in which tenders or requests to participate must be drawn up.
23. Where appropriate, indication whether:
  - (a) E-submission of tenders or requests to participate will be accepted,
  - (b) E-ordering will be used,
  - (c) E-invoicing will be accepted,
  - (d) E-payment will be used.
24. Information whether the contract is related to a project and/or programme financed by European Union funds.
25. Name and address of the body responsible for review and, where appropriate, mediation procedures. Precise information concerning deadlines for review procedures, or if need be, the name, address, telephone number, fax number and email address of the service from which this information may be obtained.

26. Date(s) and reference(s) of previous publications in the *Official Journal of the European Union* relevant to the contract(s) advertised in this notice.
27. In the case of recurrent procurement, estimated timing for further notices to be published.
28. Date of dispatch of the notice.
29. Indication whether the contract is covered by the Agreement.
30. Any other relevant information.

Annex VI - PART D  
INFORMATION TO BE INCLUDED IN CONTRACT AWARD NOTICES  
(as referred to in Article 48)

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. Type of contracting authority and main activity exercised.
3. Where appropriate, indication whether the contracting authority is a central purchasing body or that any other form of joint procurement is involved.
4. CPV Nomenclature reference No(s).
5. NUTS code for the main location of works in case of works contracts or NUTS code for the main place of delivery or performance in supply and service contracts.
6. Description of the procurement: nature and extent of works, nature and quantity or value of supplies, nature and extent of services. Where the contract is divided into lots, this information shall be provided for each lot. Where appropriate, description of any options.

7. Type of award procedure; in the case of negotiated procedure without prior publication (Article 30), justification.
8. Where appropriate, indication whether:
  - (a) a framework agreement was involved,
  - (b) a dynamic purchasing system was involved.
9. Criteria referred to in Article 66 which were used for award of the contract or contracts. Where appropriate, indication whether the holding of an electronic auction was involved (in the event of open, restricted or competitive procedures with negotiation).
10. Date of the conclusion of the contract(s) or of the framework agreement(s) following the decision to award or conclude it/them;
11. Number of tenders received with respect of each award, including:
  - (a) number of tenders received from economic operators which are small and medium enterprises,
  - (b) number of tenders received from another Member State or from a third country,
  - (c) number of tenders received electronically.
12. For each award, name, address including NUTS code, telephone, fax number, email address and internet address of the successful tenderer(s) including
  - (a) information whether the successful tenderer is small and medium enterprise,
  - (b) information whether the contract was awarded to a group of economic operators (joint venture, consortium or other).

13. Value of the successful tender (tenders) or the highest tender and lowest tender taken into consideration for the contract award or awards;
14. Where appropriate, for each award, value and proportion of contract likely to be subcontracted to third parties.
15. Information whether the contract is related to a project and /or programme financed by European Union funds.
16. Name and address of the body responsible for review and, where appropriate, mediation procedures. Precise information concerning the deadline for review procedures, or if need be, the name, address, telephone number, fax number and email address of the service from which this information may be obtained
17. Date(s) and reference(s) of previous publications in the *Official Journal of the European Union* relevant to the contract(s) advertised in this notice.
18. Date of dispatch of the notice.
19. Any other relevant information.

Annex VI - PART E  
INFORMATION TO BE INCLUDED IN DESIGN CONTEST NOTICES  
(as referred to in Article 79(1))

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. Email or internet address at which the procurement documents will be available for unrestricted and full direct access, free of charge.

Where unrestricted and full direct access, free of charge, is not available for the reasons set out in the second and third subparagraph of Article 51(1), an indication of how the procurement documents can be accessed.

3. Type of contracting authority and main activity exercised.
4. Where appropriate, indication whether the contracting authority is a central purchasing body or that any other form of joint procurement is involved.
5. CPV Nomenclature reference No(s); where the contract is divided into lots, this information shall be provided for each lot.
6. Description of the principal characteristics of the project.
7. Number and value of any prizes.
8. Type of contest (open or restricted).
9. In the event of an open contest, time limit for the submission of projects.
10. In the event of a restricted contest:
  - (a) number of participants contemplated,
  - (b) names of the participants already selected, if any,
  - (c) criteria for the selection of participants,
  - (d) time limit for requests to participate.
11. Where appropriate, indication that the participation is restricted to a specified profession.

12. Criteria to be applied in the evaluation of the projects.
14. Indication whether the jury's decision is binding on the contracting authority.
15. Payments to be made to all participants, if any.
16. Indication whether any contracts following the contest will or will not be awarded to the winner or winners of the contest.
17. Date of dispatch of the notice.
18. Any other relevant information.

#### Annex VI - PART F

##### INFORMATION TO BE INCLUDED IN NOTICES OF THE RESULTS OF A CONTEST (as referred to in Article 79(2))

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. Type of contracting authority and main activity exercised.
3. Where appropriate, indication whether the contracting authority is a central purchasing body or that any other form of joint procurement is involved.
4. CPV Nomenclature reference No(s).
5. Description of the principal characteristics of the project.
6. Value of the prizes.

7. Type of contest (open or restricted).
8. Criteria which were applied in the evaluation of the projects.
9. Date of the jury decision.
10. Number of participants.
  - (a) Number of participants who are small and medium enterprises.
  - (b) Number of participants from abroad.
11. Name, address including NUTS code, telephone, fax number, email address and internet address of the winner(s) of the contest and indication whether the winner(s) are small and medium enterprises.
12. Information whether the design contest is related to a project or programme financed by Union funds.
13. Date(s) and reference(s) of previous publications in the *Official Journal of the European Union* relevant to the project(s) concerned by this notice.
14. Date of dispatch of the notice.
15. Any other relevant information.

## Annex VI - PART G

### INFORMATION TO BE INCLUDED IN NOTICES OF MODIFICATIONS OF A CONTRACT DURING ITS TERM (as referred to in Article 72(5))

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. CPV Nomenclature reference No(s);
3. NUTS code for the main location of works in case of works contracts or NUTS code for the main place of delivery or performance in supply and service contracts;
4. Description of the procurement before and after the modification: nature and extent of the works, nature and quantity or value of supplies, nature and extent of services.
5. Where applicable, increase in price caused by the modification.
6. Description of the circumstances which have rendered necessary the modification.
7. Date of contract award decision.
8. Where applicable, the name, address including NUTS code, telephone, fax number, email address and internet address of the new economic operator or operators.
9. Information whether the contract is related to a project and /or programme financed by European Union funds.
10. Name and address of the oversight body and the body responsible for review and, where appropriate, mediation procedures. Precise information concerning the deadline for review procedures, or if need be, the name, address, telephone number, fax number and email address of the service from which this information may be obtained.



11. Date(s) and reference(s) of previous publications in the *Official Journal of the European Union* relevant to the contract(s) concerned by this notice.
12. Date of dispatch of the notice.
13. Any other relevant information.

#### Annex VI - PART H

#### INFORMATION TO BE INCLUDED IN CONTRACT NOTICES CONCERNING CONTRACTS FOR SOCIAL AND OTHER SPECIFIC SERVICES (as referred to in Article 75(1))

1. Name, identification number (where provided for in national legislation), address including NUTS code, email and internet address of the contracting authority.
2. NUTS code for the main location of works in case of works or NUTS code for the main place of delivery or performance in case of supplies and services.
3. Brief description of the contract in question including CPV Nomenclature reference No(s).
4. Conditions for participation, including
  - where appropriate, indication whether the contract is restricted to sheltered workshops, or whether its execution is restricted to the framework of protected job programmes,
  - where appropriate, indication whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession.
5. Time limit(s) for contacting the contracting authority in view of participation.
6. Brief description of the main features of the award procedure to be applied.

## Annex VI - PART I

### INFORMATION TO BE INCLUDED IN PRIOR INFORMATION NOTICES FOR SOCIAL AND OTHER SPECIFIC SERVICES (as referred to in Article 75(1))

1. Name, identification number (where provided for in national legislation), address including NUTS code, email and internet address of the contracting authority.
2. Brief description of the contract in question including the estimated total value of the contract and CPV Nomenclature reference No(s) .
3. As far as already known:
  - a) NUTS code for the main location of works in case of works or NUTS code for the main place of delivery or performance in case of supplies and services
  - b) time-frame for delivery or provision of goods, works or services and duration of the contract.
  - c) conditions for participation, including:
    - where appropriate, indication whether the public contract is restricted to sheltered workshops, or whether its execution is restricted to the framework of protected job programmes,
    - where appropriate, indication whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession,
  - d) brief description of the main features of the award procedure to be applied.

4. A reference to the fact that interested economic operators shall advise the authority of their interest in the contract or contracts and time limits for receipt of expressions of interest and location as to where expressions of interest shall be transmitted.

Annex VI - PART J

**INFORMATION TO BE INCLUDED IN CONTRACT AWARD NOTICES CONCERNING  
CONTRACTS FOR SOCIAL AND OTHER SPECIFIC SERVICES  
(as referred to in Article 75(2))**

1. Name, identification number (where provided for in national legislation), address including NUTS code, email and internet address of the contracting authority.
2. Brief description of the contract in question including CPV Nomenclature reference No(s).
3. NUTS code for the main location of works in case of works or NUTS code for the main place of delivery or performance in case of supplies and services.
4. Number of tenders received.
5. Price or range of prices (maximum/minimum) paid.
6. For each award, name, address including NUTS code, email address and internet address of the successful economic operator or operators.
7. Any other relevant information.

INFORMATION TO BE INCLUDED IN THE PROCUREMENT DOCUMENTS RELATING TO  
ELECTRONIC AUCTIONS  
(Article 33(4))

Where contracting authorities have decided to hold an electronic auction, the procurement documents shall include at least the following details:

- (a) the features, the values for which will be the subject of electronic auction, provided that such features are quantifiable and can be expressed in figures or percentages;
- (b) any limits on the values which may be submitted, as they result from the specifications relating to the subject of the contract;
- (c) the information which will be made available to tenderers in the course of the electronic auction and, where appropriate, when it will be made available to them;
- (d) the relevant information concerning the electronic auction process;
- (e) the conditions under which the tenderers will be able to bid and, in particular, the minimum differences which will, where appropriate, be required when bidding;
- (f) the relevant information concerning the electronic equipment used and the arrangements and technical specifications for connection

DEFINITION OF CERTAIN TECHNICAL SPECIFICATIONS

For the purposes of this Directive:

- (1) "technical specification" means one of the following:
  - (a) in the case of public works contracts the totality of the technical prescriptions contained in particular in the procurement documents, defining the characteristics required of a material, product or supply, so that it fulfils the use for which it is intended by the contracting authority; those characteristics include levels of environmental and climate performance, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, safety or dimensions, including the procedures concerning quality assurance, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions and production processes and methods at any stage of the life cycle of the works; those characteristics also include rules relating to design and costing, the test, inspection and acceptance conditions for works and methods or techniques of construction and all other technical conditions which the contracting authority is in a position to prescribe, under general or specific regulations, in relation to the finished works and to the materials or parts which they involve;
  - (b) in the case of public supply or service contracts a specification in a document defining the required characteristics of a product or a service, such as quality levels, environmental and climate performance levels, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, use of the product, safety or dimensions, including requirements relevant to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions, production processes and methods at any stage of the life cycle of the supply or service and conformity assessment procedures;

- (2) (a) "standard" means a technical specification approved by a recognised standardising body for repeated or continuous application, compliance with which is not compulsory and which falls into one of the following categories:
- (i) international standard: a standard adopted by an international standards organisation and made available to the general public,
  - (ii) European standard: a standard adopted by a European standards organisation and made available to the general public,
  - (iii) national standard: a standard adopted by a national standards organisation and made available to the general public;
- (3) "European Technical Assessment" means the documented assessment of the performance of a construction product, in relation to its essential characteristics, in accordance with the respective European Assessment Document, as defined in Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products <sup>42</sup> ;
- (4) "Common technical specification" means a technical specification in the field of ICT laid down in accordance with a procedure recognised by the Member States [or in accordance with Articles 9 and 10 of Regulation (EU) 1025/2012 of the European Parliament and the Council on European standardisation which has been published in the *Official Journal of the European Union*];
- (5) "Technical reference" means any deliverable produced by European standardisation bodies, other than European standards, according to procedures adapted to the development of market needs

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<sup>42</sup> OJ L 88, 4.4.2011, p. 5

Annex IX  
FEATURES CONCERNING PUBLICATION

1. Publication of notices

The notices referred to in Articles 46, 47, 48, 75 and 79 must be sent by the contracting authorities to the Publications Office of the European Union and published in accordance with the following rules:

Notices referred to in Articles 46, 47, 48, 75 and 79 shall be published by the Publications Office of the European Union or by the contracting authorities in the event of a prior information notice published on a buyer profile in accordance with Article 46(1).

In addition, contracting authorities may publish this information on the Internet on a 'buyer profile' as referred to in point 2(b).

The Publications Office of the European Union will give the contracting authority the confirmation referred to in Article 49(5), second subparagraph.

2. Publication of complementary or additional information

- (a) Except where otherwise provided for in the second and third subparagraph of Article 51(1), contracting authorities shall publish the procurement documents in their entirety on the Internet.
- (b) The buyer profile may include prior information notices as referred to in Article 46(1), information on ongoing invitations to tender, scheduled purchases, contracts concluded, procedures cancelled and any useful general information, such as a contact point, a telephone and a fax number, a postal address and an e-mail address. The buyer profile may also include prior information notices used as a means of calling for competition, which are published at national level pursuant to Article 50.

3. Format and procedures for sending notices electronically

The format and procedure for sending notices electronically as established by the Commission are made accessible at the Internet address '<http://simap.europa.eu>'.

## Annex X

### CONTENTS OF THE INVITATIONS TO SUBMIT A TENDER, PARTICIPATE IN THE DIALOGUE OR TO CONFIRM INTEREST PROVIDED FOR UNDER ARTICLE 52

1. The invitation to submit a tender or to participate in the dialogue provided for under Article 52 must contain at least:
  - (a) a reference to the call for competition published;
  - (b) the deadline for the receipt of the tenders, the address to which the tenders must be sent and the language or languages in which the tenders must be drawn up;
  - (c) in the case of competitive dialogue the date and the address set for the start of consultation and the language or languages used;
  - (d) a reference to any possible adjoining documents to be submitted, either in support of verifiable declarations by the tenderer in accordance with Article 56a and, where appropriate, Article 61 or to supplement the information referred to in those Articles, and under the conditions laid down in Articles 56a and 61;
  - (e) the relative weighting of criteria for the award of the contract or, where appropriate, the descending order of importance for such criteria, where they are not given in the contract notice, in the invitation to confirm interest, in the technical specifications or the descriptive document.

However, in the case of contracts awarded through a competitive dialogue or an innovation partnership, the information referred to in point (b) shall not appear in the invitation to participate in the dialogue or to negotiate but it shall appear in the invitation to submit a tender.



2. When a call for competition is made by means of a prior information notice, contracting authorities shall subsequently invite all candidates to confirm their interest on the basis of detailed information on the contract concerned before beginning the selection of tenderers or participants in negotiations.

This invitation shall include at least the following information:

- (a) nature and quantity, including all options concerning complementary contracts and, where possible, the estimated time available for exercising these options for renewable contracts, the nature and quantity and, where possible, the estimated publication dates of future notices of competition for works, supplies or services to be put out to tender;
- (b) type of procedure: restricted or competitive procedure with negotiation;
- (c) where appropriate, the date on which the delivery of supplies or the execution of works or services is to commence or terminate;
- (d) where electronic access cannot be offered, the address and closing date for the submission of requests for procurement documents and the language or languages in which they are to be drawn up;
- (e) the address of the contracting authority which is to award the contract;
- (f) economic and technical conditions, financial guarantees and information required from economic operators;
- (h) the form of the contract which is the subject of the invitation to tender: purchase, lease, hire or hire-purchase, or any combination of these; and
- (i) the contract award criteria and their weighting or, where appropriate, the order of importance of such criteria, where this information is not given in the prior information notice or the technical specifications or in the invitation to tender or to negotiate.

## Annex XI

### LIST OF INTERNATIONAL SOCIAL AND ENVIRONMENTAL CONVENTIONS REFERRED TO IN ARTICLE 15(2)

- Convention 87 on Freedom of Association and the Protection of the Right to Organise;
- Convention 98 on the Right to Organise and Collective Bargaining;
- Convention 29 on Forced Labour;
- Convention 105 on the Abolition of Forced Labour;
- Convention 138 on Minimum Age;
- Convention 111 on Discrimination (Employment and Occupation);
- Convention 100 on Equal Remuneration;
- Convention 182 on Worst Forms of Child Labour;
- Vienna Convention for the protection of the Ozone Layer and its Montreal Protocol on substances that deplete the Ozone Layer;
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention);
- Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention);
- Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (UNEP/FAO) (The PIC Convention) Rotterdam, 10/09/1998 and its 3 regional Protocols.

Annex XII  
REGISTERS<sup>43</sup>

- The relevant professional and trade registers and corresponding declarations and certificates for each Member State are:
- in Belgium the "Registre du Commerce"/"Handelsregister", and, *in the case of service contracts*, the "Ordres professionnels/Beroepsorden";
- in Bulgaria, the "Търговски регистър";
- in the Czech Republic, the "obchodní rejstřík";
- in Denmark, the "Erhvervsstyrelsen";
- in Germany, the "Handelsregister", the "Handwerksrolle", and, *in the case of service contracts*, the "Vereinsregister", the "Partnerschaftsregister" and the "Mitgliedsverzeichnisse der Berufskammern der Länder";
- in Estonia, the "Registrite ja Infosüsteemide Keskus";
- in Ireland, the economic operator may be requested to provide a certificate from the Registrar of Companies or the Registrar of Friendly Societies or, where he is not so certified, a certificate stating that the person concerned has declared on oath that he is engaged in the profession in question in the country in which he is established, in a specific place under a given business name;

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<sup>43</sup> For the purposes of Article 56(2), "professional or trade registers" means those listed in this Annex and, where changes have been made at national level, the registers which have replaced them.

- in Greece, the "Μητρώο Εργοληπτικών Επιχειρήσεων — ΜΕΕΠ" of the Ministry for Environment, Town and Country Planning and Public Works (Υ.ΠΕ.ΧΩ.Δ.Ε) *in respect of works contracts*; the "Βιοτεχνικό ή Εμπορικό ή Βιομηχανικό Επιμελητήριο" and the "Μητρώο Κατασκευαστών Αμυντικού Υλικού" *in the case of supplies contracts*; *in the case of service contracts*, the service provider may be asked to provide a declaration on the exercise of the profession concerned made on oath before a notary; in the cases provided for by existing national legislation, for the provision of research services as referred to in Annex I, the professional register "Μητρώο Μελετητών" and the "Μητρώο Γραφείων Μελετών";
- in Spain, the "Registro Oficial de Licitadores y Empresas Clasificadas del Estado" *in respect of works and services contracts*, and, *in the case of supplies contracts*, the "Registro Mercantil" or, in the case of non-registered individuals, a certificate stating that the person concerned has declared on oath that he is engaged in the profession in question;
- in France, the "Registre du commerce et des sociétés" and the "Répertoire des métiers";
- in Italy, the "Registro della Camera di commercio, industria, agricoltura e artigianato"; *in the case of supplies and services contracts* also the "Registro delle commissioni provinciali per l'artigianato" or, in addition to the already mentioned registers, the "Consiglio nazionale degli ordini professionali" *in respect of services contracts*; *in respect of works or services contracts*, the "Albo nazionale dei gestori ambientali" in addition to the already mentioned registers;
- in Cyprus, the contractor may be requested to provide a certificate from the "Council for the Registration and Audit of Civil Engineering and Building Contractors (Συμβούλιο Εγγραφής και Ελέγχου Εργοληπτών Οικοδομικών και Τεχνικών Έργων)" in accordance with the Registration and Audit of Civil Engineering and Building Contractors Law *in respect of works contracts*; *in the case of supplies and services contracts* the supplier or service provider may be requested to provide a certificate from the "Registrar of Companies and Official Receiver" (Εφορος Εταιρειών και Επίσημος Παραλήπτης) or, where this is not the case, a certificate stating that the person concerned has declared on oath that he is engaged in the profession in question in the country in which he is established, in a specific place and under a given business name;

- in Latvia, the "Uzņēmumu reģistrs";
- in Lithuania, the "Juridinių asmenų registras";
- in Luxembourg, the "Registre aux firmes" and the "Rôle de la Chambre des métiers";
- in Hungary, the "Cégnyilvántartás", the "egyéni vállalkozók jegyzői nyilvántartása" and, *in the case of service contracts*, some "szakmai kamarák nyilvántartása" or, in the case of some activities, a certificate stating that the person concerned is authorised to be engaged in the commercial activity or profession in question;
- in Malta, the economic operator obtains his "numru ta' registrazzjoni tat-Taxxa tal-Valur Miżjud (VAT) u n-numru tal-licenzja ta' kummerċ", and, in the case of a partnership or company, the relevant registration number as issued by the Malta Financial Services Authority;
- in the Netherlands, the "Handelsregister";
- in Austria, the "Firmenbuch", the "Gewerberegister", the "Mitgliederverzeichnisse der Landeskammern";
- in Poland, the "Krajowy Rejestr Sądowy";
- in Portugal, the "Instituto da Construção e do Imobiliário" (INCI) *in respect of works contracts*; the "Registro Nacional das Pessoas Colectivas" in the case of *supplies and services contracts*;
- in Romania, the "Registrul Comerțului";
- in Slovenia, the "Sodni register" and the "obrtni register";
- in Slovakia, the "Obchodný register";

- in Finland, the "Kaupparekisteri"/"Handelsregistret";
- in Sweden, the "aktiebolags-, handels- eller föreningsregistren";
- in the United Kingdom, the economic operator may be requested to provide a certificate from the Registrar of Companies stating that he is certified as incorporated or registered or, where he is not so certified, a certificate stating that the person concerned has declared on oath that he is engaged in the profession in a specific place under a given business name.

Annex XIV  
MEANS OF PROOF OF SELECTION CRITERIA

*Part I: Economic and financial standing*

Proof of the economic operator's economic and financial standing may, as a general rule, be furnished by one or more of the following references:

- (a) appropriate statements from banks or, where appropriate, evidence of relevant professional risk indemnity insurance;
- (b) the presentation of financial statements or extracts from the financial statements, where publication of financial statements is required under the law of the country in which the economic operator is established;
- (c) a statement of the undertaking's overall turnover and, where appropriate, of turnover in the area covered by the contract for a maximum of the last three financial years available, depending on the date on which the undertaking was set up or the economic operator started trading, as far as the information on these turnovers is available.

*Part II: Technical ability*

Means providing evidence of the economic operators' technical abilities, as referred to in Article 56:

- (a) the following lists:
  - (i) a list of the works carried out over at the most the past five years, accompanied by certificates of satisfactory execution for the most important works; where necessary in order to ensure an adequate level of competition, contracting authorities may indicate that evidence of relevant works carried out more than five years before will be taken into account;

- (ii) a list of the principal deliveries effected or the main services provided over at the most the past three years, with the sums, dates and recipients, whether public or private, involved. Where necessary in order to ensure an adequate level of competition, contracting authorities may indicate that evidence of relevant supplies or services delivered or performed more than three years before will be taken into account;
- (b) an indication of the technicians or technical bodies involved, whether or not belonging directly to the economic operator's undertaking, especially those responsible for quality control and, in the case of public works contracts, those upon whom the contractor can call in order to carry out the work;
- (c) a description of the technical facilities and measures used by the economic operator for ensuring quality and the undertaking's study and research facilities;
- (c a) an indication of the supply chain management and tracking systems that the economic operator will be able to apply when performing the contract;
- (d) where the products or services to be supplied are complex or, exceptionally, are required for a special purpose, a check carried out by the contracting authorities or on their behalf by a competent official body of the country in which the supplier or service provider is established, subject to that body's agreement, on the production capacities of the supplier or the technical capacity of the service provider and, where necessary, on the means of study and research which are available to it and the quality control measures it will operate;
- (e) the educational and professional qualifications of the service provider or contractor or those of the undertaking's managerial staff, provided that they are not evaluated as an award criterion;
- (f) an indication of the environmental management measures that the economic operator will be able to apply when performing the contract;
- (g) a statement of the average annual manpower of the service provider or contractor and the number of managerial staff for the last three years;



- (h) a statement of the tools, plant or technical equipment available to the service provider or contractor for carrying out the contract;
- (i) an indication of the proportion of the contract which the economic operator intends possibly to subcontract;
- (j) with regard to the products to be supplied:
  - (i) samples, descriptions or photographs, the authenticity of which must be certified where the contracting authority so requests;
  - (ii) certificates drawn up by official quality control institutes or agencies of recognised competence attesting the conformity of products clearly identified by references to technical specifications or standards.

## Annex XVI

<i>CPV Code</i>	<i>Description</i>
75200000-8; 75231200-6; 75231240-8; 79611000-0; 79622000-0 [Supply services of domestic help personnel]; 79624000-4 [Supply services of nursing personnel] and 79625000-1 [Supply services of medical personnel] from 85000000-9 to 85323000-9; 98133100-5, 98133000-4; 98200000-5 and ; 98500000-8 [Private households with employed persons] and 98513000-2 to 98514000-9 [Manpower services for households, Agency staff services for households, Clerical staff services for households, Temporary staff for households, Home-help services and Domestic services]	Health, social and related services
85321000-5 and 85322000-2, 75000000-6 [Administration, defence and social security services], 75121000-0, 75122000-7, 75124000-1; from 79995000-5 to 79995200-7; from 80000000-4 Education and training services to 80660000-8; from 92000000-1 to 92700000-8 <i>79950000-8 [Exhibition, fair and congress organisation services], 79951000-5 [Seminar organisation services], 79952000-2 [Event services], 79952100-3 [Cultural event organisation services], 79953000-9 [Festival organisation services], 79954000-6 [Party organisation services], 79955000-3 [Fashion shows organisation services], 79956000-0 [Fair and exhibition organisation services]</i>	<i>Administrative social, educational, healthcare and cultural services</i>

75300000-9	Compulsory social security services <sup>44</sup>
75310000-2, 75311000-9, 75312000-6, 75313000-3, 75313100-4, 75314000-0, 75320000-5, 75330000-8, 75340000-1	Benefit services
98000000-3; 98120000-0; 98132000-7; 98133110-8 and 98130000-3	Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services.
<i>98131000-0</i>	Religious services
55100000-1 to 55410000-7; 55521000-8 to 55521200-0 [55521000-8 Catering services for private households, 55521100-9 Meals-on-wheels services, 55521200-0 Meal delivery service] 55520000-1 Catering services, 55522000-5 Catering services for transport enterprises, 55523000-2 Catering services for other enterprises or other institutions, 55524000-9 School catering services 55510000-8 Canteen services, 55511000- 5 Canteen and other restricted-clientele cafeteria services, 55512000-2 Canteen management services, 55523100-3 School-meal services	Hotel and restaurant services
79100000-5 to 79140000-7; 75231100-5;	Legal services, to the extent not excluded pursuant to Article 10(ca)
75100000-7 to 75120000-3; 75123000-4; 75125000-8 to 75131000-3	Other administrative services and government services
75200000-8 to 75231000-4	Provision of services to the community
75231210-9 to 75231230-5; 75240000-0 to 75252000-7; 794300000-7; 98113100- 9	Prison related services, public security and rescue services to the extent not excluded pursuant to Article 10(ga)

<sup>44</sup> These services are not covered by the present Directive where they are organised as non-economic services of general interest. Member States are free to organise the provision of compulsory social services or of other services as services of general interest or as non-economic services of general interest.

<p>79700000-1 to 79721000-4 [Investigation and security services, Security services, Alarm-monitoring services, Guard services, Surveillance services, Tracing system services, Absconder-tracing services, Patrol services, Identification badge release services, Investigation services and Detective agency services]</p> <p>79722000-1[Graphology services], 79723000-8 [Waste analysis services]</p>	Investigation and security services
<p>98900000-2 [Services provided by extra-territorial organisations and bodies] and 98910000-5 [Services specific to international organisations and bodies]</p>	International services
<p>64000000-6 [Postal and telecommunications services], 64100000-7 [Post and courier services], 64110000-0 [Postal services], 64111000-7 [Postal services related to newspapers and periodicals], 64112000-4 [Postal services related to letters], 64113000-1 [Postal services related to parcels], 64114000-8 [Post office counter services], 64115000-5 [Mailbox rental], 64116000-2 [Post-restante services], 64122000-7 [Internal office mail and messenger services]</p>	Postal Services
<p>50116510-9 [Tyre-remoulding services], 71550000-8 [Blacksmith services]</p>	Miscellaneous services

**ANNEX XVII**  
**CORRELATION TABLE<sup>41</sup>**

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"Adapted" means that the wording of the text was changed, while the meaning of the repealed directives was preserved. Changes to the meaning of the provisions of the repealed directive are indicated by the term "amended".