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Amendment 254

Malcolm Harbour

on behalf of the Committee on the Internal Market and Consumer Protection

Report

Marc Tarabella

Public procurement

COM(2011)0896 – C7-0006/2012 – 2011/0438(COD)

A7-0007/2013

Proposal for a directive

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AMENDMENTS BY THE EUROPEAN PARLIAMENT*

to the Commission proposal

DIRECTIVE 2014/.../EU

OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on public procurement and repealing Directive 2004/18/EC

(Text with EEA relevance)

* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol **■**.

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,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C 191, 29.6.2012, p. 84.

² OJ C 391, 18.12.2012, p. 49 .

³ Position of the European Parliament of ... (not yet published in the Official Journal), and decision of the Council of... .

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 (TFEU), 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 those principles are given practical effect and public procurement is opened up to competition.

(2) Public procurement plays a key role in the Europe 2020 strategy, set out in the Commission Communication of 3 March 2010 entitled ‘Europe 2020, a strategy for smart, sustainable and inclusive growth’ (“Europe 2020 strategy for smart, sustainable and inclusive growth”), as one of the market-based instruments to be used to achieve smart, sustainable and inclusive growth while ensuring the most efficient use of public funds. For that purpose, the public procurement rules adopted pursuant to Directive 2004/17/EC of the European Parliament and of the Council¹ and Directive 2004/18/EC of the European Parliament and of the Council² should be revised and modernised in order to increase the efficiency of public spending, facilitating in particular the participation of small and medium-sized enterprises (SMEs) 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 Disabilities³ should be taken into account, in particular in connection with the choice of means of communications, technical specifications, award criteria and contract performance conditions.***

¹ 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 (OJ L 134, 30.4.2004, p. 1).

² 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 (OJ L 134, 30.4.2004, p. 114).

³ ***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).***

- (3) The increasingly diverse forms of public action have made it necessary to define more clearly the notion of procurement itself; ***that clarification should not however 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 funds, 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.***

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 within the scope of 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 authorisation schemes (for instance licences 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 this Directive. The provision of services based on laws, 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, or with the privatisation of public entities providing services.*

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 their public policy objectives. This Directive 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 on Services of General Interest annexed to the TFEU and to the Treaty on European Union (TEU). In addition, this Directive does not deal with the funding of services of general economic interest or with systems of aid granted by Member States, in particular in the social field, in accordance with Union rules on competition.*
- (3d) *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, in so far 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. This Directive is not intended to prescribe either joint or separate contract awards.

- (3e) *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.*
- (3f) *The notion of "contracting authorities" and in particular that of "bodies governed by public law" have been examined repeatedly in the case-law of the Court of Justice of the European Union. To clarify that the scope of this Directive *ratione personae* should remain unaltered, it is appropriate to maintain the definitions on which the Court based itself and to incorporate a certain number of clarifications given by that case-law as a key to the understanding of the definitions themselves, without the intention of altering the understanding of the concepts as elaborated by the case-law. 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 in the case-law, which has clarified inter alia that being 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 in accordance with rules of public law.

- (3g) *In the case of mixed contracts, the applicable rules should be determined with respect to 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 case-law 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 the case of the construction of one single building, a part of which is 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 economic nature.

- (3h) *In the case of mixed contracts which can be separated, contracting authorities are 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 with respect to 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.*
- (3i) *However, special provision should be made for mixed contracts involving defence or security aspects or parts not falling within the scope of the TFEU. 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 of Directive 2009/81/EC of the European Parliament and of the Council¹. 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.*

¹ *Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).*

(3j) *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, the supply of products or the provision of services on the market, irrespective of the legal form under which they have chosen to operate. 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 all circumstances.*

(3k) *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 when such groups 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 in this Directive, or the criteria relating to technical and professional ability, which are required of economic operators participating on their own.

The 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 be 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.

- (31) *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 to identify, prevent and remedy conflicts of interests.*

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- (8) Council Decision 94/800/EC¹ approved in particular the World Trade Organisation Agreement on Government Procurement (the "GPA"). The aim of the GPA 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 1, 2, 4 and 5 and the General Notes to the European Union's Appendix I* to the GPA, as well as by other relevant international agreements by which the Union is bound, contracting authorities *should* fulfil the obligations under those agreements by applying this Directive to economic operators of third countries that are signatories to the agreements.
- (9) The GPA applies to contracts above certain thresholds, set in the GPA 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 GPA. Provision should also be made for periodic reviews of the thresholds expressed in euros so as to adjust them, by means of a purely mathematical operation, to possible variations in the value of the euro in relation to those special drawing rights. *Apart from these periodic mathematical adjustments, an increase in the thresholds set in the GPA should be explored during the next round of negotiations thereof.*

¹ 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)(OJ L 336, 23.12.1994, p. 1).

- (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, such as supplies of a range of foods or of various items of office furniture. Typically, an economic operator active in the field concerned would be likely to carry such supplies as part of his normal product range.*
- (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 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, has a separate budget line at its disposal for the procurements concerned, concludes the contract independently and finances it from a budget which it has at its disposal . A subdivision is not justified where the contracting authority merely organises a procurement in a decentralised way.*

- (12) Public contracts that are awarded by contracting authorities operating in the water, energy, transport and postal services sectors and that fall within the scope of those activities are covered by Directive ... of the European Parliament and of the Council¹*. However, 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.
- (13a) *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 renders the application of procurement rules inappropriate. For those reasons, an exception should 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 that exclusion should apply equally to broadcast media services and on-demand services (non-linear services). However, that exclusion should not apply to the supply of technical equipment necessary for the production, co-production and broadcasting of such programmes.*

¹ Directive ... of the European Parliament and of the Council of ... on procurement by entities operating in the water, energy, transport and postal services sectors (OJ L ...).

* OJ: Please insert the number of the Directive contained in doc. PE-CONS 75/13, and complete the footnote with number, date and OJ reference).

- (13b) *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. It should be clarified that this Directive does not apply to service contracts for the provision of such services, whatever their denomination under national law.*
- (13c) *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 as for instance the designation of State Attorneys in certain Member States. Those legal services should therefore be excluded from the scope of this Directive.*
- (13d) *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 and the European Stability Mechanism, it should be stipulated that operations conducted with that Facility and that Mechanism should be excluded from the scope of this Directive. It should finally be clarified that loans, whether or not they are in connection with the issuing of securities or other financial instruments or other operations therewith, should be excluded from the scope of this Directive.*

(13e) It should be recalled that Article 5(1) of Regulation (EC) No 1370/2007 of the European Parliament and of the Council¹ explicitly provides that Directives 2004/17/EC and 2004/18/EC apply, respectively, to service contracts and public service contracts for public passenger transport services by bus or tramway, whereas Regulation (EC) No 1370/2007 applies to service concessions for public passenger transport by bus or tramway. It should furthermore be recalled that that Regulation continues to apply to public service contracts as well as to service concessions for public passenger transport by rail or metro. To clarify the relationship between this Directive and Regulation (EC) No 1370/2007, it should be provided explicitly that 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 that Regulation. In so far as Regulation (EC) No 1370/2007 leaves it to national law to depart from the rules laid down in that Regulation, Member States should be able to continue to provide in their national law that public service contracts for public passenger transport services by rail or metro are to be awarded by a contract award procedure following their general public procurement rules.

¹ 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 (*OJ L 315, 3.12.2007, p. 1*).

- (13f) *This Directive should not apply to certain emergency services where they are performed by non-profit organisations or associations, since the particular nature of those organisations would be difficult to preserve if the service providers had to be chosen in accordance with the procedures set out in this Directive. However, the exclusion should not be extended beyond that strictly 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, which are covered by CPV code 85143000-3, consisting exclusively of patient transport ambulance services should be subject to the special regime set out for social and other specific services (the "light regime"). Consequently, mixed 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.*
- (13g) *It is appropriate to recall that this Directive applies only to contracting authorities of Member States. Consequently, political parties in general, not being contracting authorities, are not subject to its provisions. However, political parties in some Member States might fall within the notion of bodies governed by public law.*

However, certain services (such as propaganda film and video-tape production) are 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 rules other than those laid down in this Directive.

(13h) *In certain cases, a contracting authority or an association of contracting authorities may be the sole source for a particular service, in respect of the provision of which it enjoys an exclusive right pursuant to laws, regulations or published administrative provisions which are compatible with the TFEU. It should be clarified that this Directive need not apply to the award of public service contracts to that contracting authority or association.*

(14) There is considerable legal uncertainty as to how far *contracts concluded* between *entities in 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 of the European Union. 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 ***in so far as it places a private provider of services in a position of advantage vis-à-vis its competitors.***

(14a) 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 a control over the legal person concerned 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 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 participation 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 legislative 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.

- (14b) *Contracting authorities should be able to choose to provide jointly their public services by way of cooperation without being obliged to use any particular legal form. Such cooperation might 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 various participating authorities need not necessarily 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 those conditions, the cooperation should be based on a cooperative concept. Such cooperation does not require all participating authorities to 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, should be governed solely by considerations relating to the public interest.

- (14c) 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, is obliged to carry out orders given to it by those 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.*
- (14d) The co-financing of research and development (R&D) programmes by industry sources should be encouraged. It should consequently be clarified that this Directive applies only 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 the possibility that the service provider, having carried out those 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 fictitious sharing of the results of the R&D or purely symbolic participation in the remuneration of the service provider should not prevent the application of this Directive.*

(14e) 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 the 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.

(14f) With a view to an appropriate integration of environmental, social and labour requirements into 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 Union law, in particular with a view to ensuring equal treatment. Such relevant measures should be applied in accordance with Directive 96/71/EC of the European Parliament and of the Council¹ and in a way that ensures equal treatment and does not discriminate directly or indirectly against economic operators and workers from other Member States.

- (14g) *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, those services should 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.*
- (14h) *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 could 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.*

¹ *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 (OJ L 18, 21.1.1997, p. 1).*

- (14i) Control of the observance of the environmental, social and labour law provisions should be performed at the relevant stages of the procurement procedure, when applying the general principles governing the choice of participants and the award of contracts, when applying the exclusion criteria and when applying the provisions concerning abnormally low tenders. The necessary verification for that purpose should be carried out in accordance with the relevant provisions of this Directive, in particular those governing means of proof and self-declarations.*
- (14j) 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 those measures are in conformity with the TFEU.*

- (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 those 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 past 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 solutions. 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 information and communications technology (ICT) projects. In those 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, in so far 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 in order to allow the contracting authority to award the contract in accordance with the chosen award criteria. In order 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.

(15d) Contracting authorities should be allowed to shorten certain deadlines applicable to open and restricted procedures 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.

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(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 products, *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 Communication of 14 December 2007 entitled "Pre-commercial Procurement: Driving innovation to ensure sustainable high quality public services in Europe", which deals with the procurement of those R&D services not falling within the scope of this Directive. Those models would continue to be available, but this Directive should also contribute to facilitating public procurement of innovation and help Member States in achieving the Innovation Union targets. █

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

(17b) 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 therefore 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 be used only 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, they 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 products, 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.

- (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 30 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 (electronic 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 ICT products in general use and which do not restrict economic operators' access to the procurement procedure. The use of 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 be appropriate neither 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. This Directive stipulates 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 might 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 or other suitable carrier.

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.

(19b) There can be exceptional cases in which contracting authorities should be allowed not to use electronic means of communication where not using such means of communication is 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 might for instance be the case where contracting authorities require the use of dedicated secure means of communication to which they offer access.

- (19c) 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 reduce the effort required of economic operators.**
- (19d) 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 the use of any particular technical standard mandatory, the Commission should also carefully consider the costs that this might 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 of the European Parliament and of the Council¹.**

¹ **Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision**

(19e) 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 such as in situations where messages are sent by a different sender than that 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.

87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12).

- (19f) *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 SMEs.

- (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 it 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 them*. *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 with 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 those 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 should not be obliged pursuant to this Directive to procure works, supplies or services that are covered by a framework agreement, under that framework agreement.

(21b) 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 might, 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 might 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, might for instance arise where economic operators need to dispose of equipment the amortisation period of which 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 products, works or services which are generally available on the market*.

(22a) *The examination of those 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 might, 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 would need more time to examine the requests. That should be admissible, provided that no specific procurement is launched before all the requests have 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 might for instance include the maximum allowable size of specific contracts to be awarded within the category concerned or a specific geographic area in which specific contracts are to be performed. Where a dynamic purchasing system is divided into categories, the contracting authority should apply selection criteria that are proportionate 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 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 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) 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 should be able to 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 this Directive and with the principles of equal treatment, non-discrimination and transparency. Thus, the use of electronic catalogues for the presentation of tenders should not entail the possibility of economic operators limiting 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 ensures that the catalogue that is transmitted in response to a given procurement procedure contains only 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 help to* 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, they should be able to act as intermediaries by awarding contracts, operating dynamic purchasing systems or concluding framework agreements to be used by contracting authorities. Such an 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 **■** , as between the central purchasing body and the contracting authorities procuring from or through it. Where the central purchasing body 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 for such public service contracts to 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 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 can 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 several 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 apply only 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 supporting 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 **30 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, **those 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 of 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 Council¹**. In addition, contracting authorities from different Member States should be able to set up joint entities established under national or Union law. Specific rules should be established for such forms of joint procurement.

¹ **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) (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 might 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 should 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 as 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 that 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, it should be possible to require tenderers 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 those 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 organisation (an organisation that is not a part of a government and is not a conventional business).***

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

References to labels should not have the effect of restricting innovation.

- (29) For all procurement intended for use by persons, whether general public or staff of the contracting authority, it is necessary for contracting authorities to 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, in particular in relation to the design of the processing of personal data (data protection by design).*
- (29b) *Public procurement should be adapted to the needs of 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', 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 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 relevant, 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.

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.

- (30) ■ 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 laid down in accordance with this Directive with regard to those lots better than the tenders for the individual lots concerned seen in isolation. If so, 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 laid down for each individual lot and then comparing it with the tenders submitted by a particular tenderer for a specific combination of lots, taken as a whole.

(30a) *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 to draw up tenders, even if this entails setting time limits that are longer than the minima provided for under this Directive. The 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 leads, on the other hand, 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 GPA 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, in so far as strictly necessary, have the possibility to award contracts by negotiated procedure without prior publication. This might be case where natural catastrophes require immediate action.*

(30b) It should be clarified that the need to ensure that economic operators have sufficient time in which to draw up responsive tenders may entail that the time limits which were set initially may have to be extended. This would, in particular, be the case where significant changes are made to the procurement documents. It should also be specified that, in that case, significant changes should be understood as covering changes, in particular to the technical specifications, in respect of which economic operators would need 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 candidates other than those initially selected would have been allowed for or additional participants in the procurement procedure would have been attracted. That could, in particular, be the case where the changes render 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 not to conclude a framework agreement, should be sent by the contracting authorities, without candidates or tenderers having to request such information. It should also be recalled that Council Directive 89/665/EEC¹ provides for an obligation for contracting authorities, again without candidates or tenderer having to request it, to provide the candidates and tenderers concerned 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 able to request more detailed information concerning those reasons, which contracting authorities should be required to give except where there would be serious grounds for not doing so. Those grounds should be set out in this 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, except where there would be serious grounds for not doing so, also be enabled to request information on the conduct and progress of the procedure.*

¹ ***Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ L 395, 30.12.1989, p. 33).***

(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 twice the estimated contract value.*** However, in duly justified circumstances, it should be possible to apply higher requirements. Such circumstances might 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 should 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 level higher than twice 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 should also be able to request information on the ratios, 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 (ESPD) 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 procedures – 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 later 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 ESPD 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 can intervene quite rapidly, for instance in the event 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 might still be cases where doing so is not yet possible because of technical reasons. The Commission should therefore 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.

- (32b) *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.*
- (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 SMEs in particular. Maintenance should therefore be rendered obligatory in a first step. Recourse to e-Certis will be made mandatory at a later stage.

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- (36) Contracting authorities should be able to require that environmental management measures or schemes 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 Council¹, 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 those measures ensure the same level of environmental protection as the measures required under the environmental management.***

¹ 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), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (OJ L 342, 22.12.2009, p. 1).

- (36a) *The notion of award criteria is central to this Directive, it is therefore important that the relevant provisions be presented in as simple and streamlined a way as possible. This can be obtained by using the terminology "most economically advantageous tender" as the overriding concept, since 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. In order 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 case-law relating to those Directives, except where there is a clearly materially different solution in this Directive.*
- (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) *Article 11 TFEU requires that environmental protection requirements 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 can 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. Those criteria should thus allow for a comparative assessment of the level of performance offered by each tenderer 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.

- (38a) *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 solely the 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.*

- (38b) *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 can affect the quality of contract performance and, as a result, the economic value of the tender. This might 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 contractual means, that the staff assigned to contract performance effectively fulfil the specified quality standards and that such staff can 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 smart, sustainable and inclusive 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 Council¹) and office equipment (Regulation (EC) No 106/2008 of the European Parliament and the Council²). 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) Those sector-specific measures *should* be complemented by an adaptation of Directives 2004/17/EC and 2004/18/EC empowering contracting authorities to pursue the objectives of the Europe 2020 strategy for smart, sustainable and inclusive growth 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 **■**.

¹ 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 (OJ L 120, 15.5.2009, p. 5).

² 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 (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, with *a view to the 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 products 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 also includes 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 can 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 might 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, as interpreted by the Court of Justice of the European Union 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 GPA 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 might 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 Organisation (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 might 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.

- (41c) *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. The non-payment of taxes or social security contributions should also lead to 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 otherwise applies.***
- (41d) *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 can 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 have 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 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.

(41e) Allowance should, however, be made for the possibility that economic operators can adopt compliance measures aimed at remedying the consequences of any criminal offences or misconduct and at effectively preventing further occurrences of the misbehaviour. Those measures might consist in particular of personnel and organisational 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 those grounds alone. Economic operators should have the possibility to request that compliance measures taken with a view to possible admission to the procurement procedure be examined. However, it should be left to Member States to determine the exact procedural and substantive conditions applicable in such cases. They should, in particular, be free to decide whether to allow the individual contracting authorities to carry out the relevant assessments or to entrust other authorities on a central or decentralised level with that task.

- (42) 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 law *or national law compatible with it* in the fields of social, labour or environmental law or international labour law provisions.
- (43) *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 should be 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. ■

- (43a) *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 this Directive, provided that such rules, and their application, comply with Union law, be ensured through appropriate actions by the competent national authorities within the scope of their responsibilities and remit, such as labour inspection agencies or environmental protection agencies.*

It is also necessary to ensure some transparency in the subcontracting chain, as this gives contracting authorities information on who is present at building sites on which works are being performed for them, or on 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 is in any case incumbent upon 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 this Directive, 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 should be able to 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 the existence of compulsory exclusion grounds would be followed by a requirement that the main contractor replace the subcontractor concerned. Where such verification shows the presence of non-compulsory grounds for exclusion, it should be clarified that contracting authorities are able to require the replacement. It should, however, also be set out explicitly that contracting authorities may be obliged to require the replacement of the subcontractor concerned where exclusion of main contractors would be obligatory in such cases.

It should also 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.

- (43b) *It should be recalled that* Council Regulation (EEC, Euratom) No 1182/71¹ *applies* to the calculation of the time limits contained in this Directive.

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- (45) It is necessary to clarify the conditions under which modifications to 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.

¹ Council Regulation (EEC, Euratom) No 1182/71 of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ - English special edition: Series V Volume 1952-1972 p. 88).

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

- (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 long period*. In this case, a certain degree of flexibility is needed to adapt the contract to those 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 should be able, *in particular where the contract has been awarded to more than one undertaking*, to 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, for example, communications equipment to be delivered over a given period continues to be suitable, also in the 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 also 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.*

- (48a) *Contracting authorities are sometimes faced with circumstances that require the early termination of public contracts in order to comply with obligations under Union law in the field of public procurement. Member States should therefore ensure that contracting authorities have the possibility, under the conditions determined by national law, to terminate a public contract during its term if so required by Union law.*
- (48b) The results of the Commission staff working paper of 27 June 2011 entitled "Evaluation Report: Impact and Effectiveness of EU Public Procurement Legislation" *suggested* that the exclusion of certain services from the full application of Directive 2004/18/EC should be reviewed. As a result, the full application of this Directive should be extended to a number of services ■ .
- (48c) *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. Those 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 those services, with a higher threshold than that which applies to other services.

Services to the person with values below that 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 cross-border projects.

Contracts for services to the person above that 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 the 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, published by the Social Protection Committee. ***When determining the procedures to be used for the award of contracts for services to the person, Member States should take Article 14 TFEU and Protocol No 26 into account. In so doing, Member States should also pursue the objectives of simplification and of 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 public authorities remain free to provide those 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 that such a system ensures sufficient advertising and complies with the principles of transparency and non-discrimination.

(48d) Likewise, hotel and restaurant services are typically offered only by operators located in the specific place of delivery of those services and therefore also have a limited cross-border dimension. They should therefore only be covered by the light regime, as from a threshold of EUR 750 000. Large hotel and restaurant service contracts above that threshold can be of interest for various economic operators, such as travel agencies and other intermediaries, also on a cross-border basis.

- (48e) *Similarly, certain legal services concern exclusively issues of purely national law and are therefore typically offered only by operators located in the Member State concerned and consequently also have a limited cross-border dimension. They should therefore only be covered by the light regime, as from a threshold of EUR 750 000. Large legal service contracts above that threshold can 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 Union or other international law or involving more than one country.*
- (48f) *Experience has shown that a series of other services, such as rescue services, firefighting services and prison services are normally only of cross-border interest as of such time as they acquire sufficient critical mass through their relatively high value. In so far as they are not excluded from the scope of this Directive, they should be included under light regime. 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, they would normally only be likely to present a cross-border interest as from a threshold of EUR 750 000 and should consequently only then be subject to the light regime.*

- (48g) *In order to ensure the 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 which are based on employee ownership or active employee participation in their 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, archive, museum 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. Those services should only be covered by the light regime.*
- (48h) *It is appropriate to identify those services by reference to specific positions of the Common Procurement Vocabulary (CPV) as adopted by Regulation (EC) No 2195/2002 of the European Parliament and of the Council¹, which is a hierarchically structured nomenclature, divided into divisions, groups, classes, categories and subcategories. In order 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.*
- (48i) *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 Joint European Resources for Micro to Medium Enterprises (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*

¹ *Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV) (OJ L 340, 16.12.2002, p. 1).*

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.

(48j) The evaluation has shown that there is still considerable room for improvement in the application of the Union public procurement rules. With a view to 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. That 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 bodies; this should not necessarily require that those having performed the monitoring have 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 case-law that could be relevant or to guidance notes or other sources having examined the specific question concerned.

(48k) 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. Those 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 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.

- (48l)** *In order to fully exploit the potential of public procurement to achieve the objectives of the Europe 2020 strategy for smart, sustainable and inclusive 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 level in that area. Any already prepared, appropriate reports can of course be used in this context also.*
- (48m)** *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.*

(48n) 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, the Internal Market Problem Solving Network (SOLVIT) and EU Pilot, which are 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.

- (48o) *The traceability and transparency of decision-making in procurement procedures is essential for ensuring sound procedures, including efficiently fighting corruption and fraud. Contracting authorities should therefore keep copies of concluded high-value contracts, in order to be able to provide access to those 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 burdens wherever possible, it should be permitted for the procurement report to refer to information already contained in the relevant contract award notice. The electronic systems for publication of those notices, managed by the Commission, should also be improved with a view to facilitating the entry of data while making it easier to extract global reports and exchange data between systems.*
- (48p) *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.*

(48q) 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 Council¹ 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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¹ Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ("the IMI Regulation") (*OJ L 316, 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 TFEU should be delegated to the Commission in respect of a number of non-essential elements of this Directive. 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 Annex I; references to the CPV nomenclature may undergo regulatory changes at Union 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 legal 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 those needs, the Commission should be empowered to keep the list of legal acts including life-cycle costing methodologies up-to date. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. When preparing and drawing up delegated acts, the Commission should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

- (55a) *In the application of this 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 and a standard form for self-declarations **■** , 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 Council¹.
- (56a) The advisory procedure should be used for the adoption of the implementing acts concerning standard forms for the publication of notices, which do not have any impact either from the financial point of view or on the nature and scope of obligations stemming from this Directive. On the contrary, those acts are characterised by a mere administrative purpose and serve to facilitate the application of the rules set out in this Directive.
- (56b) The examination procedure should be used for the adoption of the standard form for self-declarations, due to the impact of those self-declarations on procurement and because they play a central role in the simplification of the documentation requirements in the procurement procedures.

¹ 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 (OJ L 55, 28.2.2011, p. 13).

(56c) *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. 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.*

In accordance with Article XXII(7) thereof, the GPA 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 GPA; in the event that the level of thresholds should change as a consequence, the Commission should, where appropriate, adopt a proposal for a legal act amending the thresholds set out in this Directive.

(56d) *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.*

- (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 but can rather, by reason of its scale and effects, 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 be repealed.
- (59) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, 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:

I

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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* 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 TFEU.*
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 wish to perform public functions themselves pursuant to Article 14 TFEU and Protocol No 26.*
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 to be a matter of internal organisation of the Member State concerned and, as such, are not affected in any way by this Directive.*

Article 2
Definitions

1. For the purposes of this Directive, the following definitions apply:
 - (1) ‘contracting authorities’ means the State, regional or local authorities, bodies governed by public law or 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, in so far 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;

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- (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 by other bodies governed by public law; or are subject to management supervision by those authorities or 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;

- (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 those 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 any temporary association 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, 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 the product or the works or the provision of the 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 product, 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 of helping to solve societal challenges or to support the Europe 2020 strategy for smart, sustainable and inclusive growth;*
- (23b) *‘label’ means any document, certificate or attestation confirming that the works, products, services, processes or procedures in question meet certain requirements;*
- (23c) *‘label requirements’ means the requirements to be met by the works, products, services, processes or procedures in question in order to obtain the label concerned.*
2. *For the purpose of this Article ‘regional authorities’ includes authorities listed non-exhaustively in NUTS 1 and 2, as referred to in Regulation (EC) No 1059/2003 of the European Parliament and of the Council¹, while ‘local authorities’ includes all authorities of the administrative units falling under NUTS 3 and smaller administrative units, as referred to in Regulation (EC) No 1059/2003.*

Article 3

Mixed procurement

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

Paragraphs 1a to 3 shall apply to mixed contracts which have as their subject-matter procurement covered by this Directive and procurement covered by other legal regimes.

¹ Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).

1. 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 *in accordance with which* of the *estimated* values of the respective services or supplies *is the highest*.

- 1a. *Where the different parts of a given contract are objectively separable, paragraph 2 shall apply. Where the different parts of a given contract are objectively not separable, paragraph 4 shall apply.*

Where part of a given contract is covered by Article 346 TFEU or Directive 2009/81/EC, Article 14a of this Directive shall apply.

2. In the case of contracts which have as their *subject-matter* 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 as to 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 those parts would otherwise have been subject to.

*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 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 Article 5, is equal to or greater than the relevant threshold set out in Article 4.***

3. *In the case of contracts which have as their subject both procurement covered by this Directive and procurement for the pursuit of an activity which is subject to Directive ...*, the applicable rules shall, notwithstanding paragraph 2 of this Article, be determined pursuant to Articles 3 and 3a of Directive ...*.*
4. 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-matter of that contract.

* OJ: Please insert the reference number of the Directive contained in PE-CONS 75/13.

* OJ: Please insert the reference number of the Directive contained in PE-CONS 75/13.

SECTION 2

THRESHOLDS

Article 4

Threshold amounts

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

- (a) EUR 5 186 000 for public works contracts;
- (b) EUR 134 000 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 207 000 for public supply and service contracts awarded by sub-central contracting authorities and design contests organised by such authorities; *that threshold shall also apply to public supply contracts awarded by central government authorities that operate in the field of defence, where those contracts involve products not covered by Annex III;*
- (d) EUR **750** 000 for public service 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 procurement.

- 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 the first subparagraph, 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. That estimated value 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, where appropriate, 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 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, the 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 authority 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.

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.

- 7a. *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 points (b) and (c) of Article 4.*

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. *Notwithstanding Paragraphs 7 and 7a, 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 payable, interest and other forms of remuneration;
 - (c) design contracts: fees, commissions 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 World Trade Organisation Agreement on Government Procurement (GPA) and shall, where necessary, revise them in accordance with this Article.

In accordance with the calculation method set out in the GPA, 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 31 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 euro so as to ensure that the thresholds in force provided for by the GPA, 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, whose currency is not the euro, 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, whose currency is not the euro,, of the threshold referred to in point (d) of Article 4.

In accordance with the calculation method set out in the GPA, 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 31 August preceding the revision with effect from 1 January.

4. The Commission shall publish 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* 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 of this Article to any change in the methodology provided in the GPA for the revision of the thresholds referred to in points (a), (b) and (c) of Article 4 and for the determination of the corresponding values in the national currencies of the Member States, whose currency is not the euro, as referred to in paragraph 3 of this Article.

The Commission shall 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 and 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 ...^{*}, 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 of point (b) of Article 10(2) of that Directive, to contracts awarded for the pursuit of the following activities:*

- (a) *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);*

* OJ: Please insert the reference number of the Directive contained in PE-CONS 75/13.

- (b) *financial services which are covered by CPV codes 66100000-1 to 66720000-3 and by point (c) of Article 19 of Directive ...* and including in particular postal money orders and postal giro transfers;*
- (c) *philatelic services; or*
- (d) *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 ‘public communications network’ and ‘electronic communications *service*’ *shall have the same meaning as in* Directive 2002/21/EC of the European Parliament and of the Council¹.

* OJ: Please insert the reference number of the Directive contained in PE-CONS 75/13.

¹ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.4.2002, p. 33).

Article 9

Public 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 laid down in 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 Treaties, 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*.

The Member States shall communicate all legal instruments referred to in point (a) of the first subparagraph of this paragraph 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 or organises 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 that 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. ***Article 14b shall apply to contracts and design contests involving defence or security aspects which are awarded or organised pursuant to international rules. Paragraphs 1 and 2 of this Article shall not apply to those contracts and design contests.***

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. *For the purposes of this point, ‘audiovisual media services’ and ‘media service providers’ shall, respectively, have the same meaning as pursuant to points (a) and (d) of Article 1(1) of Directive 2010/13/EU of the European Parliament and of the Council¹. ‘Programme’ shall have the same meaning as pursuant to point (b) of Article 1(1) of that Directive, 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”;*
- (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 Council Directive 77/249/EEC² 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 or a third country or before international courts, tribunals or institutions;*

¹ 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) (*OJ L 95, 15.4.2010, p. 1*).

² *Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services (OJ L 78, 26.3.1977, p. 17).*

- (ii) legal advice given in preparation of any of the proceedings referred to in point (i) of this point 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 or 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 Council¹, central bank services and operations conducted with the European Financial Stability Facility and the European Stability Mechanism;
- (da) *loans, whether or not in connection with the issue, sale, purchase or transfer of securities or other financial instruments;*
- (e) employment contracts;
- (ea) *civil defence, civil protection, and danger prevention services that are provided by non-profit organisations or associations, and which are covered by CPV codes 75250000-3, 75251000-0, 75251100-1, 75251110-4, 75251120-7, 75252000-7, 75222000-8, 98113100-9 and 85143000-3 except patient transport ambulance services;*
- (f) public passenger transport services by rail or metro;
- (g) *political campaign services covered by CPV codes 79341400-0, 92111230-3 and 92111240-6, when awarded by a political party in the context of an election campaign.*

¹ Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1).

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 law, regulation or published administrative provision which is compatible with the TFEU.

Article 11

Public *contracts* between *entities within the public sector*

1. A public contract awarded by a contracting authority to a legal person ***governed by private or public law*** shall fall outside the scope of this Directive where all of the following 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 the controlled 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; ***and***
 - (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 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. ***Such 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 national legislative provisions, 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 to ***that*** legal person without applying this Directive **■** where all of the following conditions are fulfilled **■**.
 - (a) the contracting ***authority exercises jointly with other contracting authorities*** a control ***over that*** legal person 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; and
- (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 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 all of the following conditions are fulfilled:

- (i) 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;
- (ii) those contracting authorities are able to jointly exert decisive influence over the strategic objectives and significant decisions of the controlled legal person; and

- (iii) 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 all of the following 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; and
- (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 point (b) of the first subparagraph of paragraph 1, point (b) of the first subparagraph of paragraph 3 and point (c) of paragraph 4, the average total turnover, or an appropriate alternative activity-based measure such as costs incurred by the relevant legal person or contracting authority with respect to services, supplies and works for the three years preceding the contract award shall be taken into consideration.*

Where, because of the date on which the relevant legal person or contracting authority 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 shall 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 5 186 000, 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 207 000 and which are connected to a works contract as referred to in 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 contract or where they award that contract for and on behalf of other entities.

Article 13

Research and development services

1. This Directive shall only apply to public service contracts for research and development services which are covered by CPV codes 73000000-2 to **73120000-9**, **73300000-5**, **73420000-2** and **73430000-5** provided that both of the following conditions are fulfilled:
 - (a) the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs, and
 - (b) the service provided is wholly remunerated by the contracting authority.

█

Subsection 2: Procurement involving defence or security aspects

Article 14

Defence and security

1. 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 point (a) of Article 346(1) TFEU, this Directive shall not apply to public contracts and design contests not otherwise exempted under paragraph 1 of this Article 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.

3. *Where the procurement and performance of the public contract or design 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, such as those referred to in the first subparagraph of paragraph 2.*

Article 14a

Mixed procurement involving defence or security aspects

1. *In the case of mixed contracts which have as their subject-matter procurement covered by this Directive as well as procurement covered by Article 346 TFEU or Directive 2009/81/EC, this Article shall apply.*

2. *Where the different parts of a given public 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 that Directive, provided that the award of a single contract is justified for objective reasons. This point shall be without prejudice to the thresholds and exclusions for which that Directive provides.*

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

3. *Point (a) of the third subparagraph of paragraph 2 shall apply to mixed contracts to which both point (a) and point (b) of that subparagraph 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 Directive 2009/81/EC.*

Article 14b

Public contracts and design contests involving defence or 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 or security aspects which the contracting authority is obliged to award or organise in accordance with procurement procedures different from those laid down in this Directive established by any of the following:*
 - (a) *an international agreement or arrangement, concluded in conformity with the Treaties, 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 of this paragraph 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 or 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 is 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. They shall *not be required by 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 are to meet the requirements as to economic and financial standing or technical and professional ability referred to in Article 56 provided that this is justified by objective reasons and is proportionate. Member States may establish standard terms for how groups of economic operators are to meet those requirements.

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

3. *Notwithstanding paragraph 2, contracting authorities may require groups of economic operators to assume a specific legal form once they have been awarded the contract, to the extent that such a 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 or disadvantaged *persons* or may 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.
2. 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, 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

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- 1a. *Member States shall ensure that all communication and information exchange under this Directive, in particular electronic 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 ICT products in general use and shall not restrict economic operators' access to the procurement procedure.*

Notwithstanding the first subparagraph, contracting authorities shall not be 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 means of 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 the second subparagraph, communication shall be carried out by post or other suitable carrier or by a combination of post or other suitable carrier and electronic means.

Notwithstanding the first subparagraph of this paragraph, 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 the electronic 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 shall be the responsibility of the contracting authorities requiring, in accordance with the second subparagraph of this paragraph, 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 this requirement. Where applicable, contracting authorities shall indicate in the individual report the reasons why use of means of communication other than electronic means has been considered necessary in application of the fourth subparagraph of this paragraph.

1b. Notwithstanding paragraph 1a, oral communication may be used in respect of communications other than those concerning the essential elements of a procurement procedure, provided that the content of the oral communication is documented to a sufficient degree. For this purpose, the essential elements of a procurement procedure include the procurement documents, requests for participation, confirmations of interest and tenders. 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.

2a. *For public 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. In such cases the contracting authorities shall offer alternative means of access, as provided for in paragraph 4, until such time as those tools become generally available within the meaning of the second sentence of the first subparagraph of paragraph 1a.*

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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 those 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 those 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;

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- (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; that 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 under point (c) of this paragraph, is such that* advanced electronic signatures as defined by Directive 1999/93/EC of the European Parliament and of the Council¹ are required, contracting authorities shall **■** accept *advanced electronic* signatures supported by a qualified certificate, *taking into account whether those certificates are provided by a certificate services provider, which is on* a trusted list provided for in Commission Decision 2009/767/EC², created with or without a secure signature creation device, subject to compliance with the following conditions:

¹ Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures (OJ L 13, 19.1.2000, p. 12.)

² Commission Decision 2009/767/EC of 16 October 2009 setting out measures facilitating the use of procedures by electronic means through the points of single contact under Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market (OJ L 274, 20.10.2009, p. 36).

- (i) the contracting authorities shall establish the required advanced signature format on the basis of formats established in Commission Decision 2011/130/EU¹ and shall put in place necessary measures to be able to process these formats technically; *in case 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 the Internet;*

¹ Commission Decision 2011/130/EU of 25 February 2011 establishing minimum requirements for the cross-border processing of documents signed electronically by competent authorities under Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market (OJ L 53, 26.2.2011, p. 66).

- (ii) where a tender is signed with the support of a qualified certificate that is included on a trusted list, the contracting authorities shall 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 in accordance with the requirements set out in Article 1(2) of Decision 2011/130/EU. They shall put in place the necessary measures to be able to process that format technically by including the information required for the purpose of processing the signature in the document concerned. Such documents shall contain in the electronic signature or in the electronic document carrier information on existing validation possibilities that allow the validation of the received electronic signature online, free of charge and in a way that is understandable for non-native speakers.

- 5a. 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 to take account of 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 1a of this Article where technological developments render continued exceptions from the use of electronic means of communication inappropriate or, exceptionally, where new exceptions 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 electronic submission, electronic catalogues and means for electronic authentication, only where technical standards have been thoroughly tested and proved their usefulness in practice. Before making the 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.

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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.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to adapt the CPV codes referred to in this Directive, 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 interest

Member States shall ***ensure that contracting authorities take appropriate measures*** to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to 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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TITLE II

RULES ON PUBLIC CONTRACTS

CHAPTER I

Procedures

Article 23

Conditions relating to the GPA and other international agreements

■ In so far as they are covered by Annexes 1, 2, 4 and 5 and the General Notes to the European Union's Appendix I to the GPA 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.

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Article 24

Choice of procedures

1. When awarding 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* provide that contracting authorities may apply a competitive procedure with negotiation or a competitive dialogue in **■** the following *situations*:

- (a) with regard to works, *supplies or services fulfilling one or more of the following criteria*:
- (i) *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;*

(aa) 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 shall not be required to publish a contract notice where they include in the procedure all of, and only, the tenderers which satisfy the criteria set out in Articles 55 to 63 and which, during the prior open or restricted procedure, 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.

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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 procedure 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 of a call for competition. *Member States shall not allow the application of that 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, in so far 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 authority renders impracticable the time limit laid down in the second subparagraph of paragraph 1, it 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(1a), and Article 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 was sent.

2. Only those economic operators invited to do so 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 was 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, in so far 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 of this Article may be reduced by five days where the contracting authority accepts that tenders may be submitted by electronic means in conformity with Article 19(*Ia*), (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 not be 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, 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 of doing 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 that 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 best price-quality ratio in accordance with Article 66(2).

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 laid down 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* that 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 optimised at the request of the contracting authority. However, such clarification, specification, optimisation 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 tender presenting the best price-quality ratio 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. 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 from the date on which the contract notice is 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 best price-quality ratio 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 performance levels and maximum costs agreed between the contracting authorities and the participants.*

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 products, 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 those possibilities and the conditions for their use.

2a. *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.

2b. *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 2c, in writing of any changes to the technical specifications or other procurement documents other than those setting out the minimum requirements. Following those 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.

2c. *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 indicate whether it will use that option.*

3a. 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 that partner's 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.*

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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 to participate** 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;

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- (c) 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;

- (i) █ competition *is absent* for technical reasons;
- (ii) the protection of *exclusive rights, including* intellectual property rights;

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The exceptions set out in points (i) and (ii) shall 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) in so far 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 or restricted procedures or competitive procedures with negotiation cannot be complied with. The circumstances invoked to justify extreme urgency shall not in any event be attributable to the contracting authority.

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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 point *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 *provided for 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 pursuant 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 in 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 entail substantial modifications to the terms laid down in that framework agreement, in particular in the case referred to in paragraph 3.

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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, that framework agreement *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 paragraph of this point 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 in the framework agreement, 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*** period of 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, ***and*** 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, works or services in accordance with paragraph 1 of this Article, they shall specify the applicable selection criteria for each category.***

Notwithstanding Article 26, the following time limits shall apply:

- (a) ***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. 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 by electronic means in accordance with Article 19(1a), (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, works 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 in accordance with the selection criteria within 10 working days following their receipt. *That 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. Contracting authorities shall indicate in the procurement documents the length of the extended period that they intend to apply.

Contracting authorities 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.

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

2. In open or restricted procedures 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 content of 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 points (aa) or (b) of Article 31(4) 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 or unsuitable.*

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.

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

All tenderers that have submitted admissible tenders shall be invited simultaneously 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 tender, 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. Except where the most economically advantageous offer is identified on the basis of price alone, 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. They may, where this has been previously indicated, communicate other information concerning other prices or values submitted. They may also at any time announce the number of participants in that 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) of the first subparagraph, possibly in combination with the arrangements laid down in point (b) thereof, 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 a case, contracting authorities shall use one of the following methods:
 - (a) invite tenderers to resubmit their electronic catalogues, adapted to the requirements of the contract in question; or

(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 contract in question ■ ; provided that the use of that 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 notify tenderers of 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 are to 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. That 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 set out 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 point 16 of Article 2(1).***

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 the second subparagraph of Article 31(2), by using a framework agreement concluded by a central purchasing body offering the centralised purchasing activity referred to in point (b) of point (16) of Article 2(1). 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 that dynamic purchasing system.

In relation to the first and second subparagraphs, Member States may provide that certain procurements are to be made by having recourse to central purchasing bodies or to one or more specific central purchasing bodies.

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3. A contracting authority fulfils its obligations pursuant to this Directive when it *acquires supplies or services from a central purchasing body offering the centralised purchasing activity referred to in point (a) of point (16) of Article 2(1).*

Furthermore, a contracting authority also fulfils its obligations pursuant to this Directive where it acquires works, supplies or 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 the second subparagraph of Article 31(2), by using a framework agreement concluded by the central purchasing body offering the centralised purchasing activity referred to in point (b) of point (16) of Article 2(1).

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 points (a) or (aa) of Article 31(4), 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.

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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 involving 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*** for 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 their Member State.

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

In respect of centralised purchasing activities offered by a central purchasing body located 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 point (16) of Article 2(1).

2a. *The provision of centralised purchasing activities 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 points (a) or (aa) of Article 31(4) 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 the second subparagraph of Article 31(2), award contracts based on the framework agreement or on the dynamic purchasing system. Unless the necessary elements 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 relevant 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 responsibilities and the applicable national law as referred to in point (a), the participating contracting authorities may **allocate specific responsibilities among them and determine the applicable** provisions of the national laws of any of their respective Member States. **The allocation of responsibilities and the applicable national law shall be referred to in the procurement documents for jointly awarded public contracts.***

4. Where several contracting authorities from different Member States have set up a joint entity, including European Groupings of territorial cooperation under Regulation (EC) No 1082/2006 of the European Parliament and of the Council¹ or other entities established under Union law, the participating contracting authorities shall, by a decision of the competent body of the joint 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 entity has its registered office;
 - (b) the national provisions of the Member State where the joint entity is carrying out its activities.

¹ Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) (OJ L 210, 31.7.2006, p. 19).

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



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 preparing the procurement* and informing 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. That advice *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. The technical specification shall lay down the characteristics required of a works, service or supply.

Those 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, the 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 requirements are adopted by a legal 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 had 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 Council¹.

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 had 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 and 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.*

■

4. 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.

¹ *Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).*

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 ***or require*** variants. Variants shall not be authorised without such indication. ***Variants 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 3a of this Article, provide an indication of the main reasons for their decision not to subdivide into lots, which shall be included in the procurement documents or the individual report referred to in Article 85.

■

1b. 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 of doing so and indicate the lots or groups of lots that may be combined.*
- 3a. *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 1b and, where appropriate, paragraph 3 shall 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 by the economic operator 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 Article 25(3) and Article 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 with a view to preparing responsive tenders is insignificant, contracting authorities shall not be required to extend the time limits.

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 Publications Office of the European Union or by the contracting authorities on their buyer profiles in accordance with point 2(b) of Annex IX. Where the prior information notice is published by the contracting authorities on their buyer profile, they shall send a notice of the publication on their buyer profile to the Publications Office of the European Union in accordance with Annex IX. ***Those notices shall contain the information set out in Annex VI part A.***

2. For restricted procedures and competitive procedures with negotiation, sub-central contracting authorities may 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 procedure or competitive procedure with negotiation without further publication of a call for competition and invites interested economic operators to express their interest;
 - (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 be a maximum of 12 months 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 the second subparagraph of 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 shall 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 contract award notice within **30** days after the award of each contract based on a dynamic purchasing system. 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 a particular economic operator, public or private, or might prejudice fair competition between economic operators.

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 Publications Office of the European Union 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 Publications Office of the European Union 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 institutions of the Union 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 of the institutions of the Union.
4. The Publications Office of the European Union 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 point (a) of Article 32(3) 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 Publications Office of the European Union 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 that those notices are sent to the Publications Office of the European Union 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 event 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 in accordance with Article 49.***
2. Notices published at national level shall not contain information other than that contained in the notices dispatched to the Publications Office of the European Union or published on a buyer profile, but shall indicate the date of dispatch of the notice to the Publications Office of the European Union or its publication on the buyer profile.
3. Prior information notices shall not be published on a buyer profile before the dispatch to the Publications Office of the European Union 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 a notice in accordance with Article 49 or the date on which an invitation to confirm interest was sent. The text of the notice or the invitation to confirm interest shall specify the internet address at which the procurement documents are 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(1a), 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 electronic means in accordance with paragraph 2 of this Article. In such a 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 Article 25(3), Article 26(6) and in the fourth 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 Article 25(3), Article 26(6) and in the fourth 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 Article 25(3) and Article 26(6), that period shall be four days.

Article 52

Invitations to candidates

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 of this Article 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 those documents have not been the subject of unrestricted and full direct access, free of charge, for the reasons set out in the second or third subparagraph of Article 51(1) and have not already been made otherwise available. In addition, the invitations referred to in paragraph 1 of this Article 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 candidate or tenderer concerned, the contracting authority shall as quickly as possible, and in any event 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 or would otherwise be contrary to the public interest, would prejudice the legitimate commercial interests of a particular economic operator, whether public or private, or might prejudice fair competition between economic operators.

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 57b that all of the* following 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 most economically advantageous tender where they have established that the tender does not comply *with the applicable obligations referred to in Article 15(2)*.

3. In open procedures, contracting authorities may decide to examine tenders before verifying the *absence of grounds for exclusion and the fulfilment of the selection criteria in accordance with Articles 55 to 63. Where they make use of that possibility, they shall ensure that the verification of absence of grounds for exclusion and of fulfilment of the selection criteria is carried out in an impartial and transparent 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.

- 3a. *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 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.*

4. 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, 57a and 57b, 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/JHA¹;

¹ Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42).

- (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 Union¹ and Article 2(1) of Council Framework Decision 2003/568/JHA² as well as corruption as defined in the national law of the contracting authority or the economic operator;
- (c) fraud within the meaning of Article 1 of the Convention on the protection of the ■ European Communities' *financial interests*³;
- (d) terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA⁴ respectively, or inciting or 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* of the European Parliament and of the Council ⁵;

¹ OJ C 195, 25.6.1997, p. 1.

² Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (OJ L 192, 31.7.2003, p. 54).

³ OJ C 316, 27.11.1995, p. 48.

⁴ Council Framework Decision of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3).

⁵ Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (*OJ L 309, 25.11.2005, p. 15*).

(f) *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*¹.

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.

¹ *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, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1).*

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 taxes or social security contributions due, 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 of taking 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**:*

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(aa) where the contracting authority can demonstrate by any appropriate means a violation 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;
- (c) where the contracting authority can demonstrate by ***appropriate*** means that the economic operator is guilty of grave professional misconduct, ***which renders its integrity questionable***;
- (ca) ***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***;

- (cb) where a conflict of interest within the meaning of Article 21 cannot be effectively remedied by other less intrusive measures;*
- (cc) where a distortion of competition from the prior involvement of the economic operators in the preparation of the procurement procedure, as referred to in Article 39a, cannot be remedied by other, less intrusive measures;*
- (d) 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;***
- (e) 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; or*

(f) 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.

Notwithstanding point (b) of the first subparagraph, Member States may require or may provide for the possibility that the contracting authority does not exclude an economic operator which is in one of the situations referred to in that point, where the contracting authority 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 situations referred to in point (b).

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

At any time 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 is, in view of acts committed or omitted either before or during the procedure, in one of the situations referred to in paragraph 3.

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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 for under this 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 to 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 paragraph 1 and three years from the date of the relevant event in the cases referred to in paragraph 3.*

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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 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 in 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**, in so far 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 ratios, 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 a 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 contracts to be awarded under that 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 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 (ESPD), 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 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 ESPD shall also contain the information referred to in the first subparagraph of this paragraph in respect of such entities.

The ESPD 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 shall provide the relevant information as required by the contracting authority. The ESPD shall further identify the public authority or third party responsible for establishing the supporting documents and contain a formal statement to the effect that the economic operator will be able, upon request and without delay, to provide those supporting documents.

Where the contracting authority can obtain the supporting documents directly by accessing a database pursuant to paragraph 3, the EPSD 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.

Economic operators may reuse an ESPD which has already been used in a previous procurement procedure, provided that they confirm that the information contained therein continues to be correct.

1a. The ESPD shall be drawn up on the basis of a standard form. The Commission shall establish that standard form, by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 91(3).

The ESPD shall be provided exclusively in electronic form.

*1b. Notwithstanding Article 94, the Commission shall review the practical application of the ESPD taking into account the technical development of databases in the Member States and report thereon to the European Parliament and the Council by ...**

* OJ: Please insert the date three years after the entry into force of this Directive.

Where appropriate, the Commission shall make proposals for solutions optimising the cross-border access to such databases 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 such contracts are concluded in accordance with Article 31(3) or point (a) of Article 31(4)*, 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*. The contracting authority may invite economic operators to supplement or clarify the certificates *received* pursuant to *Articles 57a and 61*.

3. *Notwithstanding paragraph 2, economic operators shall not be required to submit supporting documents or other documentary evidence where and in so far as the contracting authority has the possibility of obtaining the certificates or the relevant information directly by accessing a national database in any Member State 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.*

Notwithstanding paragraph 2, economic operators shall not be required to submit supporting documents where the contracting authority having awarded the contract or concluded the framework agreement already possesses these documents.

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, Member States 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 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. 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 Member State or 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 or country concerned.

Where the Member State or country in question does not issue such documents or certificates, or where these do not cover all the cases specified in paragraphs 1 and 2 and point (b) of paragraph 3 of Article 55, they may be replaced by *a declaration on oath or, in Member States or countries 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 Member State or country of origin or in the Member State or 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 they do not cover all the cases specified in paragraphs 1 and 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 57b.

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, in accordance with 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 57b

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 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 ESPD 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 had*** 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 Eco-Management and Audit Scheme (EMAS) of the Union or to other environmental management *systems* as recognised in accordance with Article 45 of Regulation (EC) No 1221/2009 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 had 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 proves that these measures are equivalent to those required under the applicable environmental management system or standard.

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.

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 57, 57a and 57b, 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 replaces 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 or may be required by the Member State to 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(2) 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(2)**, *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 official 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 on 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 on the official 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 official 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 official list or certificate shall comply with *Article 57* and, where appropriate, Article 61. For any registration of economic operators of other Member States on 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 on an official list or 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 official 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 on the official 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 number of candidates 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. However, 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 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 in so far as there are enough tenders, solutions or qualified candidates.

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:*

- (a) quality, including technical merit, aesthetic and functional characteristics, accessibility, design for all users, *social*, environmental █ and innovative *characteristics and trading and its conditions*;
- (b) organisation, qualification and experience of █ staff assigned to performing the contract, *where the quality of the staff assigned can have a significant impact on the level of performance of the contract; or*
- (c) 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.

2a. *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 in:*

(a) the specific process of production, provision or trading of those works, supplies or services; or

(b) 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; ***such 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 those 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 economic operators from third countries party to the GPA 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 life-cycle 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* legal acts **█** .



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.*

3. The explanations referred to in *paragraph 1* may in particular relate to:
- (a) the economics of the manufacturing process, of the services provided or of the construction method;
 - (b) the technical solutions chosen or any exceptionally favourable conditions available to the tenderer for the supply of the products or services or for the execution of the work;
 - (c) the originality of the work, supplies or services proposed by the tenderer;
 - (ca) *compliance with obligations referred to in Article 15(2);*
 - (cb) *compliance with obligations referred to in Article 71;*
-
- (e) the possibility of the tenderer obtaining State aid.

4. 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 3.

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)*.

5. 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 TFEU. Where the contracting authority rejects a tender in those circumstances, it shall inform the Commission thereof.
6. Upon request, Member States shall make available to other Member States *by means 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 3.

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(2a) 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.*

1. 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.
2. 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.
3. Paragraphs -1 *to 2* shall be without prejudice to the question of the *main contractor's liability*.

4. *In the case of works contracts and in respect of services to be provided at a facility 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, in so far 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.*

Notwithstanding the first subparagraph, Member States may impose the obligation to deliver the required information directly on the main contractor.

Where necessary for the purposes of point (b) of paragraph 5 of this Article, the required information shall be accompanied by the subcontractors' self-declarations as provided for in Article 57. The implementing measures pursuant to paragraph 7 of this Article 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 Member States to extend the obligations provided for in the first subparagraph to for instance:

- (a) 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) subcontractors of the main contractor's subcontractors or further down the subcontracting chain.*

5. 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 out in Article 15(2).*

(b) Contracting authorities may, in accordance with Articles 57, 57a and 57b, 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 replaces 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 replaces a subcontractor in respect of which the verification has shown that there are non-compulsory grounds for exclusion.

6. 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 such direct payment.

7. Member States having chosen to provide for measures pursuant to paragraphs 2, 4 or 5 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 contracting authorities or economic operators or as of certain amounts.

I

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 shall not exceed 50 % of the value of the original contract. Where several successive modifications are made, that limitation shall apply to the value of each modification. Such consecutive modifications shall not be aimed at circumventing this Directive;

- (c) *where all of the following 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, that limitation shall apply to the value of each modification. Such consecutive modifications shall not be aimed at circumventing this Directive;*
- (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.*

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

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, 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 to be 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 event, without prejudice to paragraphs 1 and 2, a modification shall be considered to be substantial where one or more 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 a tender 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:

■

- (b) *the contract has been subject to a substantial* modification, which would have required a new procurement procedure pursuant to Article 72;
- (ba) *the contractor has, at the time of contract award, been in one of the situations referred to in Article 55(1) and should therefore have been excluded from the procurement procedure;*
- (c) *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 TFEU* **█** .

TITLE III
PARTICULAR PROCUREMENT REGIMES

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 point (d) of Article 4.

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 Annex 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 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 Annex 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 of this Article 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 ***tender presenting the best price-quality ratio, 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, which are covered by CPV codes 75121000-0, 75122000-7, 75123000-4, , 79622000-0, 79624000-4, 79625000-1, 80110000-8, 80300000-7, 80420000-4, 80430000-7, 80511000-9, 80520000-5, 80590000-6, from 85000000-9 to 85323000-9, 92500000-6, 92600000-7, 98133000-4, 98133110-8.*
- 2. An organisation referred to in paragraph 1 shall fulfil all of the following 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 are based on employee ownership or participatory principles, or require the active participation of employees, users or stakeholders; and*
- (d) *the organisation has not 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 Article 94, the Commission shall assess the effects of this Article and report to the European Parliament and the Council by ...* .*

* OJ: Please insert the date: 60 month after the entry into force of this Directive.

CHAPTER II

Rules governing design contests

I

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) of the first paragraph of this Article, 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 point (b) of the first paragraph of this Article, 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, would be contrary to the public interest or would 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

I

- 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 those 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.*

By ... and every three years thereafter Member States shall submit to the Commission 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, not more than 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 of this Article, "SME" shall be understood as defined in Commission Recommendation 2003/361/EC¹.

* OJ: Please insert the date: three years after the entry into force of this Directive.

¹ *Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, (OJ L 124 of 20.5.2003, p. 36).*

On the basis of the data received under this paragraph, the Commission shall regularly issue a report on the implementation and best practices of national procurement policies in the internal market.

4. *Member States shall ensure that:*

- (a) 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*
- (b) support is available to contracting authorities with regard to planning and carrying out procurement procedures.*

5. *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.*

6. 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.

Contracting authorities shall grant access to those 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

- I.** 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:*
 - (i) the names of the *selected* candidates or tenderers and the reasons for their selection;
 - (ii) the names of the candidates or tenderers rejected and the reasons for their rejection;

- (d) the reasons for the rejection of tenders found to be abnormally low;
- (e) 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; *and, where known at this point in time, the names of the main contractor's subcontractors, if any;*
- (ea) *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 have been used for the submission of tenders;*

- (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 point (a) of Article 31(4).

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. 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 for a period of at least 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 paragraph is not compliant with the obligations stipulated in Article 46(1), Article 47, Article 48(1), Article 75(2) and Article 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.

- 1a.** *By...^{*} and every three years thereafter, 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, indicating an estimation of the aggregated total value of such procurement during the period concerned. That estimation may in particular be based on data available under national publication requirements or on sample-based estimates.*

That report may be included in the report referred to in Article 83(3).

I

* OJ: Please insert the date three years after the entry into force of this Directive.

4. 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.

That information may be included in the report referred to in *Article 83(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, 57, 57a, ■ 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 rules provided for in Directive 95/46/EC of the European Parliament and of the Council¹ and Directive 2002/58/EC of the European Parliament and of the Council².

■

4. ***To test the suitability of using the Internal Market Information System (IMI) established by Regulation (EU) No 1024/2012 ■ for the purpose of exchanging information covered by this Directive, a pilot project shall be launched by ... ****

¹ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

* OJ: Please insert the date: 12 month after the entry into force of this Directive.

TITLE V

DELEGATED POWERS, IMPLEMENTING POWERS AND FINAL PROVISIONS

Article 89

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 6, 19, 20, **54** and **67** shall be conferred on the Commission for an indeterminate period of time from ...*.
3. The delegation of power referred to in Articles 6, 19, 20, **54** and **67** may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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. It shall not affect the validity of any delegated acts already in force.

* OJ: Please insert the date of entry into force of this Directive.

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 *Articles 6, 19, 20, 54 and 67* 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 of 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 by 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/EEC¹. 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.**

¹ Council Decision 71/306/EEC of 26 July 1971 setting up an Advisory Committee for Public Works Contracts (OJ L 185, 16.8.1971, p. 15).

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 ...*. They shall forthwith communicate to the Commission the text of those measures.

*1a. Notwithstanding paragraph 1 of this Article, Member States may postpone the application of Article 19(1a) until ...**, except where use of electronic means is mandatory pursuant to Articles 32, 33 or 34, Article 35(4), Article 49(2) or Article 51.*

*Notwithstanding paragraph 1 of this Article, Member States may postpone the application of Article 19(1a) for central purchasing bodies until...***.*

* OJ: Please insert the date: 24 month after the entry into force of this Directive.

** *OJ: Please insert the date: 54 month after the entry into force of this Directive.*

*** *OJ: Please insert the date: 36 month after the entry into force of this Directive.*

Where a Member State chooses to postpone the application of Article 19(1a), 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 or other suitable carrier;*
- (c) fax;*
- (d) a combination of those means.*

- 1b. Notwithstanding paragraph 1 of this Article, Member States may postpone the application of the second subparagraph of Article 57(1a) until ...*.*
- 1c. Notwithstanding paragraph 1 of this Article, Member States may postpone the application of the second subparagraph of Article 57(3) until...**.*
- 1d. Notwithstanding paragraph 1 of this Article, Member States may postpone the application of Article 57b(2) until ...**.*

* *OJ: Please insert the date: 48 month after the entry into force of this Directive.*
** *OJ: Please insert the date: 54 month after the entry into force of this Directive.*

Ie. When Member States adopt *the measures referred to in paragraphs 1 to 1d*, 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.

2. 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 is repealed with effect from ...*.

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.

* OJ: Please insert the date: 24 month after the entry into force of this Directive.

Article 94

Review

The Commission shall review the economic effects on the internal market, *in particular in terms of factors such as the 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 ...*.

The Commission shall, where possible and appropriate, consider suggesting an increase of the threshold amounts applicable under the GPA during the next round of negotiations. In the event of any change to the threshold amounts applicable under the GPA, the report shall, where appropriate, be followed by a proposal for a legal act 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*.

* OJ: Please insert the date: 60 month after the entry into force of this Directive.

Article 96
Addressees

This Directive is addressed to the Member States.

Done at ...

For the European Parliament
The President

For the Council
The President

ANNEX I

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 sociale, Lutte contre la pauvreté et Economie sociale;	Programmatorische Overheidsdienst Maatschappelijke Integratie, Armoedsbestrijding en sociale Economie;
Service public fédéral de Programmation Développement durable;	Programmatorische federale Overheidsdienst Duurzame Ontwikkeling;
Service public fédéral de Programmation Politique scientifique;	Programmatorische federale Overheidsdienst 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 banka
- Energetický 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 Øresundsbrokonsortiet (7 agencies and institutions, including Øresundsbrokonsortiet)

■ 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;
- Rahvusrhiiv;

- 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 Registrate ja Informatsiooni Amet;
- Veterinaar- ja Toiduamet
- Konkurentsiamet;

- Maksu –ja Tolliamet;
- Statistikaamet;
- Kaitsepolitseiamet;
- Kodakondsus- ja Migratsiooniamet;
- Piirivalveamet;
- Politseiamet;
- Eesti Kohtuekspertiisi Instituut;
- Keskkriminaalpolitsei;
- Päästeamet;
- Andmekaitse Inspektsioon;
- Ravimiamet;

- Sotsiaalkindlustusamet;
- Tööturuamet;
- Tervishoiuamet;
- Tervisekaitseinspeksioon;
- Tööinspeksioon;
- Lennuamet;
- Maanteeamet;
- Veeteede Amet;
- Julgestuspolitsei;
- Kaitseressursside Amet;
- Kaitseväge 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 Croigny (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)

Croatia

Hrvatski sabor

Predsjednik Republike Hrvatske

Ured predsjednika Republike Hrvatske

Ured predsjednika Republike Hrvatske po prestanku obnašanja dužnosti

Vlada Republike Hrvatske

uredi Vlade Republike Hrvatske

Ministarstvo gospodarstva

Ministarstvo regionalnog razvoja i fondova Europske unije

Ministarstvo financija

Ministarstvo obrane

Ministarstvo vanjskih i europskih poslova

Ministarstvo unutarnjih poslova

Ministarstvo pravosuđa

Ministarstvo uprave

Ministarstvo poduzetništva i obrta

Ministarstvo rada i mirovinskog sustava

Ministarstvo pomorstva, prometa i infrastrukture

Ministarstvo poljoprivrede

Ministarstvo turizma

Ministarstvo zaštite okoliša i prirode

Ministarstvo graditeljstva i prostornog uređenja

Ministarstvo branitelja

Ministarstvo socijalne politike i mladih

Ministarstvo zdravlja

Ministarstvo znanosti, obrazovanja i sporta

Ministarstvo kulture

državne upravne organizacije

uredi državne uprave u županijama

Ustavni sud Republike Hrvatske

Vrhovni sud Republike Hrvatske

sudovi

Državno sudbeno vijeće

državna odvjetništva

Državnoodvjetničko vijeće

pravobraniteljstva

Državna komisija za kontrolu postupaka javne nabave

Hrvatska narodna banka

državne agencije i uredi

Državni ured za reviziju

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 Μέριμας 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 Vyriausybė [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 ministerija [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 ministerija [Ministry of Culture]:

■ Kultūros paveldo departamentas;

■ Valstybinė kalbos inspekcija.

■ Socialinės apsaugos ir darbo ministerija

■ Institutions under the Socialinės apsaugos ir darbo ministerija [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 ministerija [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 ministerija [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 ministerija [Ministry of Education and Science]:

■ Nacionalinis egzaminų centras;

■ Studijų kokybės vertinimo centras.

■ Teisingumo ministerija

■ Institutions under the Teisingumo ministerija [Ministry of Justice]:

■ Kalėjimų departamentas;

■ Nacionalinė vartotojų teisių apsaugos taryba;

■ Europos teisės departamentas.

■ Ūkio ministerija

■ Institutions under the Ūkio ministerija [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 ministerija [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 ministerija [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 Ghawdex (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 Waterstaat

■ 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)

- █ Toezichthouder Beheer Eenheid Lucht
- █ Toezichthouder Beheer Eenheid Water
- █ Toezichthouder 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
- Naczelna Dyrekcja 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 Republica
- 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 Șanse
- 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 Stiințifică
- 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
- Agenția Națională pentru Ocuparea Forței de Muncă
- Agenția Națională de Reglementare în Domeniul Energiei
- Agenția Română pentru Conservarea Energiei
- Agenția Națională pentru Resurse Minerale
- Agenția Română pentru Investiții Străine
- Agenția Națională pentru Intreprinderi Mici și Mijlocii și Cooperație
- Agenția Națională a Funcționarilor Publici
- Agenția Națională de Administrare Fiscală

- Agenția de Compensare pentru Achiziții de Tehnică Specială
- Agenția Națională Anti-doping
- Agenția Nucleară
- Agenția Națională pentru Protecția Familiei
- Agenția Națională pentru Egalitatea de Sanse între Bărbați și Femei
- Agenția Națională pentru Protecția Mediului
- Agenția 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 ochrana prav

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
- █ Vakuutusosasto — 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 — Polisyrkeshögskolan

■ Poliisin tekniikkakeskus — Polisens teknikcentral

■ Poliisin tietohallintokeskus — Polisens datacentral

■ Helsingin kihlakunnan poliisilaitos — Polisnrättningen i Helsingfors

■ Pelastusopisto — Räddningsverket

■ Hätäkeskuslaitos — Nödcentralverket

- Maahanmuuttovirasto — Migrationsverket
- Sisäasiainhallinnon palvelukeskus — Inrikesförvaltningens servicecentral
- Sosiaali- ja terveysministeriö — Social- och hälsovårdsministeriet
- Työttömyysturvan muutoksenhakulautakunta — Besvärsnämnden för utkomstskyddsärenden
- Sosiaaliturvan muutoksenhakulautakunta — Besvärsnämnden för social trygghet
- 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 produkttillsynscentral

- Sosiaali- ja terveysalan 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
- Energi- ja 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

■ Valtion taloudellinen 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 gränsälvskommissionen
- 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
- Harpsundsnämnden
- Haverikommission, statens
- Historiska museer, statens
- Hjälpmedelsinstitutet
- Hovrätterna
- Hyresnämnder

- Häktena
- 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
- Prestödsnämnden

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

■ Växtingsnämnd, 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

LIST OF THE ACTIVITIES REFERRED TO IN ARTICLE POINT (8)(A) OF ARTICLE
2(1)

In the event of any difference of interpretation between the CPV and the NACE, the CPV nomenclature will apply.

NACE Rev. 1 ⁽¹⁾					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	<p>This class includes:</p> <ul style="list-style-type: none"> — test drilling, test boring and core sampling for construction, geophysical, geological or similar purposes. <p>This class excludes:</p> <ul style="list-style-type: none"> — drilling of production oil or gas wells, see 11.20. — water well drilling, see 45.25, — shaft sinking, see 45.25, — oil and gas field exploration, geophysical, geological and seismic surveying, see 74.20. 	45120000
	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"> — construction of all types of buildings construction of civil engineering constructions, — bridges, including those for elevated highways, viaducts, tunnels and subways, — long-distance pipelines, communication and power lines, — urban pipelines, urban communication and power lines, — ancillary urban works, — assembly and erection of prefabricated constructions on the site. <p>This class excludes:</p> <ul style="list-style-type: none"> — service activities incidental to oil and gas extraction, see 11.20, — erection of complete prefabricated constructions from self-manufactured parts not of concrete, see divisions 20, 26 and 28, — construction work, other than buildings, 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. 	<p>45210000</p> <p>Except:</p> <p>-</p> <p>45213316</p> <p>45220000</p> <p>45231000</p> <p>45232000</p>
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		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"> — construction activities specialising in one aspect common to different kinds of structures, requiring specialised skill or equipment, — construction of foundations, including pile driving, — water well drilling and construction, shaft sinking, — erection of non-self-manufactured steel elements, — steel bending, — bricklaying and stone setting, — scaffolds and work platform erecting and dismantling, including renting of scaffolds and work platforms, — erection of chimneys and industrial ovens. <p>This class excludes:</p> <ul style="list-style-type: none"> — renting of scaffolds without erection and dismantling, see 71.32 	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"> — electrical wiring and fittings, — telecommunications systems, — electrical heating systems, — residential antennas and aerials, — fire alarms, — burglar alarm systems, — lifts and escalators, — lightning conductors, etc. 	<p>45213316</p> <p>45310000</p> <p>Except:</p> <p>-</p> <p>45316000</p>
		45.32	Insulation work activities	<p>This class includes:</p> <ul style="list-style-type: none"> — installation in buildings or other construction projects of thermal, sound or vibration insulation. <p>This class excludes:</p> <ul style="list-style-type: none"> — waterproofing, see 45.22. 	45320000
		45.33	Plumbing	<p>This class includes:</p> <ul style="list-style-type: none"> — installation in buildings or other construction projects of: — plumbing and sanitary equipment, — gas fittings, — heating, ventilation, refrigeration or air-conditioning equipment and ducts, — sprinkler systems. <p>This class excludes:</p> <ul style="list-style-type: none"> — installation of electrical heating systems, see 45.31. 	45330000

		45.34	Other building installation	<p>This class includes:</p> <ul style="list-style-type: none"> — installation of illumination and signalling systems for roads, railways, airports and harbours, — installation in buildings or other construction projects of fittings and fixtures n.e.c. 	<p>45234115</p> <p>45316000</p> <p>45340000</p>
	45.4		Building completion		45400000
		45.41	Plastering	<p>This class includes:</p> <ul style="list-style-type: none"> — application in buildings or other construction projects of interior and exterior plaster or stucco, including related lathing materials. 	45410000
		45.42	Joinery installation	<p>This class includes:</p> <ul style="list-style-type: none"> — installation of not self-manufactured doors, windows, door and window frames, fitted kitchens, staircases, shop fittings and the like, of wood or other materials, — interior completion such as ceilings, wooden wall coverings, movable partitions, etc. <p>This class excludes:</p> <ul style="list-style-type: none"> — laying of parquet and other wood floor coverings, see 45.43. 	45420000

		45.43	Floor and wall covering	<p>This class includes:</p> <ul style="list-style-type: none"> — laying, tiling, hanging or fitting in buildings or other construction projects of: — — ceramic, concrete or cut stone wall or floor tiles, — parquet and other wood floor coverings carpets and linoleum floor coverings, — including of rubber or plastic, — terrazzo, marble, granite or slate floor or wall coverings, — wallpaper. 	45430000
		45.44	Painting and glazing	<p>This class includes:</p> <ul style="list-style-type: none"> — interior and exterior painting of buildings, — painting of civil engineering structures, — installation of glass, mirrors, etc. <p>This class excludes:</p> <ul style="list-style-type: none"> — installation of windows, see 45.42, 	45440000
		45.45	Other building completion	<p>This class includes:</p> <ul style="list-style-type: none"> — installation of private swimming pools, — steam cleaning, sand blasting and similar activities for building exteriors, — other building completion and finishing work n.e.c. <p>This class excludes:</p> <ul style="list-style-type: none"> — interior cleaning of buildings and other structures, see 74.70. 	45212212 and DA04 45450000

	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).

ANNEX III

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 GPA 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:	Inorganic chemicals, organic and inorganic compounds of precious metals, of rare-earth metals, of radioactive 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 84:	Boilers, machinery and mechanical appliances, parts thereof, except: ex 84.06: engines ex 84.08: other engines ex 84.45: machinery ex 84.53: automatic data-processing machines ex 84.55: parts of machines under heading No 84.53 ex 84.59: nuclear reactors
Chapter 85:	Electrical machinery and equipment, parts thereof, except: ex 85.13: telecommunication equipment ex 85.15: transmission apparatus

Chapter 86:	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), except: ex 86.02: armoured locomotives, electric ex 86.03: other armoured locomotives ex 86.05: armoured wagons ex 86.06: repair wagons ex 86.07: wagons
Chapter 87:	Vehicles, other than railway or tramway rolling-stock, and parts thereof, except: ex 87.08: tanks and other armoured vehicles ex 87.01: tractors ex 87.02: military vehicles ex 87.03: breakdown lorries ex 87.09: motorcycles ex 87.14: trailers
Chapter 89:	Ships, boats and floating structures, except: ex 89.01A: warships

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 DESIGN CONTESTS

Tools and devices for the electronic receipt of tenders, requests for participation *as well as* plans and projects in design 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;
- I**
- (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 design 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;
- (ga) *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.*

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ANNEX VI

INFORMATION TO BE INCLUDED IN NOTICES

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 codes.
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.

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 codes; 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 GPA.

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 products, 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 provision 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) electronic submission of tenders or requests to participate will be required/accepted,
 - (b) electronic ordering will be used,

- (c) electronic invoicing will be used,
 - (d) electronic payment will be accepted.
12. Information whether the contract is related to a project and /or programme financed by 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.

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 subparagraphs 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 codes; 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 that 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 and restricted procedures and competitive procedures 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 or restricted procedures 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 therefor, *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 ■ . Except where the most economically advantageous offer is identified on the basis of price alone, 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 to which 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) electronic submission of tenders or requests to participate will be accepted,
 - (b) electronic ordering will be used,
 - (c) electronic invoicing will be accepted,
 - (d) electronic payment will be used.

24. Information whether the contract is related to a project and/or programme financed by 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 GPA.
30. Any other relevant information.

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 codes.
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, 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 or restricted procedures 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 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.

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 subparagraphs 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 codes; 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 design contest (open or restricted).
9. In the event of an open design contest, time limit for the submission of projects.
10. In the event of a restricted design 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.
13. **I**
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 design contest will or will not be awarded to the winner or winners of the design contest.
17. Date of dispatch of the notice.
18. Any other relevant information.

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 codes.
5. Description of the principal characteristics of the project.
6. Value of the prizes.
7. Type of design 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 SMEs.
 - (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.

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 codes.
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 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.

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 ■ .

1a. NUTS code for the main location of works in the case of works or NUTS code for the main place of delivery or performance in the case of supplies and services.

1b. Brief description of the contract in question including CPV codes.

■

9. 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.

■

10. Time limit(s) for contacting the contracting authority in view of participation.
11. Brief description of the main features of the award procedure to be applied.

■

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 ■ .

■

4. *Brief description of the contract in question including the estimated total value of the contract and CPV codes* ■ .

5. *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 supplies, 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.*

5a. *A reference to the fact that interested economic operators shall advise the contracting authority of their interest in the contract or contracts and time limits for receipt of expressions of interest and address to which expressions of interest shall be transmitted.*

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 codes.***
 - 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.***
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ANNEX VII

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.

ANNEX VIII

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) "standard" means a technical specification, adopted by a recognised standardisation body, for repeated or continuous application, with which compliance is not compulsory, and which is one of the following:
- (a) "international standard" means a standard adopted by an international standardisation organisation and made available to the general public,
 - (b) "European standard" means a standard adopted by a European standardisation organisation and made available to the general public,
 - (c) "national standard" means a standard adopted by a national standardisation 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 point 12 of Article 2 of Regulation (EU) No 305/2011 of the European Parliament and of the Council***¹;
- (4) "common technical specification" means a technical specification ***in the field of ICT*** laid down in accordance with Articles 13 and 14 of ***Regulation (EU) 1025/2012***;
- (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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¹ ***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 and repealing Council Directive 89/106/EEC (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 shall 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 shall 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 subparagraphs 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, TO 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 57a** and, where appropriate, Article 61 or to supplement the information referred to in those Articles, and under the conditions laid down in Articles **57a** 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.

That 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 procedure 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)*

- ILO Convention 87 on Freedom of Association and the Protection of the Right to Organise;
- ILO Convention 98 on the Right to Organise and Collective Bargaining;
- ILO Convention 29 on Forced Labour;
- ILO Convention 105 on the Abolition of Forced Labour;
- ILO Convention 138 on Minimum Age;
- ILO Convention 111 on Discrimination (Employment and Occupation);
- ILO Convention 100 on Equal Remuneration;
- ILO 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.
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ANNEX XII

REGISTERS¹

- 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";

¹ 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 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;
- 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 Croatia, the "Sudski registar" and the "Obrtni registrar" 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 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' kummerc", 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 "Registo 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.
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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 and outcome 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;
- (ca) ***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.
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ANNEX XV

LIST OF UNION LEGAL ACTS REFERRED TO IN ARTICLE 67(3)

Directive 2009/33/EC

ANNEX XVI

SERVICES REFERRED TO IN ARTICLE 74

<i>CPV Code</i>	<i>Description</i>
<p><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; 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]</i></p>	<p><i>Health, social and related services</i></p>

<p>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</p> <p>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]</p>	<p><i>Administrative social, educational, healthcare and cultural services</i></p>
<p>75300000-9</p>	<p><i>Compulsory social security services¹</i></p>
<p>75310000-2, 75311000-9, 75312000-6, 75313000-3, 75313100-4, 75314000-0, 75320000-5, 75330000-8, 75340000-1</p>	<p><i>Benefit services</i></p>
<p>98000000-3; 98120000-0; 98132000-7; 98133110-8 and 98130000-3</p>	<p><i>Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services</i></p>

¹ *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.*

98131000-0	<i>Religious services</i>
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	<i>Hotel and restaurant services</i>
79100000-5 to 79140000-7; 75231100-5;	<i>Legal services, to the extent not excluded pursuant to point (ca) of Article 10</i>
75100000-7 to 75120000-3; 75123000-4; 75125000-8 to 75131000-3	<i>Other administrative services and government services</i>
75200000-8 to 75231000-4	<i>Provision of services to the community</i>
75231210-9 to 75231230-5; 75240000-0 to 75252000-7; 794300000-7; 98113100-9	<i>Prison related services, public security and rescue services to the extent not excluded pursuant to point (ea) of Article 10</i>

<p>79700000-1 to 79721000-4 <i>[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]</i> 79722000-1<i>[Graphology services]</i>, 79723000-8 <i>[Waste analysis services]</i></p>	<p><i>Investigation and security services</i></p>
<p>98900000-2 <i>[Services provided by extra-territorial organisations and bodies]</i> and 98910000-5 <i>[Services specific to international organisations and bodies]</i></p>	<p><i>International services</i></p>
<p>64000000-6 <i>[Postal and telecommunications services]</i>, 64100000-7 <i>[Post and courier services]</i>, 64110000-0 <i>[Postal services]</i>, 64111000-7 <i>[Postal services related to newspapers and periodicals]</i>, 64112000-4 <i>[Postal services related to letters]</i>, 64113000-1 <i>[Postal services related to parcels]</i>, 64114000-8 <i>[Post office counter services]</i>, 64115000-5 <i>[Mailbox rental]</i>, 64116000-2 <i>[Post-restante services]</i>, 64122000-7 <i>[Internal office mail and messenger services]</i></p>	<p><i>Postal services</i></p>
<p>50116510-9 <i>[Tyre-remoulding services]</i>, 71550000-8 <i>[Blacksmith services]</i></p>	<p><i>Miscellaneous services</i></p>

ANNEX XVII

CORRELATION TABLE

This Directive	Directive 2004/18/EC
Art. 1, par. 1, 2, 4, 5 and 6	
Art. 1, par. 3	Art. 10
Art. 2, par 1, point (1)	Art. 1, par. 9, 1 st subparagraph
Art. 2, par 1, point (2)	Art. 7, point (a)
Art. 2, par 1, point (3)	
Art. 2, par 1, point (6) (a)	Art. 1, par. 9, 2 nd subparagraph, point (a)
Art. 2, par 1, point (6) (b)	Art. 1, par. 9, 2 nd subparagraph, point (b)
Art. 2, par 1, point (6) (c)	Art. 1, par. 9, 2 nd subparagraph, point (c)
Art. 2, par 1, point (7)	Art. 1, par. 2, point (a)
Art. 2, par 1, point (8)	Art. 1, par. 2, point (b), 1 st sentence
Art. 2 par 1, point (9)	Art. 1, par. 2, point (b), 2 nd sentence
Art. 2, par 1, point (10)	Art. 1, par. 2, point (c)
Art. 2, par 1, point (11)	Art. 1, par. 2, point (d)
Art. 2, par 1, point (12)	Art. 1, par. 8, 2 nd subparagraph
Art. 2, par 1, point (13)	Art. 1, par. 8, 3 rd subparagraph
Art. 2, par 1, point (14)	Art. 1, par. 8, 3 rd subparagraph
Art. 2, par 1, point (15)	Art. 23, par. 1
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