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European Union

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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 258 final
Subject:	ANNEX to the Proposal for a Council Decision on the position to be taken on behalf of the European Union, in the Association Committee meeting in trade configuration established by the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other, concerning the update of Annex III (Approximation) concerning rules applicable to standardisation, accreditation, conformity assessment, technical regulation and metrology, and Annex XVI (Public Procurement) to the Agreement

Delegations will find attached document COM(2018) 258 final.

Encl.: COM(2018) 258 final

Brussels, 4.5.2018
COM(2018) 258 final

ANNEX

ANNEX

to the

Proposal for a Council Decision

on the position to be taken on behalf of the European Union, in the Association Committee meeting in trade configuration established by the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other, concerning the update of Annex III (Approximation) concerning rules applicable to standardisation, accreditation, conformity assessment, technical regulation and metrology, and Annex XVI (Public Procurement) to the Agreement

ATTACHMENT

DRAFT

**DECISION No 1/2018 OF THE EU-GEORGIA ASSOCIATION COMMITTEE IN
TRADE CONFIGURATION**

of ...2018

updating Annex III-A to the Association Agreement

THE ASSOCIATION COMMITTEE IN TRADE CONFIGURATION,

Having regard to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, signed in Brussels on 16 June 2014, and in particular Article 47 thereof,

Whereas:

- (1) In accordance with Article 431 of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States of the one part, and Georgia, of the other part ('the Agreement'), the Agreement, entered into force on 1 July 2016.
- (2) Article 47 of the Agreement provides that Georgia shall gradually achieve approximation with the relevant Union *acquis* in accordance with the provisions of Annex III-A and Annex III-B to the Agreement and that the Association committee may amend Annex III-A to the agreement by decision.
- (3) Several Union acts listed in Annex III-A to the Agreement have been recast or repealed and replaced by new Union acts since the initialling of the Agreement on 29 November 2013 and new Union acts have been notified to Georgia.
- (4) It is necessary to update Annex III-A to the Agreement in order to reflect the evolution of the Union *acquis* listed in that Annex. In the interest of clarity, Annex III-A to the Agreement should be updated in its entirety.
- (5) It is appropriate to provide for a period to Georgia in order to implement the new Union acts in its domestic legislation. Accordingly, new deadlines for approximation of Georgia to the Union acts listed in Annex III-A are indicated therein,

HAS ADOPTED THIS DECISION:

Article 1

Annex III-A, to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States of the one part, and Georgia, of the other part, is hereby replaced as set out in the Appendix to this Decision.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at ..., ...

*For the Association Committee
in Trade configuration*

The Chair

UPDATE OF ANNEX III-A TO THE ASSOCIATION AGREEMENT

Annex III-A is hereby replaced and shall read as follows:

LIST OF SECTORAL LEGISLATION FOR APPROXIMATION

The below list reflects Georgia's priorities with regard to approximation of EU's New Approach and Global Approach Directives as included in the Government of Georgia's Strategy in Standardisation, Accreditation, Conformity Assessment, Technical Regulation and Metrology and Programme on Legislative Reform and Adoption of Technical Regulations, of March 2010.

1.	Regulation (EU) 2016/424 of the European Parliament and of the Council of 9 March 2016 on cableway installations and repealing Directive 2000/9/EC ¹ Timetable: within five years after the entry into force of this Agreement
2.	Directive 2014/33/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to lifts and safety components for lifts (recast) ² Timetable: within five years after the entry into force of this Agreement
3.	Directive 2014/68/EU of the European Parliament and of the Council of 15 May 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of pressure equipment (recast) ³ Timetable: within five years after the entry into force of this Agreement
4.	Council Directive 92/42/EEC of 21 May 1992 on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels ⁴ Timetable: during 2013
5.	Directive 2014/29/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of simple pressure vessels (recast) ⁵ Timetable: within five years after the entry into force of this Agreement
6.	Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013 on recreational craft and personal watercraft and repealing Directive 94/25/EC ⁶ Timetable: within five years after the entry into force of this Agreement
7.	Commission Directive 2008/43/EC of 4 April 2008 setting up, pursuant to Council Directive 93/15/EEC, a system for the identification and traceability of explosives for civil uses ⁷

¹ OJ L 81, 31.3.2016, p. 1.

² OJ L 96, 29.3.2014, p. 251.

³ OJ L 189, 27.6.2014, p. 164.

⁴ OJ L 167, 22.6.1992, p. 16.

⁵ OJ L 96, 29.3.2014, p. 45.

⁶ OJ L 354, 28.12.2013, p. 90.

	Timetable: within five years after the entry into force of this Agreement
8.	Directive 2014/34/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to equipment and protective systems intended for use in potentially explosive atmospheres (recast) ⁸
	Timetable: within five years after the entry into force of this Agreement
9.	Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC ⁹
	Timetable: within five years after the entry into force of this Agreement
10.	Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to electromagnetic compatibility (recast) ¹⁰
	Timetable: within eight years after the entry into force of this Agreement
11.	Directive 2014/35/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits (recast) ¹¹
	Timetable: within eight years after the entry into force of this Agreement
12.	Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC ¹²
	Timetable: within eight years after the entry into force of this Agreement
13.	Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU ¹³
	Timetable: within eight years after the entry into force of this Agreement
14.	Regulation (EU) 2016/426 of the European Parliament and of the Council of 9 March 2016 on appliances burning gaseous fuels and repealing Directive 2009/142/EC ¹⁴
	Timetable: within five years after the entry into force of this Agreement
15.	Regulation (EU) 2016/425 of the European Parliament and of the Council of 9 March 2016 on personal protective equipment and repealing Council Directive 89/686/EEC ¹⁵
	Timetable: within five years after the entry into force of this Agreement
16.	Directive 98/37/EC of the European Parliament and of the Council of 22 June 1998 on the approximation of the laws of the Member States relating to machinery ¹⁶

⁷ OJ L 94, 5.4.2008, p. 8.

⁸ OJ L 96, 29.3.2014, p. 309.

⁹ OJ L 153, 22.5.2014, p. 62.

¹⁰ OJ L 96, 29.3.2014, p. 79.

¹¹ OJ L 96, 29.3.2014, p. 357.

¹² OJ L 117, 5.5.2017, p. 1.

¹³ OJ L 117, 5.5.2017, p. 176.

¹⁴ OJ L 81, 31.3.2016, p. 99.

¹⁵ OJ L 81, 31.3.2016, p. 51.

¹⁶ OJ L 207, 23.7.1998, p. 1.

	Timetable: within five years after the entry into force of this Agreement
17.	Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys ¹⁷
	Timetable: within five years after the entry into force of this Agreement
18.	Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonized conditions for the marketing of construction products and repealing Council Directive 89/106/EEC ¹⁸
	Timetable: within eight years after the entry into force of this Agreement
19.	Directive 2014/31/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of non-automatic weighing instruments (recast) ¹⁹
	Timetable: within eight years after the entry into force of this Agreement
20.	Directive 2014/32/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of measuring instruments (recast) ²⁰
	Timetable: within eight years after the entry into force of this Agreement

¹⁷ OJ L 170, 30.6.2009, p. 1.

¹⁸ OJ L 88, 4.4.2011, p. 5.

¹⁹ OJ L 96, 29.3.2014, p. 107.

²⁰ OJ L 96, 29.3.2014, p. 149.

DRAFT

**DECISION No 2/2018 OF THE EU-GEORGIA ASSOCIATION COMMITTEE IN
TRADE CONFIGURATION**

of ...2018

updating Annex XVI to the Association Agreement

THE ASSOCIATION COMMITTEE IN TRADE CONFIGURATION,

Having regard to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, signed in Brussels on 16 June 2014, and in particular Article 142, Article 146 and Article 408 thereof,

Having regard to Association Council Decision No. 3/2014 of 17 November 2014 on the delegation of certain powers by the Association Council to the Association Committee in trade Configuration²¹

Whereas:

- (1) In accordance with Article 431 of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States of the one part, and Georgia, of the other part ('the Agreement'), the Agreement, entered into force on 1 July 2016.
- (2) Article 142 of the Agreement provides that the value thresholds for public procurement contracts provided for in Annex XVI-A are to be revised regularly, beginning in the year of entry into force of the Agreement and such revision is to be adopted by decision of the Association Committee in Trade configuration.
- (3) Article 406(3) of the Agreement provides that the EU-Georgia Association Council shall have the power to update or amend the Annexes to the Agreement. The Association Council empowered the Association Committee in trade Configuration in its Decision No. 1/2014 of 17 November 2014 to update or amend certain trade-related annexes.
- (4) Article 146 of the Agreement provides that Georgia is to ensure that its public procurement legislation is gradually made compatible with the relevant Union *acquis*, in line with the schedule provided in Annex XVI-B to the Agreement.
- (5) Several Union acts listed in Annex XVI to the Agreement have been recast or repealed and replaced by a new Union act since the initialling of the Agreement on 29 November 2013 and new Union acts have been notified to Georgia:
 - (a) Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts²²
 - (b) Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC²³

²¹ OJ L 9, 5.1.2015, p. 31.

²² OJ L 94, 28.3.2014, p. 1.

²³ OJ L 94, 28.3.2014, p. 65.

- (c) Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC²⁴
- (6) It is necessary to update Annex XVI to the Agreement in order to reflect the changes made to the Union *acquis* listed in that Annex, in accordance with Article 142, Article 146.
- (7) In the interest of clarity, Annex XVI should be updated in its entirety and replaced as set out in the Appendix to this Decision.

HAS ADOPTED THIS DECISION:

Article 1

Annex XVI to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States of the one part, and Georgia, of the other part, is hereby replaced by the Annex set out in the Appendix to this Decision.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at ..., ...

*For the Association Committee
in Trade configuration*

The Chair

²⁴ OJ L 94, 28.3.2014, p. 243.

UPDATE OF ANNEX XVI TO THE AGREEMENT

PUBLIC PROCUREMENT

ANNEX XVI-A

THRESHOLDS

1. The value thresholds mentioned in Article 142(3) of this Agreement shall be for both Parties:
 - (a) EUR 144.000 for public supply and service contracts awarded by central government authorities and design contests awarded by such authorities;
 - (b) EUR 221.000 in the case of public supply and public service contracts not covered by point a);
 - (c) EUR 5.548.000 in the case of public works contracts;
 - (d) EUR 5.548.000 in the case of works contracts in the utilities sector;
 - (e) EUR 5.548.000 in the case of concessions;
 - (f) EUR 443.000 in the case of supply and service contracts in the utilities sector;
 - (g) EUR 750.000 for public service contracts for social and other specific services;
 - (h) EUR 1.000.000 for service contracts for social and other specific services in the utilities sector.

ANNEX XVI-B

INDICATIVE TIME SCHEDULE FOR INSTITUTIONAL REFORM, APPROXIMATION AND MARKET ACCESS

Phase		Indicative time schedule	Market access granted to the EU by Georgia	Market access granted to Georgia by the EU	
1	Implementation of Articles 143(2) and 144 of this Agreement Agreement of the Reform Strategy set out in Article 145 of this Agreement	Three years after the entry into force of this Agreement	Supplies for central government authorities	Supplies for central government authorities	
2	Approximation and implementation of basic elements of Directive 2014/24/EU and of Directive 89/665/EEC	Five years after the entry into force of this Agreement	Supplies for state, regional and local authorities and bodies governed by public law	Supplies for state, regional and local authorities and bodies governed by public law	Annexes XVI-C and XVI-D
3	Approximation and implementation of basic elements of Directive 2014/25/EU and of Directive 92 /13/EEC	Six years after the entry into force of this Agreement	Supplies for all contracting entities in the utilities sector	Supplies for all contracting entities	Annexes XVI-E and XVI-F
4	Approximation and implementation of other elements of Directive 2014/24/EU and of Directive 2014/23/EU	Seven years after the entry into force of this Agreement	Service and works contracts and concessions for all contracting authorities	Service and works contracts and concessions for all contracting authorities	Annexes XVI-G, XVI-H, and XVI-I
5	Approximation and implementation of other elements of Directive 2014/25/EU	Eight years after the entry into force of this Agreement	Service and works contracts for all contracting entities in the utilities sector	Service and works contracts for all contracting entities in the utilities sector	Annexes XVI-J, and XVI-K

ANNEX XVI-C
BASIC ELEMENTS OF DIRECTIVE 2014/24/EU
of 26 February 2014 on public procurement
(Phase 2)

TITLE I

Scope, definitions and general principles

CHAPTER I

Scope and definitions

Section 1 – Subject-matter and definitions

Article 1 Subject-matter and scope: paragraphs 1, 2, 5 and 6

Article 2 Definitions: paragraphs 1, point (1), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (18), (19), (20), (22), (23), (24)

Article 3 Mixed procurement

Section 2 - Thresholds

Article 4 Threshold amounts

Article 5 Methods for calculating the estimated value of procurement

Section 3 - Exclusions

Article 7 Contracts in the water, energy, transport and postal services sectors

Article 8 Specific exclusions in the field of electronic communications

Article 9 Public contracts awarded and design contests organised pursuant to international rules

Article 10 Specific exclusions for service contracts

Article 11 Service contracts awarded on the basis of an exclusive right

Article 12 Public contracts between entities within the public sector

Section 4 – Specific situations

Subsection 1: Subsidised contracts and research and development services

Article 13 Contracts subsidised by contracting authorities

Article 14 Research and development services

Subsection 2: Procurement involving defence and security aspects

Article 15 Defence and security

Article 16 Mixed procurement involving defence or security aspects

Article 17 Public contracts and design contests involving defence or security aspects which are awarded or organised pursuant to international rules

CHAPTER II

General Rules

Article 18	Principles of procurement
Article 19	Economic operators
Article 21	Confidentiality
Article 22	Rules applicable to communication: paragraphs 2-6
Article 23	Nomenclatures
Article 24	Conflicts of interest

TITLE II

Rules on public contracts

CHAPTER I

Procedures

Article 26	Choice of procedures: paragraphs 1, 2, first alternative of paragraph 4, 5, 6
Article 27	Open procedure
Article 28	Restricted procedure
Article 29	Competitive procedure with negotiation
Article 32	Use of the negotiated procedure without prior publication

CHAPTER III

Conduct of the procedure

Section 1 – Preparation

Article 40	Preliminary market consultations
Article 41	Prior involvement of candidates or tenderers
Article 42	Technical specifications
Article 43	Labels
Article 44	Test reports, certification and other means of proof: paragraphs 1, 2
Article 45	Variants
Article 46	Division of contracts into lots
Article 47	Setting time limits

Section 2 – Publication and transparency

Article 48	Prior information notices
Article 49	Contract notices
Article 50	Contract award notices: paragraphs 1 and 4
Article 51	Form and manner of publication of notices: 1 st subparagraph of paragraph 1, 1 st subparagraph of paragraph 5
Article 53	Electronic availability of procurement documents

Article 54 Invitations to candidates

Article 55 Informing candidates and tenderers

Section 3 – Choice of participants and award of contracts

Article 56 General principles

Subsection 1: Criteria for qualitative selection

Article 57 Exclusion grounds

Article 58 Selection criteria

Article 59 European Single Procurement Document: paragraph 1 *mutatis mutandis*, paragraph 4

Article 60 Means of proof

Article 62 Quality assurance standards and environmental management standards: paragraphs 1 and 2

Article 63 Reliance on the capacities of other entities

Subsection 2: Reduction of numbers of candidates, tenders and solutions

Article 65 Reduction of the number of otherwise qualified candidates to be invited to participate

Article 66 Reduction of the number of tenders and solutions

Subsection 3: Award of the contract

Article 67 Contract award criteria

Article 68 Life-cycle costing: paragraphs 1 and 2

Article 69 Abnormally low tenders: paragraphs 1 - 4

CHAPTER IV

Contract performance

Article 70 Conditions for performance of contracts

Article 71 Subcontracting

Article 72 Modification of contracts during their term

Article 73 Termination of contracts

TITLE III

Particular procurement regimes

CHAPTER I

Article 74 Award of contracts for social and other specific services

Article 75 Publication of notices

Article 76 Principles of awarding contracts

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ANNEX II	LIST OF THE ACTIVITIES REFFERED TO IN POINT 6(a) OF ARTICLE 2(1)
ANNEX III	LIST OF PRODUCTS REFFERED TO IN ARTICLE 4(b) WITH REGARD TO CONTRACTS AWARDED CONTRACTING AUTHORITIES IN THE FIELD OF DEFENCE
ANNEX IV	REQUIREMENTS RELATING TO TOOLS AND DEVICES FOR THE ELECTRONIC RECEIPT OF TENDERS, REQUESTS FOR PARTICIPATION AS WELL AS PLANS AND PROJECTS IN CONTESTS
ANNEX V	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
	Part B: INFORMATION TO BE INCLUDED IN PRIOR INFORMATION NOTICES (as referred to in Article 48)
	Part C: INFORMATION TO BE INCLUDED IN CONTRACT NOTICES (as referred to in Article 49)
	Part D: INFORMATION TO BE INCLUDED IN CONTRACT AWARD NOTICES (as referred to in Article 50)
	Part G: INFORMATION TO BE INCLUDED IN NOTICES OF MODIFICATIONS OF A CONTRACT DURING ITS TERM (as referred to in Article 72(1))
	Part H: INFORMATION TO BE INCLUDED IN CONTRACT NOTICES CONCERNING CONTRACTS FOR SOCIAL AND OTHER SPECIFIC SERVICES (as referred to in Article 75(1))
	Part I: INFORMATION TO BE INCLUDED IN PRIOR INFORMATION NOTICES FOR SOCIAL AND OTHER SPECIFIC SERVICES (as referred to in Article 75(1))
	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))
ANNEX VII	DEFINITION OF CERTAIN TECHNICAL SPECIFICATIONS
ANNEX IX	CONTENTS OF THE INVITATIONS TO SUBMIT A TENDER, TO PARTICIPATE IN THE DIALOGUE OR TO CONFIRM INTEREST PROVIDED FOR UNDER ARTICLE 54
ANNEX X	LIST OF INTERNATIONAL SOCIAL AND ENVIRONMENTAL CONVENTIONS REFERRED TO IN ARTICLE 18(2)
ANNEX XII	MEANS OF PROOF OF SELECTION CRITERIA
ANNEX XIV	SERVICES REFFERED TO IN ARTICLE 74

ANNEX XVI-D

BASIC ELEMENTS OF 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 (Directive 89/665/EEC)

**as amended by Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts (Directive 2007/66/EC) and by Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (Directive 2014/23/EU)²⁵
(Phase 2)**

Article 1	Scope and availability of review procedures
Article 2	Requirements for review procedures
Article 2a	Standstill period
Article 2b	Derogations from the standstill period Point (b) of the first paragraph of Article 2b
Article 2c	Time limits for applying for review
Article 2d	Ineffectiveness Paragraph 1(b) Paragraph 2 and 3
Article 2e	Infringements of this Directive and alternative penalties
Article 2f	Time limits

²⁵ Georgian legislation implementing Annex XVI-D shall become effective with regard to review procedures relating to award of concessions (Directive 2014/23/EU) as from phase 4.

ANNEX XVI-E
BASIC ELEMENTS OF DIRECTIVE 2014/25/EU
of 26 February 2014 on procurement by entities operating in the water, energy,
transport and postal services sectors
(Phase 3)

TITLE I

Scope, definitions and general principles

CHAPTER I

Subject-matter and definitions

- | | |
|-----------|--|
| Article 1 | Subject-matter and scope: paragraphs 1, 2, 5 and 6 |
| Article 2 | Definitions: points 1-9, 13-16 and 18-20 |
| Article 3 | Contracting authorities (paragraphs 1 and 4) |
| Article 4 | Contracting entities: paragraphs 1-3 |
| Article 5 | Mixed procurement covering the same activity |
| Article 6 | Procurement covering several activities |

CHAPTER II

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- | | |
|------------|--|
| Article 7 | Common provisions |
| Article 8 | Gas and heat |
| Article 9 | Electricity |
| Article 10 | Water |
| Article 11 | Transport services |
| Article 12 | Ports and airports |
| Article 13 | Postal services |
| Article 14 | Extraction of oil and gas and exploration for, or extraction of, coal or other solid fuels |

CHAPTER III

Material scope

Section 1 – Thresholds

- | | |
|------------|--|
| Article 15 | Threshold amounts |
| Article 16 | Methods for calculating the estimated value of procurement: paragraph 1-4 and 7-14 |

Section 2 – Excluded contracts and design contests: Special provisions for procurement involving defence and security aspects

Subsection 1: Exclusions applicable to all contracting entities and special exclusions for the water and energy sector

- Article 18 Contracts awarded for purposes of resale or lease to third parties: paragraph 1
- Article 19 Contracts and design contests awarded or organised for purposes other than the pursuit of a covered activity or for the pursuit of such an activity in a third country: paragraph 1
- Article 20 Contracts awarded and design contests organised pursuant to international rules
- Article 21 Specific exclusions for service contracts
- Article 22 Service contracts awarded on the basis of an exclusive right
- Article 23 Contracts awarded by certain contracting entities for the purchase of water and for the supply of energy or of fuels for the production of energy
- Subsection 2: Procurement involving defence and security aspects
- Article 24 Defence and security
- Article 25 Mixed procurement covering the same activity and involving defence and security aspects
- Article 26 Procurement covering several activities and involving defence and security aspects
- Article 27 Contracts and design contests involving defence or security aspects which are awarded or organised pursuant to international rules
- Subsection 3: Special relations (cooperation, affiliated undertakings and joint ventures)
- Article 28 Contracts between contracting authorities
- Article 29 Contracts awarded to an affiliated undertaking
- Article 30 Contracts awarded to a joint venture or to a contracting entity forming part of a joint venture
- Subsection 4: Specific situations
- Article 32 Research and development services

CHAPTER IV

General principles

- Article 36 Principles of procurement
- Article 37 Economic operators
- Article 39 Confidentiality
- Article 40 Rules applicable to communication
- Article 41 Nomenclatures
- Article 42 Conflicts of interest

TITLE II

Rules applicable to contracts

CHAPTER I

Procedures

Article 44	Choice of procedures: paragraphs 1, 2, 4
Article 45	Open procedure
Article 46	Restricted procedure
Article 47	Negotiated procedure with prior call for competition
Article 50	Use of the negotiated procedure without prior call for competition: point (a) – (i)

CHAPTER III

Conduct of the procedure

Section 1 – Preparation

Article 58	Preliminary market consultations
Article 59	Prior involvement of candidates or tenderers
Article 60	Technical specifications
Article 61	Labels
Article 62	Test reports, certification and other means of proof
Article 63	Communication of technical specifications
Article 64	Variants
Article 65	Division of contracts into lots
Article 66	Setting time limits

Section 2 – Publication and transparency

Article 67	Periodic indicative notices
Article 68	Notices on the existence of a qualification system
Article 69	Contract notices
Article 70	Contract award notices: paragraphs 1, 3, 4
Article 71	Form and manner of publication of notices: paragraph 1, 1st subparagraph of paragraph 5
Article 73	Electronic availability of procurement documents
Article 74	Invitations to candidates
Article 75	Informing applicants for qualification, candidates and tenderers

Section 3 – Choice of participants and award of contract

Article 76	General principles
Subsection 1: Qualification and qualitative selection	
Article 78	Criteria for qualitative selection
Article 79	Reliance on the capacities of other entities: paragraph 2

- Article 80 Use of exclusion grounds and selection criteria provided for under Directive 2014/24/EU
- Article 81 Quality assurance standards and environmental management standards: paragraphs 1, 2
- Subsection 2: Award of the contract
- Article 82 Contract award criteria
- Article 83 Life-cycle costing: paragraphs 1 and 2
- Article 84 Abnormally low tenders: paragraphs 1-4

CHAPTER IV: Contract performance

- Article 87 Conditions for performance of contracts
- Article 88 Subcontracting
- Article 89 Modification of contracts during their term
- Article 90 Termination of contracts

TITLE III

Particular procurement regimes

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Social and other specific services

- Article 91 Award of contracts for social and other specific services
- Article 92 Publication of notices
- Article 93 Principles of awarding contracts

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- ANNEX I List of activities as set out in point (a) of point 2 of Article 2
- ANNEX V Requirement relating to tools and devices for the electronic receipt of tenders, requests to participate, applications for qualification as well as plans and projects in contests
- ANNEX VI A Information to be included in the periodic indicative notice (as referred to in Article 67)
- ANNEX VI B Information to be included in notices of publication of a periodic indicative notice on a buyer profile not used as a means of calling for competition (as referred to in Article 67(1))
- ANNEX VIII Definition of certain technical specifications
- ANNEX IX Features concerning publication
- ANNEX X Information to be included in the notice on the existence of a qualification system (as referred to in point (b) of Article 44(4) and in Article 68)
- ANNEX XI Information to be included in contract notices (as referred to in Article 69)

- ANNEX XII Information to be included in the contract award notice (as referred to in Article 70)
- ANNEX XIII Contents of the invitations to submit a tender, to participate in the dialogue, to negotiate or to confirm interest provided for under Article 74
- ANNEX XIV List of International Social and Environmental Conventions referred to in Article 36(2)
- ANNEX XVI Information to be included in notices of modifications of a contract during its term (as referred to in Article 89(1))
- ANNEX XVII Services referred to in Article 91
- ANNEX XVIII Information to be included in notices concerning contracts for social and other specific services (as referred to in Article 92)

ANNEX XVI-F

BASIC ELEMENTS OF COUNCIL DIRECTIVE 92/13/EEC

of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (Directive 92/13/EEC)

as amended by Directive 2007/66/EC and Directive 2014/23/EU²⁶

(Phase 3)

Article 1	Scope and availability of review procedures
Article 2	Requirements for review procedures
Article 2a	Standstill period
Article 2b	Derogations from the standstill period Point (b) of the first paragraph of Article 2b
Article 2c	Time limits for applying for review
Article 2d	Ineffectiveness Paragraph 1 (b) Paragraphs 2 and 3
Article 2e	Infringements of this Directive and alternative penalties
Article 2f	Time limits

²⁶ Georgian legislation implementing Annex XVI-F shall become effective with regard to review procedures relating to award of concessions (Directive 2014/23/EU) as from phase 4.

ANNEX XVI-G

(Phase 4)

I. OTHER NON-MANDATORY ELEMENTS OF DIRECTIVE 2014/24/EU

The elements of Directive 2014/24/EU set out in this Annex are not mandatory but recommended for approximation. Georgia may approximate these elements within the time-frame set in Annex XVI-B

TITLE I

Scope, definitions and general principles

CHAPTER I

Scope and definitions

Section 1 – Subject-matter and definitions

Article 2 Definitions (paragraph 1, point (14), (16))

Article 20 Reserved contracts

CHAPTER II

Techniques and instruments for electronic and aggregated procurement

Article 37 Centralised purchasing activities and central purchasing bodies

CHAPTER III

Conduct of the procedure

Section 3 – Choice of participants and award of contracts

Article 64 Official lists of approved economic operators and certification by bodies established under public or private law

TITLE III

Particular procurement regimes

CHAPTER I

Article 77 Reserved contracts for certain services

II. NON-MANDATORY ELEMENTS OF DIRECTIVE 2014/23/EU

The elements of Directive 2014/23/EU set out in this Annex are not mandatory but recommended for approximation. Georgia may approximate these elements within the time-frame set in Annex XVI-B

TITLE I

Subject matter, scope, principles and definitions

CHAPTER I

Scope, general principles and definitions

Section IV – Specific situations

ANNEX XVI-H

(Phase 4)

I. OTHER MANDATORY ELEMENTS OF DIRECTIVE 2014/24/EU

TITLE I

Scope, definitions and general principles

CHAPTER I

Scope and definitions

Section 1 – Subject-matter and definitions

Article 2 Definitions (paragraph 1 point (21))

Article 22 Rules applicable to communication: paragraph 1

TITLE II

Rules on public contracts

CHAPTER I

Procedures

Article 26 Choice of procedures: paragraph 3, second alternative of paragraph 4

Article 30 Competitive dialogue

Article 31 Innovation Partnership

CHAPTER II

Techniques and instruments for electronic and aggregated procurement

Article 33 Framework agreements

Article 34 Dynamic purchasing systems

Article 35 Electronic auctions

Article 36 Electronic catalogues

Article 38 Occasional joint procurement

CHAPTER III

Conduct of the procedure

Section 2 – Publication and Transparency

Article 50 Contract award notices: paragraphs 2 and 3

TITLE III

Particular procurement regimes

CHAPTER II

Rules governing design contests

Article 78	Scope
Article 79	Notices
Article 80	Rules on the organisation of design contests and the selection of participants
Article 81	Composition of the jury
Article 82	Decisions of the jury

ANNEXES

ANNEX V INFORMATION TO BE INCLUDED IN NOTICES

Part E: INFORMATION TO BE INCLUDED IN DESIGN CONTEST NOTICES (as referred to in Article 79(1))

Part F: INFORMATION TO BE INCLUDED IN NOTICES OF THE RESULTS OF A CONTEST (as referred to in Article 79(2))

ANNEX VI INFORMATION TO BE INCLUDED IN THE PROCUREMENT DOCUMENTS RELATING TO ELECTRONIC AUCTIONS (ARTICLE 35(4))

II. MANDATORY ELEMENTS OF DIRECTIVE 2014/23/EU

TITLE I

Subject matter, scope, principles and definitions

CHAPTER I

Scope, general principles and definitions

Section I – Subject-matter, scope, general principles, definitions and threshold

Article 1	Subject-matter and scope: paragraphs 1, 2 and 4
Article 2	Principle of free administration by public authorities
Article 3	Principle of equal treatment, non-discrimination and transparency
Article 4	Freedom to define services of general economic interest
Article 5	Definitions
Article 6	Contracting authorities: paragraphs 1 and 4
Article 7	Contracting entities
Article 8	Threshold and methods for calculating the estimated value of concessions

Section II - Exclusions

Article 10	Exclusions applicable to concessions awarded by contracting authorities and contracting entities
Article 11	Specific exclusions in the field of electronic communications
Article 12	Specific exclusions in the field of water
Article 13	Concessions awarded to an affiliated undertaking
Article 14	Concessions awarded to a joint venture or to a contracting entity forming part of a joint venture
Article 17	Concessions between entities within the public sector

Section III – General provisions

- Article 18 Duration of the concession
- Article 19 Social and other specific services
- Article 20 Mixed contracts
- Article 21 Mixed procurement contracts involving defence or security aspects
- Article 22 Contracts covering both activities referred to in Annex II and other activities
- Article 23 Concessions covering both activities referred to in Annex II and activities involving defence or security aspects
- Article 25 Research and development services

CHAPTER II

Principles

- Article 26 Economic operators
- Article 27 Nomenclatures
- Article 28 Confidentiality
- Article 29 Rules applicable to communication

TITLE II

Rules on the award of concessions: General principles and procedural guarantees

CHAPTER I

General principles

- Article 30 General principles: paragraphs 1, 2 and 3
- Article 31 Concession notices
- Article 32 Concession award notices
- Article 33 Form and manner of publication of notices: 1st subparagraph of paragraph 1
- Article 34 Electronic availability of concession documents
- Article 35 Combating corruption and preventing conflicts of interest

CHAPTER II

Procedural guarantees

- Article 36 Technical and functional requirements
- Article 37 Procedural guarantees
- Article 38 Selection of and qualitative assessment of candidates
- Article 39 Time limits for receipt of applications and tenders for the concession
- Article 40 Provision of information to candidates and tenderers
- Article 41 Award criteria

TITLE III

Rules on performance of concessions

- Article 42 Subcontracting
- Article 43 Modification of contracts during their term
- Article 44 Termination of concessions
- Article 45 Monitoring and Reporting

ANNEXES

- ANNEX I LIST OF THE ACTIVITIES REFERRED TO IN POINT (7) OF ARTICLE 5
- ANNEX II ACTIVITIES EXERCISED BY CONTRACTING ENTITIES AS REFERRED TO IN ARTICLE 7
- ANNEX III LIST OF LEGAL ACTS OF THE UNION REFERRED TO IN POINT (B) OF ARTICLE 7(2)
- ANNEX IV SERVICES REFERRED TO IN ARTICLE 19
- ANNEX V INFORMATION TO BE INCLUDED IN CONCESSION NOTICES REFERRED TO IN ARTICLE 31
- ANNEX VI INFORMATION TO BE INCLUDED IN PRIOR INFORMATION NOTICES CONCERNING CONCESSIONS FOR SOCIAL AND OTHER SPECIFIC SERVICES, AS REFERRED TO IN ARTICLE 31(3)
- ANNEX VII INFORMATION TO BE INCLUDED IN CONCESSION AWARD NOTICES, AS REFERRED TO IN ARTICLE 32
- ANNEX VIII INFORMATION TO BE INCLUDED IN CONCESSION AWARD NOTICES CONCERNING CONCESSIONS FOR SOCIAL AND OTHER SPECIFIC SERVICES, AS REFERRED TO IN ARTICLE 32
- ANNEX IX FEATURES CONCERNING PUBLICATION
- ANNEX X LIST OF INTERNATIONAL SOCIAL AND ENVIRONMENTAL CONVENTIONS REFERRED TO IN ARTICLE 30(3)
- ANNEX XI INFORMATION TO BE INCLUDED IN NOTICES OF MODIFICATIONS OF A CONCESSION DURING ITS TERM ACCORDING TO ARTICLE 43

ANNEX XVI-I
OTHER ELEMENTS OF DIRECTIVE 89/665/EEC
as amended by Directive 2007/66/EC and Directive 2014/23/EU
(Phase 4)

Article 2b	Derogations from the standstill period
	Point (c) of the first paragraph of Article 2b
Article 2d	Ineffectiveness
	Point (c) of the first paragraph of Article 2d
	Paragraph 5

ANNEX XVI-J

(Phase 5)

I. OTHER NON-MANDATORY ELEMENTS OF DIRECTIVE 2014/25/EU

The elements of Directive 2014/25/EU set out in this Annex are not mandatory but recommended for approximation. Georgia may approximate these elements within the time-frame set in Annex XVI-B.

TITLE I

Scope, definitions and general principles

CHAPTER I

Subject-matter and definitions

Article 2 Definitions: points 10-12

CHAPTER IV

General principles

Article 38 Reserved contracts

TITLE II

Rules applicable to contracts

CHAPTER I

Procedures

Article 55 Centralised purchasing activities and central purchasing bodies

TITLE III

Particular procurement regimes

CHAPTER I

Social and other specific services

Article 94 Reserved contracts for certain services

II. OTHER MANDATORY ELEMENTS OF DIRECTIVE 2014/25/EU

TITLE I

Scope, definitions and general principles

CHAPTER I

Subject-matter and definitions

Article 2 Definitions: point 17

CHAPTER III

Material scope

Section 1 – Thresholds

Article 16 Methods for calculating the estimated value of procurement: paragraphs 5, 6

TITLE II

Rules applicable to contracts

CHAPTER I

Procedures

Article 44 Choice of procedures: paragraph 3

Article 48 Competitive dialogue

Article 49 Innovation Partnership

Article 50 Use of the negotiated procedure without prior call for competition: point (j)

CHAPTER II

Techniques and instruments for electronic and aggregated procurement

Article 51 Framework agreements

Article 52 Dynamic purchasing systems

Article 53 Electronic auctions

Article 54 Electronic catalogues

Article 56 Occasional joint procurement

CHAPTER III

Conduct of the procedure

Section 2 – Publication and transparency

Article 70 Contract award notices: paragraph 2

Section 3 – Choice of participants and award of contract

Subsection 1: Qualification and qualitative selection

Article 77 Qualification systems

Article 79 Reliance on the capacities of other entities: paragraph 1

TITLE III

Particular procurement regimes

CHAPTER II

Rules governing design contests

Article 95 Scope

Article 96 Notices

- Article 97 Rules on the organisation of design contests, the selection of participants and the jury
- Article 98 Decision of the jury

ANNEXES

- ANNEX VII Information to be included in the procurement documents relating to electronic auctions (Article 53(4))
- ANNEX XIX: Information to be included in the design contest notice (as referred to in Article 96(1))
- ANNEX XX: Information to be included in the results of design contest notices (as referred to in Article 96(1))

ANNEX XVI-K
OTHER ELEMENTS OF DIRECTIVE 92/13/EEC
as amended by Directive 2007/66/EC and Directive 2014/23/EU
(Phase 5)

Article 2b	Derogations from the standstill period
	Point (c) of the first paragraph of Article 2b
Article 2d	Ineffectiveness
	Point (c) of the first paragraph of Article 2d
	Paragraph 5

ANNEX XVI-L

I. PROVISIONS OF DIRECTIVE 2014/24/EU OUTSIDE THE SCOPE OF APPROXIMATION

The elements listed in this Annex are not subject to the process of approximation.

TITLE I

Scope, definitions and general principles

CHAPTER I

Scope and definitions

Section 1 – Subject-matter and definitions

Article 1 Subject-matter and scope: paragraphs 3 and 4

Article 2 Definitions: paragraph 2

Section 2 - Thresholds

Article 6 Revision of the thresholds and of the list of central government authorities

TITLE II

Rules on public contracts

CHAPTER I

Procedures

Article 25 Conditions relating to the GPA and other international agreements

CHAPTER II

Techniques and instruments for electronic and aggregated procurement

Article 39 Procurement involving contracting authorities from different Member States

CHAPTER III

Conduct of the procedure

Section 1 – Preparation

Article 44 Test reports, certification and other means of proof: paragraph 3

Section 2 – Publication and transparency

Article 51 Form and manner of publication of notices: second subparagraph of paragraph 1, paragraphs 2, 3, 4, second subparagraph of paragraph 5, paragraph 6

Article 52 Publication at national level

Section 3 – Choice of participants and award of contracts

Article 61 Online repository of certificates (e-Certis)

Article 62 Quality assurance standards and environmental management standards: paragraph 3

- Article 68 Life-cycle costing: paragraph 3
Article 69 Abnormally low tender: paragraph 5

TITLE IV

GOVERNANCE

- Article 83 Enforcement
Article 84 Individual reports on procedures for the award of contracts
Article 85 National reporting and statistical information
Article 86 Administrative Cooperation

TITLE V

DELEGATED POWERS, IMPLEMENTING POWERS AND FINAL PROVISIONS

- Article 87 Exercise of the delegation of powers
Article 88 Urgency procedure
Article 89 Committee procedure
Article 90 Transposition and transitional provisions
Article 91 Repeals
Article 92 Review
Article 93 Entry into force
Article 94 Addressees

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ANNEX I CENTRAL GOVERNMENT AUTHORITIES

ANNEX VIII FEATURES CONCERNING PUBLICATION

ANNEX XI REGISTERS

ANNEX XIII LIST OF EU LEGISLATION REFERRED TO IN ARTICLE 68(3)

ANNEX XV CORRELATION TABLE

II. PROVISIONS OF DIRECTIVE 2014/23/EU OUTSIDE THE SCOPE OF APPROXIMATION

The elements listed in this Annex are not subject to the process of approximation.

TITLE I

Subject matter, scope, principles and definitions

CHAPTER I

Scope, general principles and definitions

Section I – Subject-matter, scope, general principles, definitions and threshold

Article 1 Subject-matter and scope: paragraph 3

Article 6 Contracting authorities: paragraphs 2 and 3

Article 9 Revision of the threshold

Section II – Exclusions

Article 15 Notification of information by contracting entities

Article 16 Exclusion of activities which are directly exposed to competition

TITLE II

Rules on the award of concessions: General principles and procedural guarantees

CHAPTER I

General principles

Article 30 General principles: paragraph 4

Article 33 Form and manner of publication of notices: 2nd subparagraph of paragraph 1, paragraphs 2, 3 and 4

TITLE IV

Amendments to Directive 89/665/EEC and 92/13/EEC

Article 46 Amendments to Directive 89/665/EEC

Article 47 Amendments to Directive 92/13/EEC

TITLE V

Delegated powers, implementing powers and final provisions

Article 48 Exercise of the delegation

Article 49 Urgency procedure

Article 50 Committee procedure

Article 51 Transposition

Article 52 Transitional provisions

Article 53 Monitoring and reporting

Article 54 Entry into force

Article 55 Addressees

ANNEX XVI-M
PROVISIONS OF DIRECTIVE 2014/25/EU OUTSIDE THE SCOPE OF
APPROXIMATION

The elements listed in this Annex are not subject to the process of approximation.

TITLE I

Scope, definitions and general principles

CHAPTER I

Subject-matter and definitions

Article 1 Subject matter and scope: paragraphs 3 and 4

Article 3 Contracting authorities: paragraphs 2 and 3

Article 4 Contracting entities: paragraph 4

CHAPTER III

Material scope

Section 1 – Thresholds

Article 17 Revision of the thresholds

Section 2 – Excluded contracts and design contests: Special provisions for procurement involving defence and security aspects

Subsection 1: Exclusions applicable to all contracting entities and special exclusions for the water and energy sector

Article 18 Contracts awarded for purposes of resale or lease to third parties: paragraph 2

Article 19 Contracts and design contests awarded or organised for purposes other than the pursuit of a covered activity or for the pursuit of such an activity in a third country: paragraph 2

Subsection 3: Special relations (cooperation, affiliated undertakings and joint ventures)

Article 31 Notification of information

Subsection 4: Specific situations

Article 33 Contracts subject to special arrangements

Subsection 5: Activities directly exposed to competition and procedural provisions relating thereto

Article 34 Activities directly exposed to competition

Article 35 Procedure for establishing whether Article 34 is applicable

TITLE II

Rules applicable to contracts

CHAPTER I

Procedures

Article 43 Conditions relating to the GPA and other international agreements

CHAPTER II

Article 57 Procurement involving contracting entities from different Member States

CHAPTER III

Conduct of the procedure

Section 2 – Publication and transparency

Article 71 Form and manner of publication of notices: paragraphs 2, 3, 4, 2nd subparagraph of paragraph 5, paragraph 6

Article 72 Publication at national level

Section 3 – Choice of participants and award of contract

Article 81 Quality assurance standards and environmental management standards: paragraph 3

Article 83 Life-cycle costing: paragraph 3

Section 4 - Tenders comprising products originating in third countries and relations with those countries

Article 85 Tenders comprising products originating in third countries

Article 86 Relations with third countries as regards works, supplies and service contracts

TITLE IV

Governance

Article 99 Enforcement

Article 100 Individual reports on procedures for the award of contracts

Article 101 National reporting and statistical information

Article 102 Administrative cooperation

TITLE V

DELEGATED POWERS, IMPLEMENTING POWERS AND FINAL PROVISIONS

Article 103 Exercise of the delegation

Article 104 Urgency procedure

Article 105 Committee procedure

Article 106 Transposition and transitional provisions

Article 107 Repeal

Article 108 Review

Article 109 Entry into force

Article 110 Addressees

ANNEXES

ANNEX II List of Union legal acts referred to in Article 4(3)

ANNEX III List of Union legal acts referred to in Article 34(3)

ANNEX IV Deadlines for the adoption of the implementing acts referred to in Article 35

ANNEX XV List of Union legal acts referred to in Article 83(3)

ANNEX XVI-N
PROVISIONS OF DIRECTIVE 89/665/EEC AS AMENDED BY DIRECTIVE
2007/66/EC AND DIRECTIVE 2014/23/EU OUTSIDE THE SCOPE OF
APPROXIMATION

The elements listed in this Annex are not subject to the process of approximation.

Article 2b	Derogations from the standstill period
	Point (a) of the first paragraph of Article 2b
Article 2d	Ineffectiveness
	Point (a) of the first paragraph of Article 2d
	Paragraph 4
Article 3	Corrective Mechanisms
Article 3a	Content of the notice for voluntary ex ante transparency
Article 3b	Committee Procedure
Article 4	Implementation
Article 4a	Review

ANNEX XVI-O
PROVISIONS OF DIRECTIVE 92/13/EEC AS AMENDED BY DIRECTIVE
2007/66/EC AND DIRECTIVE 2014/23/EU OUTSIDE THE SCOPE OF
APPROXIMATION

The elements listed in this Annex are not subject to the process of approximation.

Article 2b	Derogations from the standstill period
	Point (a) of the first paragraph of Article 2b
Article 2d	Ineffectiveness
	Point (a) of the first paragraph of Article 2d
	Paragraph 4
Article 3a	Content of the notice for voluntary ex ante transparency
Article 3b	Committee Procedure
Article 8	Corrective Mechanisms
Article 12	Implementation
Article 12a	Review

ANNEX XVI-P

GEORGIA: INDICATIVE LIST OF ISSUES FOR COOPERATION

1. Training, in Georgia and EU countries, of Georgian officials from government bodies engaged in public procurement;
2. Training of suppliers interested participating in public procurement;
3. Exchange of information and experience on best practice and regulatory rules in the sphere of public procurement;
4. Enhancement of the functionality of the public procurement website and establishment of a system of public procurement monitoring;
5. Consultations and methodological assistance from the EU Party in application of modern electronic technologies in the sphere of public procurement;
6. Strengthening the bodies charged with guaranteeing a coherent policy in all areas related to public procurement and the independent and impartial consideration (review) of contracting authorities' decisions. (Cf. Article 143 paragraph 2 of this Agreement).