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**PROPOSAL**

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dated:	21 December 2011
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Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on public procurement

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Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(2011) 896 final



EUROPEAN COMMISSION

Brussels, 20.12.2011  
COM(2011) 896 final

2011/0438 (COD)

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on public procurement**

(Text with EEA relevance)

{SEC(2011) 1585 final}

{SEC(2011) 1586 final}

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

- **Grounds for and objectives of the proposal**

The Europe 2020 strategy for smart, sustainable and inclusive growth [COM(2010) 2020] is based on three interlocking and mutually reinforcing priorities: developing an economy based on knowledge and innovation; promoting a low-carbon, resource-efficient and competitive economy; and fostering a high-employment economy delivering social and territorial cohesion.

Public procurement plays a key role in the Europe 2020 strategy as one of the market-based instruments to be used to achieve these objectives by improving the business environment and conditions for business to innovate and by encouraging wider use of green procurement supporting the shift towards a resource efficient and low-carbon economy. At the same time, the Europe 2020 strategy stresses that public procurement policy must ensure the most efficient use of public funds and that procurement markets must be kept open Union-wide.

In the face of these challenges, the existing public procurement legislation needs to be revised and modernised in order to make it better suited to deal with the evolving political, social and economic context.

In its communication of 13 April 2011 on ‘The Single Market Act: Twelve levers to boost growth and confidence’, the Commission included among its twelve key priority actions to be adopted by the EU institutions before the end of 2012, a revised and modernised public procurement legislative framework to make the award of contracts more flexible and enable public contracts to be put to better use in support of other policies.

This proposal has two complementary objectives:

- Increase the efficiency of public spending to ensure the best possible procurement outcomes in terms of value for money. This implies in particular a simplification and flexibilisation of the existing public procurement rules. Streamlined, more efficient procedures will benefit all economic operators and facilitate the participation of SMEs and cross-border bidders.
  - Allow procurers to make better use of public procurement in support of common societal goals such as protection of the environment, higher resource and energy efficiency, combating climate change, promoting innovation, employment and social inclusion and ensuring the best possible conditions for the provision of high quality social services.
- **General context**

Public procurement plays an important role in the overall economic performance of the European Union. In Europe, public authorities spend around 18% of GDP on supplies, works and services. Given the volume of purchases, public procurement can be used as a powerful lever for achieving a Single Market fostering smart, sustainable and inclusive growth.

The current generation of public procurement Directives — Directives 2004/17/EC<sup>1</sup> and 2004/18/EC<sup>2</sup> — are the product of a long evolution that started in 1971 with the adoption of Directive 71/305/EEC. By guaranteeing transparent and non-discriminatory procedures, these Directives principally aim to ensure that economic operators from across the Single Market benefit fully from the basic freedoms in competing for public contracts.

A comprehensive economic evaluation has shown that the public procurement Directives have achieved their objectives to a considerable extent. They have resulted in greater transparency and higher levels of competition while achieving measurable savings through lower prices.

Stakeholders have nevertheless voiced demand for a review of the public procurement directives to simplify the rules, increase their efficiency and effectiveness and make them better suited to deal with the evolving political, social and economic context. Streamlined, more efficient procedures will increase flexibility for contracting authorities, benefit all economic operators and facilitate the participation of SMEs and cross-border bidders. Improved public procurement rules will also allow contracting authorities to make better use of public procurement in support of common societal goals, such as the protection of the environment, higher resource and energy efficiency and combating climate change, promoting innovation and social inclusion, and ensuring the best possible conditions for the provision of high quality social services. These orientations were confirmed by the results of a consultation of stakeholders conducted by the Commission in spring 2011, where a very large majority of stakeholders supported the proposal to review the public procurement Directives in order to adapt them better to the new challenges faced by public procurers and economic operators alike.

#### • Existing provisions in the area of the proposal

Together with the proposed new utilities Directive, the proposal will replace Directives 2004/17/EC and 2004/18/EC as the core elements of the European Union public procurement legislative framework.

The Directive will be complemented by the further elements of that legislative framework:

- Directive 2009/81/EC<sup>3</sup> sets specific rules for defence and sensitive security procurement,
- Directive 89/665/EEC<sup>4</sup> establishes common standards for national review procedures to ensure that rapid and effective means of redress is available in all EU countries in cases where bidders consider that contracts have been awarded unfairly.

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<sup>1</sup> Directive 2004/17/EC of 31 March 2004 coordinating the procurement procedures of entities in the water, energy, transport and postal services sectors, OJ L 134, 30.4.2004, p. 1.

<sup>2</sup> Directive 2004/18/EC 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.

<sup>3</sup> Directive 2009/81/EC 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.

<sup>4</sup> 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.

- **Consistency with the other policies and objectives of the Union**

This initiative implements the Europe 2020 strategy for smart, sustainable and inclusive growth [COM(2010) 2020] and the Europe 2020 Flagship Initiatives on a Digital Agenda for Europe [COM(2010) 245], the Innovation Union [COM(2010) 546], an Integrated Industrial Policy for the Globalisation Era [COM(2010) 614], Energy 2020 [COM(2010) 639] and a Resource Efficient Europe [COM(2011) 21]. It also implements the Single Market Act [COM(2011) 206], in particular its twelfth key action ‘Revised and Modernised Public Procurement Legislative Framework’. It is a CWP 2011 strategic initiative.

## **2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT**

- **Consultation of interested parties**

### *Consultation methods, main sectors targeted and general profile of respondents*

The Commission published on 27 January 2011 a *Green Paper on the modernisation of EU public procurement policy — Towards a more efficient European Procurement Market*<sup>5</sup> launching a broad public consultation on options for legislative changes to make the award of contracts easier and more flexible and enable public contracts to be put to better use in support of other policies. The purpose of the Green Paper was to identify a number of key areas for reform and ask for stakeholders’ views on concrete options for legislative change. Among the issues covered were the needs for simplifying and flexibilising procedures, strategic use of public procurement to promote other policy objectives, improving access of SMEs to public contracts and combating favouritism, corruption and conflicts of interest.

The public consultation closed on 18 April 2011 and met with a high response. In total, 623 replies were received, coming from a wide variety of stakeholder groups including central Member State authorities, local and regional public purchasers and their associations, undertakings, industry associations, academics, civil society organisations (including trade unions) and individual citizens. The majority of replies originated from the United Kingdom, Germany, France and, to a lesser degree, Belgium, Italy, the Netherlands, Austria, Sweden, Spain and Denmark.

The results of the consultation were summarised in a synthesis paper<sup>6</sup> and presented and discussed at a public conference on 30 June 2011<sup>7</sup>.

### *Summary of responses and how they have been taken into account*

A very large majority of stakeholders appreciated the initiative of the Commission to review the current public procurement policy. Amongst the different subjects discussed in the Green Paper, stakeholders put a particularly strong emphasis on the need to simplify procedures and make them more flexible. For instance, a clear majority of all stakeholder groups supported

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<sup>5</sup> COM(2011) 15: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0015:FIN:EN:PDF>.

<sup>6</sup> [http://ec.europa.eu/internal\\_market/consultations/docs/2011/public\\_procurement/synthesis\\_document\\_en.pdf](http://ec.europa.eu/internal_market/consultations/docs/2011/public_procurement/synthesis_document_en.pdf).

<sup>7</sup> [http://ec.europa.eu/internal\\_market/publicprocurement/modernising\\_rules/conferences/index\\_en.htm](http://ec.europa.eu/internal_market/publicprocurement/modernising_rules/conferences/index_en.htm).

the idea of allowing greater use of a competitive procedure with negotiation. There was also strong support for measures to alleviate administrative burdens related to the choice of bidder.

On the strategic use of public procurement to achieve the societal goals of the Europe 2020 strategy, stakeholders' opinions were mixed. Many stakeholders, especially businesses, showed a general reluctance to the idea of using public procurement in support of other policy objectives. Other stakeholders, notably civil society organisations, were strongly in favour of such strategic use and advocated far-reaching changes to the very principles of the European Union public procurement policy.

- **Collection and use of expertise**

In addition to the Green Paper consultation, the Commission conducted in 2010/2011 a comprehensive evaluation of the impact and effectiveness of EU public procurement legislation drawing on an extensive body of evidence and new independent research. The studies assessed mainly the cost and effectiveness of procurement procedures, issues of cross border procurement, SMEs' access to public procurement markets and the strategic use of public procurement in Europe.

The findings of the evaluation showed clearly that the public procurement Directives 2004/17/EC and 2004/18/EC have helped to establish a culture of transparency and outcome-driven procurement, generating savings and improvements in the quality of procurement outcomes that far exceed the costs, for public purchasers and suppliers, of running those procedures. The evaluation has also found that differences in implementation and application of the Directives have led to different outcomes in different Member States. The time taken to complete procedures and the cost to public purchasers vary widely across Member States.

- **Impact assessment**

The impact assessment and its executive summary give an overview of the different options for each of the five groups of basic problems (administrative organisation, scope, procedures, strategic procurement and access to procurement markets). Based on an analysis of the advantages and disadvantages of the different options, a package of preferred options was identified that should optimise the synergies between the different solutions allowing savings due to one type of action to neutralise related costs caused by another (e.g. possible increased procedural requirements caused by strategic procurement actions could partially be neutralised by savings related to the improved design of procurement procedures). These preferred options form the basis of the present proposal.

The draft Impact Assessment report was scrutinised by the Impact Assessment Board, who asked for amendments concerning in particular the identification of the specific elements of the legislative framework to be addressed, the description of the options under discussion, a more in-depth cost-benefit analysis of the selected headline actions and the systematic integration of stakeholder views, both in the problem definition and to complement the analysis of impacts. These recommendations for improvement were integrated in the final report. The opinions of the Impact Assessment Board on the report are published together with this proposal, as well as the final Impact Assessment report and its executive summary.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

- **Legal basis**

The proposal is based on Articles 53(1), 62 and 114 of the Treaty on the Functioning of the European Union (TFEU).

- **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the EU.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reason:

The coordination of procedures for public procurement above certain thresholds has proven an important tool for the achievement of the Internal Market in the field of public purchasing by ensuring effective and equal access to public contracts for economic operators across the Single Market. Experience with Directives 2004/17/EC and 2004/18/EC and the earlier generations of public procurement Directives has shown that European-wide procurement procedures provide transparency and objectivity in public procurement resulting in considerable savings and improved procurement outcomes that benefit Member States' authorities and, ultimately, the European taxpayer.

This objective could not be sufficiently achieved through action by Member States which would inevitably result in divergent requirements and possibly conflicting procedural regimes increasing regulatory complexity and causing unwarranted obstacles for cross-border activities.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle since it does not go beyond what is necessary in order to achieve the objective of ensuring the proper functioning of the Internal Market through a set of European-wide coordinated procurement procedures. Moreover, the proposal is based on a 'tool box' approach, allowing Member State a maximum of flexibility in adapting the procedures and tools to their specific situation.

Compared to the current public procurement Directives, the proposal will considerably reduce administrative burden related to the conduct of the procedure both for contracting authorities and economic operators; where new requirements are foreseen (for instance, in the context of strategic procurement), these will be compensated by the removal of constraints in other areas.

- **Choice of instruments**

Since the proposal is based on Articles 53(1), 62 and 114 TFEU the use of a Regulation for the provisions applying both to the procurement of goods and services would not be permitted by the Treaty. The instrument proposed is therefore a Directive.

During the impact assessment process, non-legislative options were discarded for reasons set out in detail in the impact assessment.

#### **4. BUDGETARY IMPLICATION**

The proposal has no budgetary implications.

#### **5. ADDITIONAL INFORMATION**

- **Repeal of existing legislation**

The adoption of the proposal will lead to the repeal of existing legislation (Directive 2004/18/EEC).

- **Review/revision/sunset clause**

The proposal contains a review clause concerning the economic effects of the threshold amounts.

- **Transposition measures and explanatory documents**

The proposal concerns an area where Union legislation has a coordination purpose, with a significant impact on a wide range of national legal sectors. Notwithstanding the coordination purpose, many provisions constitute full harmonisation and the proposal includes a large number of legal obligations. Member States supplement Union rules with national additional provisions so as the whole system becomes operational.

In this context, the Commission has identified a number of factors which render explanations by Member States necessary both for the correct understanding of transposing measures and for the functioning of the whole picture of procurement rules at national level:

- transposing and implementing measures are adopted at different institutional levels (national / federal, regional, local);
- in addition to the different regulatory layers, in many Member States rules are also established according to the sector involved or the type of procurement concerned;
- administrative measures of general or specific nature complement and in some cases overlap the main legal framework.

Only Member States can explain how the different measures transpose the Union directives in the public procurement sector and how the same measures interact each with the others.

For these reasons, the communication of documents explaining the relationship between the various parts of this directive and the corresponding parts of national transposition measures should be communicated together with the transposing measures, in particular concordance tables, which constitute an operational tool for the analysis of the national measures.

- **European Economic Area**



The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

- **Detailed explanation of the proposal**

*1) Simplification and flexibilisation of procurement procedures*

The proposed Directive provides for a simplification and flexibilisation of the procedural regime set by the current public procurement Directives. For this purpose, it contains the following measures:

*Clarification of scope:* The basic concept of ‘procurement’ which appears also in the title of the proposed Directive has been newly introduced in order to better determine the scope and purpose of procurement law and to facilitate the application of the thresholds. The definitions of certain key notions determining the scope of the Directive (such as body governed by public law, public works and service contracts, mixed contracts) have been revised in the light of the case-law of the Court of Justice. At the same time, the proposal endeavours to keep continuity in the use of notions and concepts that have been developed over the years through the Court’s case-law and are well known to practitioners. In this context, it should be noted that minor deviations from the wording and presentation known from the previous Directives do not necessarily imply a change of substance, but may be due to simplification of texts.

The traditional distinction between so-called priority and non-priority services (‘A’ and ‘B’ services) will be abolished. The results of the evaluation have shown that it is no longer justified to restrict the full application of procurement law to a limited group of services. However, it became also clear that the regular procurement regime is not adapted to social services which need a specific set of rules (see below).

*Toolbox approach:* Member State systems will provide two basic forms of procedure, open and restricted procedure. They may, in addition, foresee, subject to certain conditions, the competitive procedure with negotiation, the competitive dialogue and/or the innovation partnership, a new form of procedure for innovative procurement (see below).

Contracting authorities will furthermore have at their disposal a set of six specific procurement techniques and tools intended for aggregated and electronic procurement: framework agreements, dynamic purchasing systems, electronic auctions, electronic catalogues, central purchasing bodies and joint procurement. Compared to the existing Directive, these tools have been improved and clarified with a view to facilitating e-procurement.

*Lighter regime for sub-central contracting authorities:* In line with the WTO Government Procurement Agreement, the proposal provides a simplified procurement regime that applies to all contracting authorities below the central government level, such as local and regional authorities. These purchasers may use a prior information notice as a means of calling for competition. If they make use of this faculty, they don’t have to publish a separate contract notice before launching the procurement procedure. They may also set certain time limits in a more flexible way by mutual agreement with participants.

*Promotion of e-procurement:* The use of electronic communications and transaction processing by public purchasers can deliver significant savings and improved procurement outcomes while reducing waste and error. The proposal aims at helping Member States to

achieve the switchover to e-procurement enabling suppliers to take part in online procurement procedures across the Internal Market. For this purpose, the proposed Directive provides for the mandatory transmission of notices in electronic form, the mandatory electronic availability of the procurement documents and imposes the switch to fully electronic communication, in particular e-submission, in all procurement procedures within a transition period of two years. It streamlines and improves Dynamic Purchasing Systems and electronic catalogues, fully electronic procurement tools that are particularly adapted to highly aggregated procurement done by Central Purchasing Bodies. The e-procurement instrument would also enable contracting authorities to prevent, detect and correct errors generally due to wrong understanding or interpretation of public procurement rules.

*Modernisation of procedures:* The proposal provides a more flexible and user-friendly approach for certain important features of procurement procedures. Time-limits for participations and submission of offers have been shortened, allowing for quicker and more streamlined procurement. The distinction between selection of tenderers and award of the contract which is often a source of errors and misunderstandings has been made more flexible, allowing it for contracting authorities to decide on the most practical sequencing by examining award criteria before selection criteria and to take into account the organisation and quality of the staff assigned to performing the contract as an award criterion.

The grounds for exclusion of candidates and tenderers have been reviewed and clarified. Contracting authorities will be entitled to exclude economic operators which have shown significant or persistent deficiencies in performing prior contracts. The proposal provides also for the possibility of ‘self-cleaning’: contracting authorities may accept candidates or tenderers in spite of the existence of an exclusion ground if they have taken appropriate measures to remedy the consequences of any illicit behaviour and effectively prevent further occurrences of the misbehaviour.

The modification of contracts during their term has become an increasingly relevant and problematic issue for practitioners. A specific provision on modification of contracts takes up the basic solutions developed by case-law and provides a pragmatic solution for dealing with unforeseen circumstances requiring an adaption of a public contract during its term.

## *2) Strategic use of public procurement in response to new challenges*

The proposed Directive is based on *enabling approach* providing contracting authorities with the instruments needed to contribute to the achievement of the Europe 2020 strategic goals by using their purchasing power to procure goods and services that foster innovation, respect the environment and combat climate change while improving employment, public health and social conditions.

*Life-cycle costing:* The proposal gives public purchasers the possibility to base their award decisions on life-cycle costs of the products, services or works to be purchased. The life cycle covers all stages of the existence of a product or works or provision of a service, from raw material acquisition or generation of resources until disposal, clearance and finalisation. The costs to be taken into account do not only include direct monetary expenses, but also external environmental costs if they can be monetised and verified. Where a common European Union methodology for the calculation of life-cycle costs has been developed, contracting authorities have to make use of it.

*Production process:* Contracting authorities may refer to all factors directly linked to the production process in the technical specifications and in the award criteria, as long as they refer to aspects of the production process which are closely related to the specific production or provision of the good or service purchased. This excludes requirements not related to the process of producing the products, works or services covered by the procurement, such as general corporate social responsibility requirements covering the whole operation of the contractor.

*Labels:* Contracting authorities may require that works, supplies or services bear specific labels certifying environmental, social or other characteristics, provided that they accept also equivalent labels. This applies for instance to European or (multi-)national eco-labels or labels certifying that a product is free of child-labour. The certification schemes in question must concern characteristics linked to the subject-matter of the contract and be drawn up on the basis of scientific information, established in an open and transparent procedure and accessible to all interested parties.

*Sanctioning violations of mandatory social, labour or environmental law:* Under the proposed Directive, a contracting authority can exclude economic operators from the procedure, if it identifies infringements of obligations established by Union legislation in the field of social, labour or environmental law or of international labour law provisions. Moreover, contracting authorities will be obliged to reject tenders if they have established that they are abnormally low because of violations of Union legislation in the field of social, labour or environmental law.

*Social services:* The evaluation on the impact and effectiveness of EU public procurement legislation has shown that social, health and education services have specific characteristics which make them inappropriate for the application of the regular procedures for the award of public service contracts. These services are typically provided within a specific context that varies widely between Member States due to different administrative, organisational and cultural circumstances. The services have, by their very nature, only a very limited cross-border dimension. Member States should therefore have large discretion to organise the choice of service providers. The proposal takes account of this by providing a specific regime for public contracts for these services, with a higher threshold of EUR 500 000 and imposing only the respect of basic principles of transparency and equal treatment. A quantitative analysis of the values of contracts for the relevant services awarded to economic operators from abroad has shown that contracts below this value have typically no cross-border interest.

*Innovation:* Research and innovation play a central role in the Europe 2020 strategy for smart, sustainable and inclusive growth. Public purchasers should be enabled to buy innovative products and services promoting future growth and improving efficiency and quality of public services. The proposal provides for this purpose the innovation partnership, a new special procedure for the development and subsequent purchase of new, innovative products, works and services, provided they can be delivered to agreed performance levels and costs. In addition, the proposal improves and simplifies the competitive dialogue procedure and facilitates cross-border joint procurement which is an important instrument for innovative purchasing.

### *3) Better access to the market for SMEs and Start-ups*

Small and medium-sized enterprises (SMEs) have a huge potential for job creation, growth and innovation. Easy access to procurement markets can help them unlock this potential while

allowing contracting authorities to broaden their supplier base, with positive effects of higher competition for public contracts. In order to make public contracts as accessible as possible to SMEs, the Commission published in 2008 the ‘European Code of Best Practices facilitating access by SMEs to public procurement contracts’<sup>8</sup>. The proposal builds on this work and provides concrete measures to remove barriers for market access by SMEs.

*Simplification of information obligations:* The general simplification of information obligations in procurement procedures will greatly benefit SMEs. The proposal provides for the mandatory acceptance of self-declarations as prima-facie evidence for selection purposes. The actual production of documentary evidence will be facilitated by a standardised document, the European Procurement Passport which is a means of proof for the absence of grounds for exclusion.

*Division into lots:* Contracting authorities will be invited to divide public contracts into — homogeneous or heterogeneous — lots to make them more accessible for SMEs. If they decide not to do so, they will be obliged to provide a specific explanation.

*Limitation on requirements for participation:* To avoid unjustified barriers in the way of participation by SMEs, the proposed Directive contains an exhaustive list of possible conditions for participation in procurement procedures and states explicitly that any such conditions shall be restricted ‘to those that are appropriate to ensure that a candidate or tenderer has the ... capacities and ... abilities to perform the contract to be awarded’. Turnover requirements which are frequently a formidable obstacle to access by SMEs are explicitly limited to three times the estimated contract value, except in duly justified cases. Finally, any conditions for participation by groups of economic operators — an instrument of particular relevance for SMEs — must be justified by objective reasons and proportionate.

*Direct payment of subcontractors:* In addition, Member States can provide that subcontractors may request for direct payment by the contracting authority of supplies, works and services provided to the main contractor in the context of the contract performance. This offers subcontractors which are often SMEs an efficient way of protecting their interest in being paid.

#### 4) Sound procedures

The financial interests at stake and the close interaction between the public and the private sector make public procurement a risk area for unsound business practices such as conflict of interest, favouritism and corruption. The proposal improves the existing safeguards against such risks and provides for additional protection.

*Conflicts of interest:* The proposal contains a specific provision on conflicts of interest covering actual, potential or perceived conflict of interest situations affecting staff members of the contracting authority or of procurement service providers intervening in the procedure and members of the contracting authority’s management who may influence the outcome of a procurement procedure even if they are not formally involved in it.

*Illicit conduct:* The proposal contains a specific provision against illicit behaviour by candidates and tenderers, such as attempts to improperly influence the decision-making process or entering into agreements with other participants to manipulate the outcome of the

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<sup>8</sup> Commission Staff Working Document SEC(2008) 2193.

procedure have to be excluded from the procedure. Such illicit activities violate basic principles of European Union result and can result in serious distortions of competition.

*Unfair advantages:* Market consultations are a useful instrument for contracting authorities to obtain information on the structure, capability and capacity of a market while at the same time informing market actors on public purchasers' procurement projects and requirements. However, preliminary contacts with market participants must not result in unfair advantages and distortions of competitions. The proposal contains therefore a specific provision on safeguards against undue preference in favour of participants who have advised the contracting authority or been involved in the preparation of the procedure.

## 5) Governance

*National oversight bodies:* The evaluation has shown that not all Member States are consistently and systematically monitoring the implementation and functioning of the public procurement rules. This compromises the efficient and uniform application of European Union law. The proposal provides therefore that Member States designate a single national authority in charge of monitoring, implementation and control of public procurement. Only a single body with overarching tasks will ensure an overview of main implementation difficulties and will be able to suggest appropriate remedies to more structural problems. It will be in the position to provide immediate feedback on the functioning of the policy and the potential weaknesses in national legislation and practice, thus contributing to the quick identification of solutions and the improvement of the procurement procedures.

*Knowledge centres:* In many cases, contracting authorities do not have the internal expertise to deal with complex procurement projects. Appropriate and independent professional support by administrative structures could considerably improve procurement outcomes by expanding the knowledge base and the professionalism of public procurers and delivering assistance to businesses, notably SMEs. The proposal obliges therefore Member States to provide support structures offering legal and economic advice, guidance, training and assistance in preparing and conducting procurement procedures. Support structures or mechanisms exist already at national level, although organised in very different manners and covering different areas of interest for contracting authorities. Member States will therefore be able to use these mechanisms, build on their expertise and promote their services as an appropriate and modern tool capable to provide appropriate support to contracting authorities and economic operators.

To reinforce the fight against corruption and favouritism, contracting authorities will be obliged to transmit the text of concluded contracts to the oversight body, which will thus be able to scrutinize these contracts for suspicious patterns, and give access to these documents to interested persons to the extent that legitimate public or private interests are not jeopardized. However, the creation of disproportionate administrative burden must be avoided; the obligation to transmit the full text of concluded contracts should therefore remain limited to relatively high value contracts. The thresholds proposed would strike the right balance between increasing administrative burden and ensuring greater transparency: with a threshold of 1 000 000 EUR for supplies and services, and of 10 000 000 EUR, this obligation would apply to 10 - 20 % of all procurement published in the Official Journal.

It is not foreseen that requirements concerning oversight bodies and knowledge centres will generate overall additional financial burden for Member States. If some costs are expected to re-organise or fine tune the activities of existing mechanisms and structures, they will be neutralised by a reduction of litigation costs (both for contracting authorities and business),

costs related to delays in the attribution of contracts, due to misapplication of public procurement rules or to the bad preparation of the procurement procedures, as well as costs related to the fact that advice to contracting authorities is currently provided in a fragmented and inefficient manner.

*Administrative cooperation:* The proposal provides also for effective cooperation allowing national oversight bodies to share information and best practices and to cooperate through the Internal Market Information System (IMI).

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on public procurement**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments<sup>9</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>10</sup>,

Having regard to the opinion of the Committee of the Regions<sup>11</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The award of public contracts by or on behalf of Member States authorities has to comply with the principles of the Treaty on the Functioning of the European Union, and in particular the free movement of goods, freedom of establishment and the freedom to provide services as well as the principles deriving therefrom, such as equal treatment, non-discrimination, mutual recognition, proportionality and transparency. However, for public contracts above a certain value, provisions should be drawn up coordinating national procurement procedures so as to ensure that these principles are given practical effect and public procurement is opened up to competition.
- (2) Public procurement plays a key role in the Europe 2020 strategy<sup>12</sup> as one of the market-based instruments to be used to achieve a smart, sustainable and inclusive growth while ensuring the most efficient use of public funds. For that purpose, the current public procurement rules adopted pursuant to Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal

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<sup>9</sup> OJ C ....

<sup>10</sup> OJ C ....

<sup>11</sup> OJ C ....

<sup>12</sup> COM(2010) 2020 final, 3.3-2010.

services sectors<sup>13</sup> and Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts<sup>14</sup> have to be revised and modernised in order to increase the efficiency of public spending, facilitating in particular the participation of small and medium-sized enterprises in public procurement and to enable procurers to make better use of public procurement in support of common societal goals. There is also a need to clarify basic notions and concepts to ensure better legal certainty and to incorporate certain aspects of related well-established case-law of the Court of Justice of the European Union.

- (3) The increasingly diverse forms of public action have made it necessary to define more clearly the notion of procurement itself. The Union rules on public procurement are not intended to cover all forms of disbursement of public money, but only those aimed at the acquisition of works, supplies or services for consideration. 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 of an activity, which is frequently linked to the obligation to reimburse the amounts received where they are not used for the purposes intended, does not usually fall under the public procurement rules.
- (4) It has also proven necessary to clarify what should be understood as a single procurement, with the effect that the aggregate value of all contracts concluded for the purpose of this procurement has to be taken into account with regard to the thresholds of this directive, and that the procurement should be advertised as a whole, possibly split into lots. The concept of single procurement encompasses all supplies, works and services needed to carry out a particular project, for instance a works project or an entirety of works, supplies and/or services. Indications for the existence of one single project can for instance consist in overall prior planning and conception by the contracting authority, the fact that the different elements purchased fulfil a single economic and technical function or that they are otherwise logically interlinked and carried out in a narrow time frame.
- (5) Under Article 11 of the Treaty on the Functioning of the European Union, environmental protection requirements must be integrated into the definition and implementation of the Union policies and activities, in particular with a view to promoting sustainable development. This Directive clarifies how the contracting authorities may contribute to the protection of the environment and the promotion of sustainable development, whilst ensuring that they can obtain the best value for money for their contracts.
- (6) Even if they do not necessarily lead to corrupt conduct, actual, potential or perceived conflicts of interest have a high potential to improperly influence public procurement decisions with the effect of distorting competition and jeopardising equal treatment of tenderers. Effective mechanisms should therefore be set up to prevent, identify and remedy conflicts of interest.

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<sup>13</sup> OJ L 134, 30.4.2004, p. 1.

<sup>14</sup> OJ L 134, 30.4.2004, p. 114.



- (7) Illicit conduct by participants in a procurement procedure, such as attempts to unduly influence the decision-making process or to enter into agreements with other candidates to manipulate the outcome of the procedure, can result in violations of the basic principles of Union law and in serious distortions of competition. Economic operators should therefore be required to submit a declaration on honour that they do not engage in such illicit activities and be excluded if this declaration proves to be false.
- (8) Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the Agreements reached in the Uruguay Round multilateral negotiations (1986 to 1994)<sup>15</sup> approved in particular the World Trade Organisation Agreement on Government Procurement, hereinafter referred to as the 'Agreement'. The aim of the Agreement is to establish a multilateral framework of balanced rights and obligations relating to public contracts with a view to achieving the liberalisation and expansion of world trade. For contracts covered by the Agreement, as well as by other relevant international agreements by which the Union is bound, contracting authorities fulfil the obligations under these agreements by applying this Directive to economic operators of third countries that are signatories to the agreements.
- (9) The Agreement applies to contracts above certain thresholds, set in the Agreement and expressed as special drawing rights. The thresholds laid down by this Directive should be aligned to ensure that they correspond to the euro equivalents of the thresholds of the Agreement. Provision should also be made for periodic reviews of the thresholds expressed in euros so as to adjust them, by way of a purely mathematical operation, to possible variations in the value of the euro in relation to the special drawing right.
- (10) The results of the Evaluation on the Impact and Effectiveness of EU Public Procurement Legislation<sup>16</sup> demonstrated that the exclusion of certain services from the full application of the Directive should be reviewed. As a result, the full application of this directive is extended to a number of services (such as hotel and legal services, which both showed a particularly high percentage of cross-border trade).
- (11) Other categories of services continue by their very nature to have a limited cross-border dimension, namely what are known as services to the person, such as certain social, health and educational services. These services are provided within a particular context that varies widely amongst Member States, due to different cultural traditions. A specific regime should therefore be established for public contracts for these services, with a higher threshold of EUR 500 000. Services to the person with values below this threshold will typically not be of interest to providers from other Member States, unless there are concrete indications to the contrary, such as Union financing for transborder projects. Contracts for services to the person above this threshold should be subject to Union-wide transparency. Given the importance of the cultural context and the sensitivity of these services, Member States should be given wide discretion to organise the choice of the service providers in the way they consider most appropriate. The rules of this directive take account of that imperative, imposing only observance of basic principles of transparency and equal treatment and making sure

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<sup>15</sup> OJ L 336, 23.12.1994, p. 1.

<sup>16</sup> SEC(2011) 853 final, 27.6.2011.

that contracting authorities are able to apply specific quality criteria for the choice of service providers, such as the criteria set out in the voluntary European Quality Framework for Social Services of the European Union's Social Protection Committee<sup>17</sup>. Member States and/or public authorities remain free to provide these services themselves or to organise social services in a way that does not entail the conclusion of public contracts, for example through the mere financing of such services or by granting licences or authorisations to all economic operators meeting the conditions established beforehand by the contracting authority, without any limits or quotas, provided such a system ensures sufficient advertising and complies with the principles of transparency and non-discrimination.

- (12) Public contracts that are awarded by contracting authorities operating in the water, energy, transport and postal services sectors and fall within the scope of those activities are covered by Directive [...] of the European Parliament and of the Council of [...] on procurement by entities operating in the water, energy, transport and postal services sectors<sup>18</sup>. Contracts awarded by contracting authorities in the context of their operation of maritime, coastal or river transport services fall within the scope of this Directive.
- (13) Being addressed to Member States, this directive does not apply to procurement carried out by international organisations on their own behalf and for their own account. There is, however, a need to clarify to what extent this directive should be applied to procurement governed by specific international rules.
- (14) There is considerable legal uncertainty as to how far cooperation between public authorities should be covered by public procurement rules. The relevant case-law of the Court of Justice of the European Union is interpreted divergently between Member States and even between contracting authorities. It is therefore necessary to clarify in what cases contracts concluded between contracting authorities are not subject to the application of public procurement rules. Such clarification should be guided by the principles set out in the relevant case-law of the Court of Justice. The sole fact that both parties to an agreement are themselves contracting 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 decide how to organise the way they carry out their public service tasks. Contracts awarded to controlled entities or cooperation for the joint execution of the public service tasks of the participating contracting authorities should therefore be exempted from the application of the rules if the conditions set out in this directive are fulfilled. This directive should aim to ensure that any exempted public-public cooperation does not cause a distortion of competition in relation to private economic operators. Neither should the participation of a contracting authority as a tenderer in a procedure for the award of a public contract cause any distortion of competition.
- (15) There is a widespread need for additional flexibility and in particular for wider access to a procurement procedure providing for negotiations, as is explicitly foreseen in the Agreement, where negotiation is allowed in all procedures. Contracting authorities should, unless otherwise provided in the legislation of the Member State concerned, be

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<sup>17</sup> SPC/2010/10/8 final, 6.10.2010.

<sup>18</sup> ...

able to use a competitive procedure with negotiation as provided for in this Directive, in various situations where open or restricted procedures without negotiations are not likely to lead to satisfactory procurement outcomes. This procedure should be accompanied by adequate safeguards ensuring observance of the principles of equal treatment and transparency. This will give greater leeway to contracting authorities to buy works, supplies and services perfectly adapted to their specific needs. At the same time, it should also 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.

- (16) For the same reasons, contracting authorities should be free to use the competitive dialogue. The use of this procedure has significantly increased in terms of contract values over the last years. It has shown itself to be of use in cases where contracting authorities are unable to define the means of satisfying their needs or of assessing what the market can offer in terms of technical, financial or legal solutions. This situation may arise in particular with innovative projects, the implementation of major integrated transport infrastructure projects, large computer networks or projects involving complex and structured financing.
- (17) Research and innovation, including eco-innovation and social innovation, are among the main drivers of future growth and have been put at the centre of the Europe 2020 strategy for smart, sustainable and inclusive growth. Public authorities should make the best strategic use of public procurement to spur innovation. Buying innovative goods 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. This directive should contribute to facilitating public procurement of innovation and help Member States in achieving the Innovation Union targets. A specific procurement procedure should therefore be provided for which allows contracting authorities to establish a long-term innovation partnership for the development and subsequent purchase of a new, innovative product, service or works provided it can be delivered to agreed performance levels and costs. The 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.
- (18) In view of the detrimental effects on competition, negotiated procedures without prior publication of a contract notice should only be used in very exceptional circumstances. This exception should be limited to cases where publication is either not possible, for reasons of force majeure in line with the standing case-law of the Court of Justice of the European Union, or where it is clear from the outset that publication would not trigger more competition, not least because there is objectively only one economic operator that can perform the contract. 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, and where there are no adequate substitutes, the availability of which should be assessed thoroughly.
- (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. The use of electronic means also leads to time savings. As a result, provision should be made for reducing the minimum periods where electronic means are used, subject, however, to the condition that they are compatible with the specific mode of transmission envisaged at Union level. Moreover, electronic means of information and communication including adequate functionalities can enable contracting authorities to prevent, detect and correct errors that occur during procurement procedures.

- (20) There is a strong trend emerging across Union public procurement markets towards the aggregation of demand by public purchasers, with a view to obtaining economies of scale, including lower prices and transaction costs, and to improving and professionalising procurement management. This can be achieved by concentrating purchases either by the number of contracting authorities involved or by volume and value over time. However, the aggregation and centralisation of purchases should be carefully monitored in order to avoid excessive concentration of purchasing power and collusion, and to preserve transparency and competition, as well as market access opportunities for small and medium-sized enterprises.
- (21) The instrument of framework agreements has been widely used and is considered as an efficient procurement technique throughout Europe. It should therefore be maintained largely as is. However, certain concepts need to be clarified, in particular the conditions for the use of a framework agreement by contracting authorities which are not themselves party to it.
- (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 this instrument. The systems need to be simplified, in particular by operating them 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 these 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. 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.
- (23) In addition, new electronic purchasing techniques are constantly being developed, such as electronic catalogues. They help to increase competition and streamline public purchasing, particularly in terms of savings in time and money. Certain rules should however be laid down to ensure that the use of the new techniques complies with the rules of this Directive and the principles of equal treatment, non-discrimination and transparency. In particular, where competition has been reopened under a framework agreement or where a dynamic purchasing system is being used and 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 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 or awarding public contracts/framework agreements for other contracting authorities. In view of the large volumes purchased, such techniques help increase competition and professionalise public purchasing. Provision should therefore be made for a Union definition of central purchasing bodies dedicated to contracting authorities, without preventing the continuation of 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. Rules should also be laid down for allocating responsibility for the observance of the obligations pursuant to this Directive, also in the case of remedies, among the central purchasing body and the contracting authorities procuring from or through the central purchasing body. Where the latter has sole responsibility for the conduct of the procurement procedures, it should also be solely and directly responsible for the legality of the procedures. Where a contracting authority conducts certain parts of the procedure, for instance the reopening of competition under a framework agreement or the award of individual contracts based on a dynamic purchasing system, it should continue to be responsible for the stages it conducts.
- (25) Electronic means of communication are particularly well suited to support centralised purchasing practices and tools because of the possibility they offer to re-use and automatically process data and to minimise information and transaction costs. The use of such electronic means of communication should therefore, as a first step, be rendered compulsory for central purchasing bodies, while also facilitating converging practices across the Union. This should be followed by a general obligation to use electronic means of communication in all procurement procedures after a transition period of two years.
- (26) Joint awarding of public contracts by contracting authorities from different Member States currently encounters specific legal difficulties, with special reference to conflicts of national laws. Despite the fact that Directive 2004/18/EC implicitly allowed for cross-border joint public procurement, in practice several national legal systems have explicitly or implicitly rendered cross-border joint procurement legally uncertain or impossible. Contracting authorities from different Member States may be interested in cooperating and in jointly awarding public contracts in order 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. Therefore new rules on cross-border joint procurement designating the applicable law should be established in order to facilitate cooperation between contracting authorities across the Single Market. In addition, contracting authorities from different Member States may set up joint legal bodies established under national or Union law. Specific rules should be established for such form of joint procurement.
- (27) The technical specifications drawn up by public purchasers need to allow public procurement to be opened up to competition. To that end, it must be possible to submit tenders that reflect the diversity of technical solutions so as to obtain a sufficient level of competition. Consequently, technical specifications should be drafted in such a way

to avoid artificially narrowing down competition through requirements that favour a specific economic operator by mirroring key characteristics of the supplies, services or works habitually offered by that economic operator. Drawing up the technical specifications in terms of functional and performance requirements generally allows this objective to be achieved in the best way possible and favours innovation. Where reference is made to a European standard or, in the absence thereof, to a national standard, tenders based on equivalent arrangements must be considered by contracting authorities. To demonstrate equivalence, tenderers can be required to provide third-party verified evidence; however, other appropriate means of proof such as a technical dossier of the manufacturer should also be allowed where the economic operator concerned has no access to such certificates or test reports, or no possibility of obtaining them within the relevant time limits.

- (28) Contracting authorities that wish to purchase works, supplies or services with specific environmental, social or other characteristics should be able to refer to particular labels, such as the European Eco-label, (multi-)national eco-labels or any other label provided that the requirements for the label are linked to the subject-matter of the contract, such as the description of the product and its presentation, including packaging requirements. It is furthermore essential that these requirements are drawn up and adopted on the basis of objectively verifiable criteria, using a procedure in which stakeholders, such as government bodies, consumers, manufacturers, distributors and environmental organisations, can participate, and that the label is accessible and available to all interested parties.
- (29) For all procurement intended for use by persons, whether general public or staff of the contracting authority, it is necessary that contracting authorities lay down technical specifications so as to take into account accessibility criteria for people with disabilities or design for all users, except in duly justified cases.
- (30) In order to foster the involvement of small and medium-sized enterprises (SMEs) in the public procurement market, contracting authorities should be encouraged to divide contracts into lots, and be obliged to state the reasons for not doing so. Where contracts are divided into lots, contracting authorities may, for instance in order to preserve competition or to ensure security of supply, limit the number of lots for which an economic operator may tender; they may also limit the number of lots that may be awarded to any one tenderer.
- (31) Overly demanding requirements concerning economic and financial capacity frequently constitute an unjustified obstacle to the involvement of SMEs in public procurement. Contracting authorities should therefore not be allowed to require economic operators to have a minimum turnover exceeding three times the estimated contract value. However, in duly justified circumstances, higher requirements may be applied. Such circumstances may relate to the high risks attached to the performance of the contract or the fact that its timely and correct performance is critical, for instance because it constitutes a necessary preliminary for the performance of other contracts.
- (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 self-

declarations, can 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. Further simplification can be achieved through standardised documents such as the European Procurement Passport, which should be recognized by all contracting authorities and widely promoted among economic operators, in particular SMEs, for whom they can substantially lessen the administrative burden.

- (33) The Commission provides and manages an electronic system — e-Certis, which is updated and verified on a voluntary basis by national authorities. The aim of e-Certis is to facilitate the exchange of certificates and other documentary evidence frequently required by contracting authorities. Experience acquired so far indicates that voluntary updating and verification is insufficient to ensure that e-Certis can deliver its full potential for simplifying and facilitating documentary exchanges for the benefit of small and medium-sized enterprises in particular. Maintenance should therefore be rendered obligatory in a first step; recourse to e-Certis will be made mandatory at a later stage.
- (34) 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 or money laundering. Non-payment of taxes or social security contributions should also be sanctioned by mandatory exclusion at the level of the Union. Furthermore, contracting authorities should be given the possibility to exclude candidates or tenderers for 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.
- (35) Allowance should, however, be made for the possibility that economic operators may adopt compliance measures aimed at remedying the consequences of any criminal offences or misconduct and at effectively preventing further occurrences of the misbehaviour. These measures may consist in particular in personnel and organisation measures such as the severance of all links with persons or organisations involved in the misbehaviour, appropriate staff reorganisation measures, the implementation of reporting and control systems, the creation of an internal audit structure to monitor compliance and the adoption of internal liability and compensation rules. Where such measures offer sufficient guarantees, the economic operator in question should no longer be excluded on these grounds. Economic operators should have the possibility to request that contracting authorities examine the compliance measures taken with a view to possible admission to the procurement procedure.
- (36) Contracting authorities may require that environmental management measures or schemes are to be applied during the performance of a public contract. Environmental management schemes, whether or not they are registered under Union instruments such as Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)<sup>19</sup>, can demonstrate that the economic

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<sup>19</sup> OJ L 342, 22.12.2009, p. 1.

operator has the technical capability to perform the contract. A description of the measures implemented by the economic operator to ensure the same level of environmental protection should be accepted as an alternative to environmental management registration schemes as a form of evidence, where the economic operator concerned has no access to such environmental management registration schemes or no possibility of obtaining them within the relevant time limits.

- (37) Contracts should be awarded on the basis of objective criteria that ensure compliance with the principles of transparency, non-discrimination and equal treatment. These criteria should guarantee that tenders are assessed in conditions of effective competition, also where contracting authorities require high-quality works, supplies and services that are optimally suited to their needs, for instance where the chosen award criteria include factors linked to the production process. As a result, contracting authorities should be allowed to adopt as award criteria either 'the most economically advantageous tender' or 'the lowest cost', taking into account that in the latter case they are free to set adequate quality standards by using technical specifications or contract performance conditions.
- (38) Where contracting authorities choose to award a contract to the most economically advantageous tender, they must determine the award criteria on the basis of which they will assess tenders in order to identify which one offers the best value for money. The determination of these criteria depends on the subject-matter of the contract since they must allow the level of performance offered by each tender to be assessed in the light of the subject-matter of the contract, as defined in the technical specifications, and the value for money of each tender to be measured. Furthermore, the chosen award criteria should not confer an unrestricted freedom of choice on the contracting authority and they should ensure the possibility of effective competition and be accompanied by requirements that allow the information provided by the tenderers to be effectively verified.
- (39) It is of utmost importance to fully exploit the potential of public procurement to achieve the objectives of the Europe 2020 Strategy for sustainable growth. In view of the important differences between individual sectors and markets, it would however not be appropriate to set general mandatory requirements for environmental, social and innovation procurement. The Union legislature has already set mandatory procurement requirements for obtaining specific goals in the sectors of road transport vehicles (Directive 2009/33/EC of the European Parliament and the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles<sup>20</sup>) and office equipment (Regulation (EC) No 106/2008 of the European Parliament and the Council of 15 January 2008 on a Community energy-efficiency labelling programme for office equipment<sup>21</sup>). In addition, the definition of common methodologies for life cycle costing has significantly advanced. It therefore appears appropriate to continue on that path, leaving it to sector-specific legislation to set mandatory objectives and targets in function of the particular policies and conditions prevailing in the relevant sector and to promote the development and use of European approaches to life-cycle costing as a further underpinning for the use of public procurement in support of sustainable growth.

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<sup>20</sup> OJ L 120, 15.5.2009, p. 5.

<sup>21</sup> OJ L 39, 13.2.2008, p. 1.



- (40) These sector-specific measures must be complemented by an adaptation of the public procurement Directives empowering contracting authorities to pursue the objectives of the Europe 2020 Strategy in their purchasing strategies. It should hence be made clear that contracting authorities can determine the most economically advantageous tender and the lowest cost using a life-cycle costing approach, provided that the methodology to be used is established in an objective and non-discriminatory manner and accessible to all interested parties. The notion of life-cycle costing includes all costs over the life cycle of works, supplies or services, both their internal costs (such as development, production, use, maintenance and end-of-life disposal costs) and their external costs, provided they can be monetised and monitored. Common methodologies should be developed at the level of the Union for the calculation of life-cycle costs for specific categories of supplies or services; whenever such a methodology is developed its use should be made compulsory.
- (41) Furthermore, in technical specifications and in award criteria, contracting authorities should be allowed to refer to a specific production process, a specific mode of provision of services, or a specific process for any other stage of the life cycle of a product or service, provided that they are linked to the subject-matter of the public contract. In order to better integrate social considerations in public procurement, procurers may also be allowed to include, in the award criterion of the most economically advantageous tender, characteristics related to the working conditions of the persons directly participating in the process of production or provision in question. Those characteristics may only concern the protection of health of the staff involved in the production process or the favouring of social integration of disadvantaged persons or members of vulnerable groups amongst the persons assigned to performing the contract, including accessibility for persons with disabilities. Any award criteria which include those characteristics should in any event remain limited to characteristics that have immediate consequences on staff members in their working environment. They should be applied in accordance with Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>22</sup> and in a way that does not discriminate directly or indirectly against economic operators from other Member States or from third countries parties to the Agreement or to Free Trade Agreements to which the Union is party. For service contracts and for contracts involving the design of works, contracting authorities should also be allowed to use as an award criterion the organisation, qualification and experience of the staff assigned to performing the contract in question, as this may affect the quality of contract performance and, as a result, the economic value of the tender.
- (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. In order to prevent possible disadvantages during contract performance, contracting authorities should be obliged to ask for an explanation of the price charged where a tender significantly undercuts the prices demanded by other tenderers. 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 charged results

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<sup>22</sup> OJ L 18, 21.1.1997, p.1.

from non-compliance with mandatory Union legislation in the fields of social, labour or environmental law or international labour law provisions.

- (43) Contract performance conditions are compatible with this Directive provided that they are not directly or indirectly discriminatory, are linked to the subject-matter of the contract and are indicated in the contract notice, the prior information notice used as a means of calling for competition or the procurement documents. They may, in particular, be intended to favour on-site vocational training, the employment of people experiencing particular difficulty in achieving integration, the fight against unemployment, protection of the environment or animal welfare. For instance, mention may be made, amongst other things, of the requirements — applicable during performance of the contract — to recruit long-term job-seekers or to implement training measures for the unemployed or young persons, to comply in substance with fundamental International Labour Organisation (ILO) Conventions, even where such Conventions have not been implemented in national law, and to recruit more disadvantaged persons than are required under national legislation.
- (44) The laws, regulations and collective agreements, at both national and Union level, that are in force in the areas of employment conditions and safety at work apply during the performance of a public contract, provided that such rules, and their application, comply with Union law. In cross-border situations, where workers from one Member State provide services in another Member State for the purpose of performing a public contract, 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<sup>23</sup> lays down the minimum conditions that must be observed by the host country in respect of such posted workers. Where national law contains provisions to this effect, non-compliance with those obligations may be considered to be grave misconduct on the part of the economic operator concerned, liable to lead to the exclusion of that economic operator from the procedure for the award of a public contract.
- (45) It is necessary to clarify the conditions under which modifications of a contract during its performance require a new procurement procedure, taking into account the relevant case-law of the Court of Justice of the European Union. A new procurement procedure is required in case of material changes to the initial contract, in particular to the scope and content of the mutual rights and obligations of the parties, including the distribution of intellectual property rights. Such changes demonstrate the parties' intention to renegotiate essential terms or conditions of that contract. This is the case in particular if the amended conditions would have had an influence on the outcome of the procedure, had they been part of the initial procedure.
- (46) Contracting authorities can be faced with external circumstances that they could not foresee when they awarded the contract. In this case, a certain degree of flexibility is needed to adapt the contract to these circumstances without a new procurement procedure. The notion of unforeseeable circumstances refers to circumstances that could not have been predicted despite reasonably diligent preparation of the initial award by the contracting authority, taking into account its available means, the nature and characteristics of the specific project, good practice in the field in question and the

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<sup>23</sup> OJ L 18, 21.1.1997, p. 1.

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 be replaced by another economic operator without reopening the contract to competition. However, the successful tenderer performing the contract may undergo certain structural changes during the performance of the contract, such as purely internal reorganisations, mergers and acquisitions or insolvency. Such structural changes should not automatically require new procurement procedures for all public contracts performed by that undertaking.
- (48) Contracting authorities should, in the individual contracts themselves, have the possibility to provide for modifications to a contract by way of review 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.
- (49) The evaluation has shown that Member States do not consistently and systematically monitor the implementation and functioning of public procurement rules. This has a negative impact on the correct implementation of provisions stemming from these directives, which is a major source of cost and uncertainty. Several Member States have appointed a national central body dealing with public procurement issues, but the tasks entrusted to such bodies vary considerably across Member States. Clearer, more consistent and authoritative monitoring and control mechanisms would increase knowledge of the functioning of procurement rules, improve legal certainty for businesses and contracting authorities, and contribute to establishing a level playing field. Such mechanisms could serve as tools for the detection and early resolution of problems, especially with regard to projects cofunded by the Union, and for the identification of structural deficiencies. There is in particular a strong need to coordinate these mechanisms to ensure consistent application, control and monitoring of public procurement policy, as well as systematic assessment of the outcomes of procurement policy across the Union.
- (50) Member States should designate a single national authority in charge of monitoring, implementation and control of public procurement. Such a central body should have first-hand and timely information, particularly in relation to different problems affecting the implementation of public procurement law. It should be able to provide immediate feedback on the functioning of the policy and the potential weaknesses in national legislation and practice and contribute to the quick identification of solutions. In view of efficiently fighting corruption and fraud, this central body and the general public should also have the possibility to inspect the texts of concluded contracts. High-value contracts should hence be transmitted to the oversight body with a possibility of interested persons to have access to these documents, to the extent that legitimate public or private interests are not jeopardized.
- (51) Not all contracting authorities may have the internal expertise to deal with economically or technically complex contracts. Against this background, appropriate professional support would be an effective complement to monitoring and control

activities. On the one hand, this objective can be achieved by knowledge sharing tools (knowledge centres) offering technical assistance to contracting authorities; on the other hand, business, not least SMEs, should benefit from administrative assistance, in particular when participating in procurement procedures on a cross-border basis.

- (52) Monitoring, oversight and support structures or mechanisms exist already at national level and can of course be used to ensure monitoring, implementation and control of public procurement and to provide the required support to contracting authorities and economic operators.
- (53) Effective cooperation is necessary to ensure consistent advice and practice within each Member State and across the Union. Bodies designated for monitoring, implementation, control and technical assistance should be able to share information and cooperate; in the same context, the national authority designated by each Member State should act as the preferred contact point with the Commission services for the purpose of collecting data, exchanging information and monitoring the implementation of Union public procurement law.
- (54) In order to adapt to rapid technical, economic and regulatory developments, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of a number of non-essential elements of this Directive. In fact, due to the need to comply with international agreements, the Commission should be empowered to modify the technical procedures for the calculation methods concerning thresholds as well as to periodically revise the thresholds themselves and to adapt Annexes V and XI; the lists of central government authorities are subject to variations due to administrative changes at national level. These are notified to the Commission, which should be empowered to adapt the Annex I; references to the CPV nomenclature may undergo regulatory changes at EU level and it is necessary to reflect those changes into the text of this Directive; the technical details and characteristics of the devices for electronic receipt should be kept up to date with technological developments and administrative needs; 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 and administrative needs; and the content of the European Procurement Passport to reflect administrative needs and regulatory changes at both national and EU level; the list of legislative acts of the Union establishing common methodologies for the calculation of life-cycle costs should be quickly adapted to incorporate the measures adopted on a sectoral basis. In order to satisfy these needs, the Commission should be empowered to keep the list of legislative acts including LCC methodologies up-to date.
- (55) It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. When preparing and drawing up delegated acts, the Commission should ensure simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.
- (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, the standard form for the European Procurement Passport and the common template to be used by the

oversight bodies for drawing up the implementation and statistical report, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No. 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers<sup>24</sup>. The advisory procedure should be used for the adoption of these implementing acts, which do not have any impact either from the financial point of view or on the nature and scope of obligations stemming from this Directive. On the contrary, these acts are characterised by a mere administrative purpose and serve to facilitate the application of the rules set by this Directive.

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

HAVE ADOPTED THIS DIRECTIVE:

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### **CHAPTER I: Scope and definitions**

#### SECTION 1: Subject-matter and definitions

Article 1: Subject-matter

Article 2: Definitions

Article 3: Mixed procurement

#### SECTION 2: Thresholds

Article 4: Thresholds amounts

Article 5: Methods for calculating the estimated value of procurement

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<sup>24</sup> OJ L 55, 28.2.2011, p. 13.

Article 6: Revision of the thresholds

### SECTION 3: Exclusions

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

Article 8: Specific exclusions in the field of telecommunications

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

Article 10: Specific exclusions for service contracts

Article 11: Relations between public authorities

### SECTION 4: SPECIFIC SITUATIONS

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Article 21: Conflicts of interest

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# **TITLE I**

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

### **CHAPTER I**

#### ***Scope and definitions***

#### **SECTION 1**

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

##### *Article 1*

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

1. This Directive establishes rules on the procedures for procurement by contracting authorities with respect to public contracts as well as design contests, whose value is estimated to be not less than the thresholds laid down in Article 4.
2. Procurement within the meaning of this Directive is the purchase or other forms of acquisition 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.

An entirety of works, supplies and/or services, even if purchased through different contracts, constitutes a single procurement within the meaning of this Directive, if the contracts are part of one single project.

##### *Article 2*

###### *Definitions*

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

- (1) ‘contracting authorities’ means the State, regional or local authorities, bodies governed by public law, associations formed by one or more such authorities or one or more such bodies governed by public law;
- (2) ‘central government authorities’ means the contracting authorities listed in Annex I and, insofar as corrections or amendments have been made at national level, their successor entities;
- (3) ‘sub-central contracting authorities’ means all contracting authorities which are not central government authorities ;

- (4) 'regional authorities' include all authorities of the administrative units falling under NUTS 1 and 2, as referred to by Regulation (EC) No. 1059/2003 of the European Parliament and of the Council<sup>25</sup>;
- (5) 'local authorities' include all authorities of the administrative units falling under NUTS 3 and smaller administrative units, as referred to by Regulation (EC) No. 1059/2003;
- (6) 'bodies governed by public law' means bodies that have all of the following characteristics:
  - (a) they are established for or have the specific purpose of meeting needs in the general interest, not having an industrial or commercial character; for that purpose, a body which operates in normal market conditions, aims to make a profit, and bears the losses resulting from the exercise of its activity does not have the purpose of meeting needs in the general interest, not having an industrial or commercial character;
  - (b) they have legal personality;
  - (c) they are financed, for the most part, by the State, regional or local authorities, or other bodies governed by public law; or subject to management supervision by those bodies; or have an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities, or by other bodies governed by public law.
- (7) 'public contracts' means contracts for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities and having as their object the execution of works, the supply of products or the provision of services within the meaning of this Directive;
- (8) 'public works contracts' means public contracts having as their object one of the following:
  - (a) the execution, or both the design and execution, of works related to one of the activities within the meaning of Annex II;
  - (b) the execution, or both the design and execution, of a work;
  - (c) the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority exercising a decisive influence on the type or design of the work;
- (9) 'a work' means the outcome of building or civil engineering works taken as a whole which is sufficient in itself to fulfil an economic or technical function;
- (10) 'public supply contracts' means public contracts having as their object the purchase, lease, rental or hire-purchase, with or without an option to buy, of products. A public

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<sup>25</sup> OJ L 154, 21.6.2003, p. 1.

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 which offers the execution of works and/or a work, the supply of products or the provision of services on the market;
- (13) 'tenderer' means an economic operator that has submitted a tender;
- (14) 'candidate' means an economic operator that has sought an invitation or has been invited to take part in a restricted procedure, in a competitive procedure with negotiation or in a negotiated procedure without prior publication, in a competitive dialogue or in an innovation partnership;
- (15) 'procurement documents' means all documents 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 production, transport, use and maintenance, throughout the existence of a product or a works or the provision of a service, from raw material acquisition or generation of resources to disposal, clearance and finalisation.
- (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.

### *Article 3* *Mixed procurement*

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 of services within the meaning of Chapter I of Title III and other services or of services and supplies, the main object shall be determined by a comparison of the values of the respective services or supplies.

2. In the case of contracts which have as their object procurement covered by this Directive as well as procurement or other elements not covered by it or by Directives [replacing 2004/17/EC] or 2009/81/EC<sup>26</sup>, the part of the contract which constitutes procurement covered by this Directive shall be awarded in accordance with the provisions of this Directive.

In the case of mixed contracts containing elements of public contracts and of concessions, the part of the contract which constitutes a public contract covered by this Directive shall be awarded in accordance with the provisions of this Directive.

Where the different parts of the contract in question are objectively not separable, the application of this Directive shall be determined on the basis of the main subject of that contract.

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<sup>26</sup> OJ L 217, 20.8.2009, p. 76.

## SECTION 2 THRESHOLDS

### *Article 4 Thresholds amounts*

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

- (a) EUR 5 000 000 for public works contracts;
- (b) EUR 130 000 for public supply and service contracts awarded by central government authorities and design contests organised by such authorities; where public supply contracts are awarded by contracting authorities operating in the field of defence, that threshold shall apply only to contracts concerning products covered by Annex III;
- (c) EUR 200 000 for public supply and service contracts awarded by sub-central contracting authorities and design contests organised by such authorities.
- (d) EUR 500 000 for public contracts for social and other specific services listed in Annex XVI.

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

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

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

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 single procurement shall therefore not be subdivided with the effect of preventing it from falling within the scope of this Directive, unless justified by objective reasons.
3. This estimate shall be valid at the moment at which the call for competition is sent, or, in cases where such notice is not foreseen, at the moment at which the contracting authority commences the procurement procedure, in particular by defining the essential characteristics of the intended procurement.
4. With regard to framework agreements and dynamic purchasing systems, the value to be taken into consideration shall be the maximum estimated value net of VAT of all the contracts envisaged for the total term of the framework agreement or the dynamic purchasing system.

5. In the case of innovation partnerships, the value to be taken into consideration shall be the maximum estimated value net of VAT of the research and development activities to take place during the all stages of the envisaged partnership as well as of the supplies, services or works to be developed and procured at the end of the envisaged partnership.
6. With regard to public works contracts, calculation of the estimated value shall take account of both the cost of the works and the total estimated value of the supplies and services that are made available to the contractor by the contracting authorities provided that they are necessary for executing the works.
7. Where a proposed work or purchase of services may result in contracts being awarded at the same time 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.

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

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

9. 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 purchase of services has been divided.
10. In the case of public supply or service contracts which are regular in nature or which are intended to be renewed within a given period, the calculation of the estimated contract value shall be based on the following:
  - (a) either the total actual value of the successive contracts of the same type awarded during the preceding 12 months or financial year adjusted, where possible, to take account of the changes in quantity or value which would occur in the course of the 12 months following the initial contract;
  - (b) or the total estimated value of the successive contracts awarded during the 12 months following the first delivery, or during the financial year where that is longer than 12 months.
11. With regard to public supply contracts relating to the leasing, hire, rental or hire purchase of products, the value to be taken as a basis for calculating the estimated contract value shall be as follows:
  - (a) in the case of fixed-term public contracts, where that term is less than or equal to 12 months, the total estimated value for the term of the contract or, where



the term of the contract is greater than 12 months, the total value including the estimated residual value;

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

#### *Article 6* *Revision of the thresholds*

1. Every two years from 30 June 2014, the Commission shall verify that the thresholds set out in points (a), (b) and (c) of Article 4 correspond to the thresholds established in the Government Procurement Agreement and shall, where necessary, revise them.

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

2. When carrying out the revision pursuant to paragraph 1 of this Article, the Commission shall, in addition, revise:
- (a) the threshold established in point (a) of the first paragraph of Article 12 by aligning it with the revised threshold applying to public works contracts;
  - (b) the threshold established in point (b) of the first paragraph of Article 12 by aligning it with the revised threshold applying to public service contracts awarded by sub-central contracting authorities.

3. Every two years from 1 January 2014, the Commission shall determine the values, in the national currencies of the Member States which are not participating in monetary union, of the thresholds referred to in points (a), (b) and (c) of Article 4, revised pursuant to paragraph 1 of this Article.

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

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

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

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

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

### **SECTION 3**

#### **EXCLUSIONS**

##### *Article 7*

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

This Directive shall not apply to public contracts and design contests which, under [Directive replacing 2004/17/EC], are awarded or organised by contracting authorities exercising one or

more of the activities referred to in Articles [5 to 11] of that Directive and are awarded for the pursuit of those activities, or to public contracts excluded from the scope of that Directive under [Articles 15, 20 and 27] thereof.

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

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

For the purposes of this Article:

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

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

This Directive shall not apply to public contracts and design contests which the contracting authority is obliged to award or organise in accordance with procurement procedures different from those of this Directive established by any of the following:

- (a) an international agreement concluded in conformity with the Treaty between a Member State and one or more third countries and covering works, supplies or

services intended for the joint implementation or exploitation of a project by the signatory States;

- (b) an international agreement relating to the stationing of troops and concerning the undertakings of a Member State or a third country;
- (c) a particular procedure of an international organisation;
- (d) procurement rules provided by an international organisation or international financing institution for public contracts and design contests fully financed by this organisation or institution; in the case of public contracts and design contests co-financed to a considerable extent by an international organisation or international financing institution the parties shall agree on applicable procurement procedures, which shall be in conformity with the Treaty.

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

#### *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; however, financial service contracts concluded at the same time as, before or after the contract of acquisition or rental, in whatever form, shall be subject to this Directive;
- (b) the acquisition, development, production or co-production of programme material intended for audiovisual media services, that are awarded by broadcasters, or contracts for broadcasting time that are awarded to audiovisual media service providers;
- (c) arbitration and conciliation services;
- (d) financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments within the meaning of Directive 2004/39/EC of the European Parliament and of the Council<sup>27</sup>, central bank services and operations conducted with the European Financial Stability Facility;
- (e) employment contracts;
- (f) public passenger transport services by rail or metro.

The audiovisual media services referred to in point (b) of the first paragraph shall include any transmission and distribution using any form of electronic network.

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<sup>27</sup> OJ L 145, 30.4.2004, p. 1.

*Article 11*  
*Relations between public authorities*

1. A contract awarded by a contracting authority to another legal person shall fall outside the scope of this Directive where the following cumulative conditions are fulfilled:
  - (a) the contracting authority exercises over the legal person concerned a control which is similar to that which it exercises over its own departments.
  - (b) at least 90 % of the activities of that legal person are carried out for the controlling contracting authority or for other legal persons controlled by that contracting authority;
  - (c) there is no private participation in 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.

2. Paragraph 1 also applies where a controlled entity which is a contracting authority awards a contract to its controlling entity, or to another legal person controlled by the same contracting authority, provided that there is no private participation in the legal person being awarded the public contract.
3. A contracting authority, which does not exercise over a legal person control within the meaning of paragraph 1, may nevertheless award a public contract without applying this Directive to a legal person which it controls jointly with other contracting authorities, where the following conditions are fulfilled:
  - (a) the contracting authorities exercise jointly over the legal person a control which is similar to that which they exercise over their own departments;
  - (b) at least 90 % of the activities of that legal person are carried out for the controlling contracting authorities or other legal persons controlled by the same contracting authorities;
  - (c) there is no private participation in the controlled legal person.

For the purposes of point (a), contracting authorities shall be deemed to jointly control a legal person where the following cumulative conditions are fulfilled:

- (a) the decision-making bodies of the controlled legal person are composed of representatives of all participating contracting authorities;
- (b) those contracting authorities are able to jointly exert decisive influence over the strategic objectives and significant decisions of the controlled legal person;
- (c) the controlled legal person does not pursue any interests which are distinct from that of the public authorities affiliated to it;

- (d) the controlled legal person does not draw any gains other than the reimbursement of actual costs from the public contracts with the contracting authorities.
4. An agreement concluded between two or more contracting authorities shall not be deemed to be a public contract within the meaning of Article 2(6) of this Directive where the following cumulative conditions are fulfilled:
- (a) the agreement establishes a genuine cooperation between the participating contracting authorities aimed at carrying out jointly their public service tasks and involving mutual rights and obligations of the parties;
  - (b) the agreement is governed only by considerations relating to the public interest;
  - (c) the participating contracting authorities do not perform on the open market more than 10 % in terms of turnover of the activities which are relevant in the context of the agreement;
  - (d) the agreement does not involve financial transfers between the participating contracting authorities, other than those corresponding to the reimbursement of actual costs of the works, services or supplies;
  - (e) there is no private participation in any of the contracting authorities involved.
5. The absence of private participation referred to in paragraphs 1 to 4 shall be verified at the time of the award of the contract or of the conclusion of the agreement.

The exclusions provided for in paragraphs 1 to 4 shall cease to apply from the moment any private participation takes place, with the effect that ongoing contracts need to be opened to competition through regular procurement procedures.

## **SECTION 4**

### **SPECIFIC SITUATIONS**

#### *Article 12*

##### *Contracts subsidised by contracting authorities*

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

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

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

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

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

1. This Directive shall apply to public service contracts for research and development services with CPV reference numbers 73000000-2 to 73436000-7, except 73200000-4, 73210000-7 or 73220000-0, provided that the following conditions are both fulfilled:
  - (a) the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs,
  - (b) the service provided is wholly remunerated by the contracting authority.

This Directive shall not apply to public service contracts for research and development services with CPV reference numbers 73000000-2 to 73436000-7, except 73200000-4, 73210000-7 or 73220000-0 where one of the conditions referred to in points (a) or (b) of the first subparagraph is not met.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to amend the CPV reference numbers referred to in paragraph 1 to reflect changes in the CPV nomenclature provided that such amendments do not imply a modification of the scope of this Directive.

### *Article 14* *Defence and security*

1. Subject to Article 346 of the Treaty on the Functioning of the European Union, 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 other than those referred to in paragraph 1 to the extent that the protection of the essential security interests of a Member State cannot be guaranteed in a procurement procedure as provided for in this Directive.

## CHAPTER II

### *General rules*

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

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

The design of the procurement shall not be made with the objective of excluding it from the scope of this Directive or of artificially narrowing competition.

#### *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 may submit tenders or put themselves forward as candidates. Contracting authorities shall not establish specific conditions for participation of such groups in procurement procedures which are not imposed on individual candidates. In order to submit a tender or a request to participate, those groups shall not be required by the contracting authorities to assume a specific legal form.

Contracting authorities may establish specific conditions for the performance of the contract by a group, provided that those conditions are justified by objective reasons and proportionate. Those conditions may require a group to assume a specific legal form once it has been awarded the contract, to the extent that this change is necessary for the satisfactory performance of the contract.

#### *Article 17* *Reserved contracts*

Member States may reserve the right to participate in public procurement procedures to sheltered workshops and economic operators whose main aim is the social and professional integration of disabled and disadvantaged workers or provide for such contracts to be performed in the context of sheltered employment programmes, provided that more than 30%



of the employees of those workshops, economic operators or programmes are disabled or disadvantaged workers.

The call for competition shall make reference to this provision.

#### *Article 18* *Confidentiality*

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

#### *Article 19* *Rules applicable to communication*

1. Except where use of electronic means is mandatory pursuant to Articles 32, 33, 34, 35(4), 49(2) or 51 of this Directive, contracting authorities may choose between the following means of communication for all communication and information exchange:
  - (a) electronic means in accordance with paragraphs 3, 4 and 5;
  - (b) post or fax;
  - (c) telephone in the cases and circumstances referred to in paragraph 6;
  - (d) a combination of those means.

Member States may make mandatory the use of electronic means of communication in other situations than those provided for in Articles 32, 33, 34, 35(2), 49(2) or 51 of this Directive.

2. The means of communication chosen must be generally available and not restrict economic operators' access to the procurement procedure.

In all communication, exchange and storage of information, contracting authorities shall ensure that the integrity of data and the confidentiality of tenders and requests to participate are preserved. They shall examine the content of tenders and requests to participate only after the time limit set for submitting them has expired.

3. The tools to be used for communicating by electronic means, as well as their technical characteristics, shall be non-discriminatory, generally available and

interoperable with the information and communication technology products in general use and shall not restrict economic operators' access to the procurement procedure. The technical details and characteristics of the devices for the electronic receipts to be deemed in compliance with the first subparagraph of this paragraph are set out in Annex IV.

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

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 specific technical standards, at least with regard to the use of e-submission, electronic catalogues and means for electronic authentication.

4. Contracting authorities may, where necessary, require the use of tools which are not generally available, provided that they offer alternative means of access.

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

- (a) They offer unrestricted and full direct access by electronic means to these tools from the date of publication of the notice in accordance with Annex IX or from the date when the invitation to confirm interest is sent; the text of the notice or the invitation to confirm interest shall specify the internet address at which these tools are accessible;
- (b) ensure that tenderers established in other Member States than the contracting authority's may access the procurement procedure through the use of provisional tokens made available online at no extra cost;
- (c) support an alternative channel for electronic submission of tenders.

5. The following rules shall apply to 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;
- (b) devices, methods for authentication and electronic signatures shall comply with the requirements of Annex IV;
- (c) contracting authorities shall specify the level of security required for the electronic means of communication in the various stages of the specific procurement procedure; the level shall be proportionate to the risks attached;

- (d) where advanced Electronic Signatures as defined by Directive 1999/93/EC of the European Parliament and of the Council<sup>28</sup> are required, contracting authorities shall, as long as the signature is valid, accept signatures supported by a qualified electronic certificate referred to in the Trusted List provided for in the Commission Decision 2009/767/EC<sup>29</sup>, created with or without a secure signature creation device, subject to compliance with the following conditions:
  - (i) they must establish the required advanced signature format on the basis of formats established in Commission Decision 2011/130/EU<sup>30</sup> and put in place necessary measures to be able to process these formats technically;
  - (ii) where a tender is signed with the support of a qualified certificate that is included in the Trusted list, they must not apply additional requirements that may hinder the use of those signatures by tenderers.

6. The following rules shall apply to the transmission of requests to participate:

- (a) requests to participate in procedures for the award of public contracts may be made in writing or by telephone; in the latter case, a written confirmation must be sent before expiry of the time limit set for their receipt;
- (b) contracting authorities may require that requests for participation made by fax must be confirmed by post or by electronic means, where this is necessary for the purposes of legal proof.

For the purposes of point (b), the contracting authority shall indicate in the contract notice or in the invitation to confirm interest that it requires requests to participate made by fax to be confirmed by post or by electronic means and the time limit for sending such confirmation.

7. Member States shall ensure that, at the latest 2 years after the date provided for in Article 92(1), all procurement procedures under this Directive are performed using electronic means of communication, in particular e-submission, in accordance with the requirements of this Article.

This obligation shall not apply where the use of electronic means would require specialised tools or file formats that are not generally available in all the Member States within the meaning of paragraph 3. It is the responsibility of the contracting authorities using other means of communication for submission of tenders to demonstrate in the procurement documents that the use of electronic means, due to the particular nature of the information to be exchanged with the economic operators, would require specialised tools or file formats that are not generally available in all the Member States.

Contracting authorities shall be deemed to have legitimate reasons not to request electronic means of communication in the submission process in the following cases:

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<sup>28</sup> OJ L 13, 19.1.2000, p. 12.

<sup>29</sup> OJ L 274, 20.10.2009, p. 36.

<sup>30</sup> OJ L 53, 26.2.2011, p. 66.

- (a) the description of the technical specifications, due to the specialised nature of the procurement, cannot be rendered using file formats that are generally supported by commonly used applications;
  - (b) the applications supporting file formats that are suitable for the description of the technical specifications are under a proprietary licensing schema and cannot be made available for downloading or remote use by the contracting authority;
  - (c) the applications supporting file formats that are suitable for the description of the technical specifications use file formats that cannot be handled by any other open or downloadable applications.
8. Contracting authorities may use the data processed electronically for public procurement procedures in order to prevent, detect and correct errors occurring at each stage by developing appropriate tools.

#### *Article 20* *Nomenclatures*

1. Any references to nomenclatures in the context of public procurement shall be made using the 'Common Procurement Vocabulary (CPV)' as adopted by Regulation (EC) No 2195/2002<sup>31</sup>.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to adapt the reference numbers used in Annex II and XVI, whenever changes in the CPV nomenclature must be reflected in this Directive and they do not imply a modification of the scope of this Directive.

#### *Article 21* *Conflicts of interests*

1. Member States shall provide for rules to effectively prevent, identify and immediately remedy conflicts of interests arising in the conduct of procurement procedures that are subject to this Directive, including the design and preparation of the procedure, the drawing-up of the procurement documents, the selection of candidates and tenderers and the award of the contract, so as to avoid any distortion of competition and ensure equal treatment of all tenderers.

The notion of conflict of interests shall at least cover any situation where the categories of persons referred to in paragraph 2 have, directly or indirectly, a private interest in the outcome of the procurement procedure, which may be perceived to impair the impartial and objective performance of their duties.

For the purposes of this Article, 'private interests' means any family, emotional life, economic, political or other shared interests with the candidates or the tenderers, including conflicting professional interests.

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<sup>31</sup> OJ L 340, 16.12.2002, p. 1.

2. The rules referred to in paragraph 1 shall apply to conflicts of interests involving at least the following categories of persons:
  - (a) staff members of the contracting authority, procurement service providers or staff members of other service providers who are involved in the conduct of the procurement procedure;
  - (b) the chairperson of the contracting authority and members of decision-making bodies of the contracting authority who, without necessarily being involved in the conduct of the procurement procedure, may nevertheless influence the outcome of that procedure.
3. Member States shall ensure in particular:
  - (a) that staff members referred to in paragraph 2(a) are required to disclose any conflict of interests in relation to any of the candidates or tenderers, as soon as they become aware of such conflicts, in order to enable the contracting authority to take remedial action;
  - (b) that candidates and tenderers are required to submit at the beginning of the procurement procedure a declaration on the existence of any privileged links with the persons referred to in paragraph 2(b), which are likely to place those persons in a situation of conflict of interests; the contracting authority shall indicate in the individual report referred to in Article 85 whether any candidate or tenderer has submitted a declaration.

In the event of a conflict of interests, the contracting authority shall take appropriate measures. Those measures may include the recusal of the staff member in question from involvement in the affected procurement procedure or the re-assignment of the staff member's duties and responsibilities. Where a conflict of interests cannot be effectively remedied by other means, the candidate or tenderer concerned shall be excluded from the procedure.

Where privileged links are identified, the contracting authority shall immediately inform the oversight body designated in accordance with Article 84 and take appropriate measures to avoid any undue influence on the award process and ensure equal treatment of candidates and tenderers. Where the conflict of interests cannot be effectively remedied by other means, the candidate or tenderer concerned shall be excluded from the procedure.

4. All measures taken pursuant to this Article shall be documented in the individual report referred to in Article 85.

#### *Article 22* *Illicit conduct*

Candidates shall be required at the beginning of the procedure to provide a declaration on honour that they have not undertaken and will not undertake to:

- (a) unduly influence the decision-making process of the contracting authority or obtain confidential information that may confer upon them undue advantages in the procurement procedure;
- (b) enter into agreements with other candidates and tenderers aimed at distorting competition;
- (c) deliberately provide misleading information that may have a material influence on decisions concerning exclusion, selection or award.

# **TITLE II**

## **RULES ON PUBLIC CONTRACTS**

### **CHAPTER I**

#### ***Procedures***

##### *Article 23*

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

1. As far as covered by Annexes I, II, IV and V and the General Notes to the European Union's Appendix 1 to the Government Procurement Agreement and by the other international agreements by which the Union is bound, as listed in Annex V to this Directive, 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. By applying this Directive to economic operators of the signatories to those agreements, contracting authorities shall comply with those agreements.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to amend the list in Annex V, where necessary due to the conclusion of new international agreements or modification of existing international agreements.

##### *Article 24*

##### *Choice of procedures*

1. In awarding their public contracts, contracting authorities shall apply the national procedures adjusted to be in conformity with this Directive, provided that, without prejudice to Article 30, a call for competition has been published in accordance with this Directive.

Member States shall provide that contracting authorities may apply open or restricted procedures as regulated in this Directive.

Member States may provide that contracting authorities may apply innovation partnerships as regulated in this Directive.

They may also provide that contracting authorities may use a competitive procedure with negotiation or a competitive dialogue in any of the following cases:

- (a) with regard to works, where the works contract has as its object both the design and the execution of works within the meaning of Article 2(8) or where negotiations are needed to establish the legal or financial makeup of the project;

- (b) in respect of public works contracts, for works which are performed solely for purposes of research or innovation, testing or development and not with the aim of ensuring profitability or recovering research and development costs;
- (c) with regard to services or supplies, where the technical specifications cannot be established with sufficient precision with reference to any of the standards, European technical approvals, Common technical specifications or technical references within the meaning of points 2 to 5 of Annex VIII;
- (d) in the event of irregular or unacceptable tenders within the meaning of Article 30(2)(a) in response to an open or a restricted procedure;
- (e) due to specific circumstances related to the nature or the complexity of the works, supplies or services or the risks attaching thereto, the contract cannot be awarded without prior negotiations.

Member States may decide not to transpose into their national law the competitive procedure with negotiation, the competitive dialogue and the innovation partnership procedures.

2. The call for competition may be made by one of the following means:

- (a) a contract notice pursuant to Article 47,
- (b) where the contract is awarded by restricted or competitive procedure with negotiation by a sub-central contracting authority, by means of a prior information notice pursuant to Article 46(2).

In the case referred to in point (b), 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. Member States may provide that contracting authorities may apply a negotiated procedure without prior publication only in the specific cases and circumstances referred to expressly 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 40 days from the date on which the contract notice was sent.

The tender shall be accompanied by the requested information for qualitative selection.

2. Where contracting authorities have published a prior information notice which is not 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 20 days, provided that both of the following conditions are fulfilled:

- (a) the prior information notice has included all the information required for the contract notice in section I of part B of Annex VI, insofar as that information is available at the time the prior information notice is published;
  - (b) it was sent for publication between 45 days and 12 months before the date on which the contract notice was sent.
3. Where a state of urgency duly substantiated by the contracting authorities renders impracticable the time limit laid down in the second subparagraph of paragraph 1, they may fix a time limit which shall be not less than 20 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 where it accepts that tenders may be submitted by electronic means in accordance with Article 19(3), (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 by providing the requested information for qualitative selection.

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

2. Only those economic operators invited by the contracting authority following their assessment of the requested information 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 35 days from the date on which the invitation to tender is sent.

3. Where contracting authorities have published a prior information notice which is not 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 15 days, provided that all of the following conditions are fulfilled:
- (a) the prior information notice has included all the information required for the contract notice in section I of part B of Annex VI, insofar as that information is available at the time the prior information notice is published;
  - (b) it was sent for publication between 45 days and 12 months before the date on which the contract notice was sent.

4. 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 candidates have the same time to prepare and submit their tenders. Where it is not possible to reach agreement on the time limit for the receipt of tenders, the contracting authority shall fix a time limit which shall be at least 10 days from the date of the invitation to tender.
5. The time limit for receipt of tenders provided for in paragraph 2 may be reduced by five days where the contracting authority accepts that tenders may be submitted by electronic means in conformity with Article 19(3), (4) and (5).
6. Where a state of urgency duly substantiated by the contracting authorities renders impracticable the time limits laid down in this Article, they may fix:
  - (a) a time limit for the receipt of requests to participate which shall not be less than 15 days from the date on which the contract notice was sent;
  - (b) a time limit for the receipt of tenders which shall be not less than 10 days from the date on which the invitation to tender is 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 by providing the requested information for qualitative selection.

In the contract notice or in the invitation to confirm interest contracting authorities shall describe the procurement and the minimum requirements to be met and specify the award criteria so as to enable economic operators to identify the nature and scope of the procurement and decide whether to request to participate in the negotiations. In the technical specifications, contracting authorities shall specify which parts thereof define the the minimum requirements.

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; the minimum time limit for the receipt of tenders shall be 30 days from the date on which the invitation is sent. Article 26 (3) to (6) shall apply.

2. Only those economic operators invited by the contracting authority following their assessment of the requested information may submit a written 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. Contracting authorities shall negotiate with tenderers the tenders submitted by them to improve the content of the offers in order to better correspond to the award criteria and minimum requirements referred to in the second subparagraph of paragraph 1.

The following shall not be changed in the course of the negotiations:

- (a) the description of the procurement;
  - (b) the part of the technical specifications which define the minimum requirements;
  - (c) the award criteria.
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 take particular care to ensure that all tenderers, whose tenders have not been eliminated pursuant to paragraph 5, are informed in writing of any changes to the technical specifications other than those setting out the minimum requirements, in adequate time to allow such tenderers to modify and re-submit amended tenders following these changes, as appropriate.
- Contracting authorities shall not reveal to the other participants solutions proposed or other confidential information communicated by a candidate 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 solutions or other confidential 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 the procurement documents. In the contract notice, the invitation to confirm interest or the procurement documents, the contracting authority shall indicate whether it will use this option.
6. Where the contracting authority intends to conclude the negotiations, it shall inform the remaining tenderers and set a common deadline to submit any new or revised tenders. They shall assess the tenders as negotiated on the basis of the initially indicated 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 call for competition by providing the requested information for qualitative selection.

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 requested information may participate in the dialogue. Contracting authorities may limit the number of suitable candidates to be invited to participate in the procedure in accordance with Article 64. The contract shall be awarded on the sole basis of the award criterion of the most economically advantageous tender in accordance with Article 66(1)(a).

2. Contracting authorities shall set out their needs and requirements in the contract notice and they shall define these needs and requirements in the 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.
3. Contracting authorities shall open, with the candidates 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 contract with the chosen candidates during this dialogue.

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

Contracting authorities shall not reveal to the other participants solutions proposed or other confidential information communicated by a candidate 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 solutions or other specific confidential information.

4. Competitive dialogues may take place in successive stages in order to reduce the number of solutions to be discussed during the dialogue stage by applying the award criteria defined in the contract notice or in the descriptive document. In the contract notice or the descriptive document, the contracting authority shall indicate whether it will use this option.
5. The contracting authority shall continue the dialogue until it can identify the solution or solutions which are capable of meeting its needs.
6. Having declared that the dialogue is concluded and having so informed the participants, contracting authorities shall ask 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.
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.

Where necessary, in order to finalise financial commitments or other terms of the contract, the contracting authority may negotiate the final terms of the contract with the tenderer identified as having submitted the most economically advantageous tender in accordance with Article 66(1)(a) provided such negotiations do not have the effect of modifying essential aspects of the tender or of the public procurement, including the needs and requirements set out in the contract notice or in the descriptive document and does not risk distorting competition or causing discrimination.

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

*Article 29*  
*Innovation partnership*

1. In innovation partnerships, any economic operator may submit a request to participate in response to a contract notice with a view to establishing a structured partnership for the development of an innovative product, service or works and the subsequent purchase of the resulting supplies, services or works provided that they correspond to the agreed performance levels and costs.
2. The partnership shall be structured in successive stages following the sequence of steps in the research and innovation process, possibly up to the manufacturing of the supply or the provision of the services. It shall provide for intermediate targets to be attained by the partner and provide for payment of the remuneration in appropriate instalments. Based on those targets, the contracting authority may decide after each stage to terminate the partnership and launch a new procurement procedure for the remaining phases, provided that it has acquired the relevant intellectual property rights.
3. The contract shall be awarded in accordance with the rules for a competitive procedure with negotiation set out in Article 27.

In selecting candidates, contracting authorities shall pay particular attention to criteria concerning the tenderers' capacity and experience in the field of research and development and of developing innovative solutions. They may limit the number of suitable candidates to be invited to participate in the procedure in accordance with Article 64.

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. The contract shall be awarded on the sole basis of the award criterion of the most economically advantageous tender in accordance with Article 66(1)(a).

4. The structure of the partnership and, in particular, the duration and value of the different phases shall 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 value and duration of a contract for the purchase of the resulting supply, service or works shall remain within appropriate limits, taking into account the need to recover the costs, including those incurred in developing an innovative solution, and to achieve an adequate profit.

Contracting authorities shall not use innovation partnerships in such a way as to prevent, restrict or distort competition.

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

1. Member States may provide that contracting authorities may award public contracts by a negotiated procedure without prior publication only in the cases laid down in paragraphs (2) to (5).

2. The negotiated procedure without prior publication may be foreseen 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 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 or the national oversight body designated according to Article 84 where they so request.
- (b) where the aim of the procurement is the creation or obtention of a work of art;
- (c) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:
  - (i) the absence of competition for technical reasons;
  - (ii) the protection of patents, copyrights or other intellectual property rights;
  - (iii) the protection of other exclusive rights.

This exception only applies when no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement;

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

For the purposes of point (a), a tender shall be considered not to be suitable where:

- it is irregular or unacceptable, and
- it is completely irrelevant to the contract, being incapable of meeting the contracting authority's needs as specified in the procurement documents.

In particular, tenders shall be considered to be irregular, where they do not comply with the procurement documents or where the prices offered are sheltered from normal competitive forces.

In particular, tenders shall be considered to be unacceptable in any of the following cases:

- (a) they have been received late;
- (b) they have been submitted by tenderers that do not have the requisite qualifications;

- (c) their price either exceeds the contracting authority's budget as determined prior to the launching of the procurement procedure; the prior determination of the budget must be documented in writing;
  - (d) they have been found to be abnormally low in accordance with Article 69.
- 3. The negotiated procedure without prior publication may be foreseen for public supply contracts:
  - (a) where the products involved are manufactured purely for the purpose of research, experimentation, study or development; this provision does not extend to 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 normal supplies or installations or as the extension of existing supplies or installations where a change of supplier would oblige the contracting authority to acquire material 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 or other similar markets such as electricity exchanges;
  - (d) for the purchase of supplies 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 foreseen 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 applicable rules, 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 foreseen for new works or services consisting in the repetition of similar works or services entrusted to the economic operator to which the same contracting authorities awarded an original contract, provided that such works or services are in conformity with a basic project for which the original contract was awarded according to a procedure in accordance with Article 24(1). The basic project shall indicate the extent of possible additional works or services and the conditions under which they will be awarded.

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

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

## **CHAPTER II**

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

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

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

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

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

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

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

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

Contracting authorities shall not use framework agreements improperly or in such a way as to prevent, restrict or distort competition.

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 operator party to the framework agreement in writing, requesting it to supplement its tender as necessary.

4. Where a framework agreement is concluded with more than one economic operator, it may be performed in one of the two 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;



- (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 competition referred to in paragraph (4)(b) 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 specifications of 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 specifications of 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, open throughout its validity to any economic operator that satisfies the selection criteria.
2. In order to award contracts under a dynamic purchasing system, contracting authorities shall follow the rules of the restricted procedure. All the candidates satisfying the selection criteria shall be admitted to the system; the number of candidates to be admitted to the system shall not be limited in accordance with Article 64. All communications in the context of a dynamic purchasing system shall only be made with electronic means in accordance with Article 19(2) to (6).
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 specifications at least the nature and estimated quantity of the purchases envisaged, as well as all the necessary information concerning the

purchasing system, the electronic equipment used and the technical connection arrangements and specifications;

- (c) offer unrestricted and full direct access, as long as the system is valid, to the specifications and to any additional documents in conformity with Article 51.
- 4. Contracting authorities shall give any economic operator, throughout the entire duration of the dynamic purchasing system, the possibility of requesting to participate in the system under the conditions referred to in paragraph 2. Contracting authorities shall finalise their assessment of such requests according to the selection criteria within 10 working days following their receipt.

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

- 5. Contracting authorities shall invite all qualified participants to submit a tender for each specific procurement under the dynamic purchasing system, in accordance with Article 52.

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.

- 6. Contracting authorities shall indicate the duration of the dynamic purchasing system in the call for competition. They shall notify the Commission of any change in duration, using the following standard forms:
  - (a) where the duration 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 to the interested economic operators or to parties 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 use a repetitive electronic process (electronic auction), which occurs after an initial full evaluation of the tenders, enabling them to be ranked using automatic evaluation methods.

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

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

3. The electronic auction shall be based on one of the the following criteria:
  - (a) solely on prices where the contract is awarded to the tender offering the lowest cost;
  - (b) on prices and/or on the new values of the features of the tenders indicated in the specifications where the contract is awarded to the most economically advantageous tender.
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 specifications 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 qualified tenderer and is in conformity with the technical specifications.

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

6. Where the contract is to be awarded on the basis of the most economically advantageous tender, the invitation shall be accompanied by the outcome of a full evaluation of the relevant tenderer, carried out in accordance with the weighting provided for in the first subparagraph of Article 66(5).

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

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

7. Throughout each phase of an electronic auction the contracting authorities shall instantaneously communicate to all tenderers at least sufficient information to enable

them to ascertain their relative rankings at any moment and they may, where this has been previously indicated, communicate other information concerning other prices or values submitted as well as announcing the number of participants in any specific phase of the auction. In no case, however, may they disclose the identities of the tenderers during any phase of an electronic auction.

8. Contracting authorities shall close an electronic auction in one or more of the following manners:
  - (a) at the previously indicated date and time;
  - (b) when they receive no more new prices or new values which meet the requirements concerning minimum differences, provided that they have previously stated the time which they will allow to elapse after receiving the last submission before they close the electronic auction;
  - (c) when the previously indicated number of phases in the auction has been completed.

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

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

#### *Article 34* *Electronic catalogues*

1. Where contracting authorities require the use of electronic means of communication pursuant to Article 19, they may require tenders to be presented in the format of 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 specific 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 specifications all the necessary information pursuant to Article 19(5) concerning the format, the electronic equipment used and the technical connection arrangements and specifications for the catalogue.
- 4. Where a framework agreement has been concluded with more than one economic operator following the submission of tenders in the form of electronic catalogues, contracting authorities may provide that the reopening of competition for specific contracts takes place on the basis of updated catalogues. In such case, contracting authorities shall use one of the following alternative methods:
  - (a) invite tenderers to resubmit their electronic catalogues, adapted to the requirements of the specific contract in question;
  - (b) notify tenderers that they intend to collect from the catalogues which have already been submitted the information needed to constitute tenders adapted to the requirements of the specific contract in question (hereinafter ‘punch out’); provided that the use of this method has been announced in the procurement documents for the framework agreement.
- 5. Where contracting authorities reopen competition for specific contracts in accordance with point (b) of paragraph (4), they shall specify the date and time at which they intend to collect the information needed to constitute tenders adapted to the requirements of the specific contract in question and shall give tenderers the possibility to refuse such collection of information.

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

Before awarding the contract, contracting authorities shall present the collected information to the tenderer concerned so as to give it the opportunity to contest or confirm the correctness of the tender thus constituted.
- 6. Contracting authorities may award contracts based on a dynamic purchasing system through a punch out provided that the request for participation in the dynamic purchasing system is accompanied by an electronic catalogue in accordance with the technical specifications and format established by the contracting authority. This catalogue shall be completed subsequently by the candidates, when they are informed of the contracting authority’s intention to constitute tenders by means of a punch out. The punch out shall be conducted in conformity with point (b) of paragraph 4 and paragraph 5.

### *Article 35*

#### *Centralised purchasing activities and central purchasing bodies*

- 1. Contracting authorities may purchase works, supplies and/or services from or through a central purchasing body.

2. Member States shall provide for the possibility for contracting authorities to have recourse to centralised purchasing activities offered by central purchasing bodies established in another Member State.
3. A contracting authority fulfils its obligations pursuant to this Directive when it procures by having recourse to centralised purchasing activities, to the extent that the procurement procedures concerned and their performance are conducted by the central procurement body alone in all its stages from the publication of the call for competition to the end of the execution of the ensuing contract or contracts.

However, where certain stages of the procurement procedure or the performance of the ensuing contracts are carried out by the contracting authority concerned, the contracting authority continues to be responsible for fulfilling the obligations pursuant to this Directive in respect of the stages it conducts.
4. All procurement procedures conducted by a central purchasing body shall be performed using electronic means of communication, in accordance with the requirements of Article 19.
5. Contracting authorities may, without applying the procedures provided for in this Directive, choose a central purchasing body to provide centralised purchasing activities, including where the central purchasing body is remunerated for so doing.
6. Central purchasing bodies shall ensure the documentation of all transactions performed in the course of the execution of the contracts, framework agreements or dynamic purchasing systems they conclude in the course of their central purchasing activities.

#### *Article 36*

##### *Ancillary purchasing activities*

The providers of ancillary purchasing activities shall be chosen in accordance with the procurement procedures set out in this Directive.

#### *Article 37*

##### *Occasional joint procurement*

1. One or more contracting authorities may agree to perform certain specific procurements jointly.
2. Where one contracting authority alone conducts the procurement procedures concerned in all its stages from the publication of the call for competition to the end of the performance of the ensuing contract or contracts, that contracting authority shall have sole responsibility for fulfilling the obligations pursuant to this Directive.

However, where the conduct of the procurement procedures and the performance of the ensuing contracts is carried out by more than one of the participating contracting authorities, each shall continue to be responsible for fulfilling its obligations pursuant to this Directive in respect of the stages it conducts.

### Article 38

#### *Joint procurement between contracting authorities from different Member States*

1. Without prejudice to Article 11, contracting authorities from different Member States may jointly award public contracts by using one of the means described in this Article.
2. Several contracting authorities may purchase works, supplies and/or services from or through a central purchasing body located in another Member State. In that case, the procurement procedure shall be conducted in accordance with the national provisions of the Member State where the central purchasing body is located.
3. Several contracting authorities from different Member States may jointly award a public contract. In that case, the participating contracting authorities shall conclude an agreement that determines:
  - (a) which national provisions shall apply to the procurement procedure.
  - (b) the internal organisation of the procurement procedure, including the management of the procedure, the sharing of responsibilities, the distribution of the works, supplies or services to be procured, and the conclusion of contracts.

When determining the applicable national law in accordance with point (a), contracting authorities may choose the national provisions of any Member State in which at least one of the participating authorities is located.

4. Where several contracting authorities from different Member States have set up a joint legal entity, including European Groupings of territorial cooperation under Regulation (EC) N° 1082/2006 of the European Parliament and of the Council<sup>32</sup> or other entities established under Union law, the participating contracting authorities shall, by a decision of the competent body of the joint legal entity, agree on the applicable national procurement rules of one of the following Member States:
  - (a) the national provisions of the Member State where the joint legal entity has its registered office;
  - (b) the national provisions of the Member State where the joint legal entity is carrying out its activities.

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

5. In the absence of an agreement determining the applicable public procurement law, the national legislation governing the contract award shall be determined following the rules set out below:

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<sup>32</sup> OJ L 210 of 31.7.2006, p. 19

- (a) where the procedure is conducted or managed by one participating contracting authority on behalf of the others, the national provisions of the Member State of that contracting authority shall apply;
  - (b) where the procedure is not conducted or managed by one participating contracting authority on behalf of the others, and
    - (i) concerns a works contract, contracting authorities shall apply the national provisions of the Member State where most of the works are located;
    - (ii) concerns a service or supply contract, contracting authorities shall apply the national provisions of the Member State where the major part of the services or supplies is provided;
  - (c) where it is not possible to determine the applicable national law pursuant to points (a) or (b), contracting authorities shall apply the national provisions of the Member State of the contracting authority which bears the biggest share of the costs.
6. In the absence of an agreement determining the applicable public procurement law under paragraph 4, the national legislation governing procurement procedures conducted by joint legal entities set up by several contracting authorities from different Member States shall be determined following the following rules:
- (a) where the procedure is conducted or managed by the competent organ of the joint legal entity, the national provisions of the Member State where the legal entity has its registered office shall apply.
  - (b) where the procedure is conducted or managed by a member of the legal entity on behalf of that legal entity, the rules set out in points (a) and (b) of paragraph 5 shall apply.
  - (c) where it is not possible to determine the applicable national law pursuant to points (a) or (b) of paragraph 5, the contracting authorities shall apply the national provisions of the Member State where the legal entity has its registered office.
7. One or more contracting authorities may award individual contracts under a framework agreement concluded by or jointly with a contracting authority located in another Member State, provided that the framework agreement contains specific provisions enabling the respective contracting authority or contracting authorities to award the individual contracts.
8. Decisions on the award of public contracts in cross-border public procurement shall be subject to the ordinary review mechanisms available under the national law applicable.
9. In order to enable the effective operation of review mechanisms, Member States shall ensure that the decisions of review bodies within the meaning of Council Directive



89/665/EEC<sup>33</sup> located in other Member States are fully executed in their domestic legal order, where such decisions involve contracting authorities established on their territory participating in the relevant cross-border public procurement procedure.

## **CHAPTER III**

### **Conduct of the procedure**

#### **SECTION 1**

#### **PREPARATION**

##### *Article 39*

##### *Preliminary market consultations*

1. Before launching a procurement procedure, contracting authorities may conduct market consultations in order to assess the structure, capability and capacity of the market and to inform economic operators of their procurement plans and requirements.

For this purpose, contracting authorities may seek or accept advice from administrative support structures or from third parties or market participants, provided that such advice does not have the effect of precluding competition and does not result in a violation of the principles of non-discrimination and transparency.

2. Where a candidate or tenderer or an undertaking related to a candidate or tenderer has advised the contracting authority 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 any 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.

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<sup>33</sup> OJ L 395, 30.12. 1989, p. 33.

*Article 40*  
*Technical specifications*

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

These characteristics may also refer to the specific process of production or provision of the requested works, supplies or services or of any other stage of its life cycle as referred to in point (22) of Article 2.

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

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

Where mandatory accessibility standards are adopted by a legislative act of the Union, technical specifications shall, as far as accessibility criteria are concerned, be defined by reference thereto.

2. Technical specifications shall guarantee equal access of economic operators to the procurement procedure and 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 approvals, common technical specifications, international standards, other technical reference systems established by the European standardisation bodies or — when 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, 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 specifications referred to in point (b) of paragraph 3, it shall not reject a tender on the grounds that the works, supplies and services tendered for do not comply with the specifications to which it has referred, once the tenderer proves in its tender by whatever appropriate means, including the means of proof referred to in Article 42, that the solutions it proposes 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 lay down environmental, social or other characteristics of a works, service or supply in terms of performance or functional requirements as referred to in point (a) of Article 40(3) they may require that these works, services or supplies bear a specific label, provided that all of the following conditions are fulfilled:
  - (a) the requirements for the label only concern characteristics 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 requirements for the label are drawn up on the basis of scientific information or based on other objectively verifiable and non-discriminatory criteria;
  - (c) the labels are established in an open and transparent procedure in which all stakeholders, including government bodies, consumers, manufacturers, distributors and environmental organisations, may participate,

- (d) the labels are accessible to all interested parties;
- (e) the criteria of the label are set by a third party which is independent from the economic operator applying for the label.

Contracting authorities requiring a specific label shall accept all equivalent labels that fulfil the requirements of the label indicated by the contracting authorities. For products that do not bear the label, contracting authorities shall also accept a technical dossier of the manufacturer or other appropriate means of proof.

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 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 recognised body or a certificate issued by such a body as means of proof of conformity with the technical specifications.

Where contracting authorities require the submission of certificates drawn up by recognised bodies attesting conformity with a particular technical specification, certificates from equivalent other recognised bodies shall also be accepted by the contracting authorities.

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 has no access to the certificates or test reports referred to in paragraph 1, or no possibility of obtaining them within the relevant time limits.
3. Recognised bodies within the meaning of paragraph 1 of this Article shall be test and calibration laboratories and any certification and inspection bodies accredited in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council<sup>34</sup>.
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, 2 and 3 of this Article to prove compliance with technical requirements. The competent authorities of the Member State of establishment shall provide this information in accordance with Article 88.

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<sup>34</sup> OJ L 218, 13.8.2008, p. 30.

*Article 43*  
*Variants*

1. Contracting authorities may authorise tenderers to submit variants. They shall indicate in the contract notice or, where a prior information notice is used as a means of calling for competition, in the invitation to confirm interest whether or not they authorise variants. Variants shall not be authorised without such indication.
2. Contracting authorities authorising variants shall state in the procurement documents the minimum requirements to be met by the variants and any specific requirements for their presentation. They shall also ensure that the chosen award criteria can be usefully 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 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. Public contracts may be subdivided into homogenous or heterogeneous lots. For contracts with a value equal to or greater than the thresholds provided for in Article 4 but not less than EUR 500 000, determined in accordance with Article 5, where the contracting authority does not deem it appropriate to split into lots, it shall provide in the contract notice or in the invitation to confirm interest a specific explanation of its reasons.

Contracting authorities shall indicate, in the contract notice or in the invitation to confirm interest, whether tenders are limited to one or more lots only.

2. Contracting authorities may, even where the possibility to tender for all lots has been indicated, limit the number of lots that may be awarded to a tenderer, provided that the maximum number is stated in the contract notice or in the invitation to confirm interest. Contracting authorities shall determine and indicate in the procurement documents the objective and non-discriminatory criteria or rules for awarding the different lots where the application of the chosen award criteria would result in the award to one tenderer of more lots than the maximum number.
3. Where more than one lot may be awarded to the same tenderer, contracting authorities may provide that they will either award a contract per lot or one or more contracts covering several or all lots.

Contracting authorities shall specify in the procurement documents whether they reserve the right to make such a choice and, if so, which lots may be grouped together under one contract.

Contracting authorities shall first determine the tenders fulfilling best the award criteria set out pursuant to Article 66 for each individual lot. They may award a contract for more than one lot to a tenderer that is not ranked first in respect of all individual lots covered by this contract, provided that the award criteria set out pursuant to Article 66 are better fulfilled with regard to all the lots covered by that contract. Contracting authorities shall specify the methods they intend to use for such comparison in the procurement documents. Such methods shall be transparent, objective and non-discriminatory.

4. Contracting authorities may require that all contractors coordinate their activities under the direction of the economic operator to which has been awarded a lot involving the coordination of the entire project or its relevant parts.

#### *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 24 to 30.
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 shall be extended so that all economic operators concerned may be aware of all the information needed to produce tenders.

## **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 as soon as possible after the beginning of the budgetary year. Those notices shall contain the information set out in Annex VI part B section I. They shall be published either by the Commission or by the contracting authorities on their buyer profiles in accordance with point 2(b) of Annex IX. Where the notice is published by the contracting authorities on their buyer profile, they shall send a notice of the publication on their buyer profile in accordance with point 3 of Annex IX.
2. For restricted 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 or competitive procedure with negotiation without further publication of a call for competition and invites interested economic operators to express their interest in writing;
- (c) it contains, in addition to the information set out in Annex VI part B section I, the information set out in Annex VI part B section II;
- (d) it has been published not more than 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.

#### *Article 47* *Contract notices*

All contracting authorities may use a contract notice as a means of calling for competition in respect of all procedures. Such 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 48 days after the award of a contract or the conclusion of a framework agreement, contracting authorities shall send a contract award notice on the results of the procurement procedure.

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

2. Where the call for competition for the contract concerned has been made in the form of a prior information notice and the contracting authority does not intend to award further contracts during the 12-month 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.

3. Contracting authorities shall send a notice of the result of the award of contracts based on a dynamic purchasing system within 48 days of the award of each contract. They may, however, group such notices on a quarterly basis. In that case, they shall send the grouped notices within 48 days of the end of each quarter.
4. Certain information on the contract award or the conclusion of the framework agreement may be withheld from publication where its release would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.

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

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

The Commission shall establish those standard forms. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 91.

2. Notices referred to in Articles 46, 47 and 48 shall be drawn up, transmitted by electronic means to the Commission and published in accordance with Annex IX. Notices shall be published not later than five days after they are sent. The costs of publication of the notices by the Commission shall be borne by the Union.
3. Notices referred to in Article 46(2) and Article 47 shall be published in full in an official language of the Union as chosen by the contracting authority. That language version shall constitute the sole authentic text. A summary of the important elements of each notice shall be published in the other official languages.
4. The Commission shall ensure that the full text and the summary of prior information notices referred to in Article 46(2) and calls for competition setting up a dynamic purchasing system, as referred to in Article 32(3)(a) continue to be published:
  - (a) in the case of prior information notices, for 12 months or until receipt of a contract award notice as provided for in Article 48 indicating that no further contracts will be awarded during the 12-month period covered by the call for competition;
  - (b) in the case of calls for competition setting up a dynamic purchasing system, for the period of validity of the dynamic purchasing system.
5. Contracting authorities shall be able to supply proof of the dates on which notices are dispatched.

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

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

*Article 50*  
*Publication at national level*

1. Notices referred to in Articles 46, 47 and 48 and the information contained therein shall not be published at national level before the publication pursuant to Article 49.
2. Notices published at national level shall not contain information other than that contained in the notices dispatched to the Commission or published on a buyer



profile, but shall indicate the date of dispatch of the notice to the Commission or its publication on the buyer profile.

3. Prior information notices shall not be published on a buyer profile before the dispatch to the Commission of the notice of their publication in that form. They shall indicate the date of that dispatch.

#### *Article 51*

##### *Electronic availability of procurement documents*

1. Contracting authorities shall offer unrestricted and full direct access free of charge by electronic means to the procurement documents from the date of publication of the notice in accordance with Article 49 or the date on which the invitation to confirm interest is sent. The text of the notice or the invitation to confirm interest shall specify the internet address at which this documentation is accessible.
2. Provided that it has been requested in good time, the contracting authorities or competent departments shall supply additional information relating to the specifications and any supporting documents not later than six days before the deadline fixed for the receipt of tenders. In the event of an accelerated procedure as referred to in Articles 25(3) and 26(5), that period shall be four days.

#### *Article 52*

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

1. In restricted procedures, competitive dialogue procedures, innovation partnerships and competitive procedures with negotiation, contracting authorities shall simultaneously and in writing invite the selected candidates to submit their tenders or, in the case of a competitive dialogue, to take part in the dialogue.

Where a prior information notice is used as a call for competition pursuant to Article 46(2), contracting authorities shall simultaneously and in writing invite the economic operators having expressed their interest to confirm their continuing interest.

2. The invitations referred to in paragraph 1 shall include a reference to the electronic address on which the specifications or the descriptive document and any other supporting documents have been made directly available by electronic means. In addition, they shall include the information set out in Annex X.

#### *Article 53*

##### *Informing candidates and tenderers*

1. Contracting authorities shall as soon as possible inform each candidate and tenderer of decisions reached concerning the conclusion of a framework agreement, the award of the contract or admittance to a dynamic purchasing system, including the grounds for any decision not to conclude a framework agreement, not to award a contract for which there has been a call for competition, to recommence the procedure or not to implement a dynamic purchasing system.

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

### **SECTION 3**

#### **CHOICE OF PARTICIPANTS AND AWARD OF CONTRACTS**

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

1. Contracts shall be awarded on the basis of the criteria laid down in Articles 66 to 69, provided that the following cumulative conditions are fulfilled:
  - (a) the tender complies with the requirements, conditions and criteria set out in the contract notice or the invitation to confirm interest and in the procurement documents, taking into account Article 43;
  - (b) the tender comes from a tenderer that is not excluded in accordance with Articles 21 and 55 and that meets the selection criteria set out by the contracting authority in accordance with Article 56 and, where appropriate, the non-discriminatory rules and criteria referred to in Article 64.
2. Contracting authorities may decide not to award a contract to the tenderer submitting the best tender where they have established that the tender does not comply, at least in an equivalent manner, with obligations established by Union legislation in the field of social and labour law or environmental law or of the international social and environmental law provisions listed in Annex XI.

3. In open procedures, contracting authorities may decide to examine tenders before verifying the fulfilment of the selection criteria, provided that the relevant provisions of this section are observed, including the rule that the contract shall not be 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, in accordance with subsection 1 of this section.
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 to amend the list in Annex XI, where necessary due to the conclusion of new international agreements or modification of existing international agreements.

## **SUBSECTION 1**

### **CRITERIA FOR QUALITATIVE SELECTION**

#### *Article 55* *Exclusion grounds*

1. Any candidate or tenderer that has been the subject of a conviction by final judgment for one of the following reasons shall be excluded from participation in a public contract:
  - (a) participation in a criminal organisation, as defined in Article 2(1) of Council Framework Decision 2008/841/JHA<sup>35</sup>;
  - (b) corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union<sup>36</sup> and Article 2 of Council Framework Decision 2003/568/JHA<sup>37</sup> 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 financial interests of the European Communities<sup>38</sup>;
  - (d) terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Framework Decision 2002/475/JHA<sup>39</sup> respectively, or inciting, aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision;
  - (e) money laundering, as defined in Article 1 of Council Directive 91/308/EEC<sup>40</sup>.

The obligation to exclude a candidate or tenderer from participation in a public contract shall also apply where the conviction by final judgment has condemned

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<sup>35</sup> OJ L 300, 11.11.2008, p. 42.

<sup>36</sup> OJ C 195, 25.6.1997, p. 1.

<sup>37</sup> OJ L 192, 31.7.2003, p. 54.

<sup>38</sup> OJ C 316, 27.11.1995, p. 48.

<sup>39</sup> OJ L 164, 22.6.2002, p. 3.

<sup>40</sup> OJ L 166, 28.6.1991, p. 77.

company directors or any other any persons having powers of representation, decision or control in respect of the candidate or tenderer.

2. Any economic operator shall be excluded from participation in a contract where the contracting authority is aware of a decision having the force of *res judicata* establishing that it has not fulfilled obligations relating to the payment of taxes or social security contributions 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.
3. A contracting authority may exclude from participation in a public contract any economic operator if one of the following conditions is fulfilled:
  - (a) where it is aware of any violation of obligations established by Union legislation in the field of social and labour law or environmental law or of the international social and environmental law provisions listed in Annex XI. Compliance with Union legislation or with international provisions also includes compliance in an equivalent manner.
  - (b) where the economic operator is the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator or by the court, where it has entered into an arrangement with creditors, where it has suspended business activities or is in any analogous situation arising from a similar procedure under national laws and regulations;
  - (c) where the contracting authority can demonstrate by any means that the economic operator is guilty of other grave professional misconduct;
  - (d) where the economic operator has shown significant or persistent deficiencies in the performance of any substantive requirement under a prior contract or contracts of a similar nature with the same contracting authority.

In order to apply the ground for exclusion referred to in point (d) of the first subparagraph, contracting authorities shall provide a method for the assessment of contractual performance that is based on objective and measurable criteria and applied in a systematic, consistent and transparent way. Any performance assessment shall be communicated to the contractor in question, which shall be given the opportunity to object to the findings and to obtain judicial protection.

4. Any candidate or tenderer that is in one of the situations referred to in paragraphs 1, 2 and 3 may provide the contracting authority with evidence demonstrating its reliability despite the existence of the relevant ground for exclusion.

For this purpose, the candidate or tenderer shall prove that it has compensated 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 personal measures that are appropriate to prevent further criminal offences or misconduct. Contracting authorities shall evaluate the measures taken by the candidates and tenderers taking into account the gravity and particular circumstances of the criminal offence or misconduct. Where the contracting authority considers the measures to be insufficient, it shall state the reasons for its decision.

5. Member States shall ensure that contracting authorities and economic operators can easily obtain information and assistance with regard to the application of this Article through the liaison point provided for in Article 88.
6. Member States shall make available to other Member States, upon request, any information related to the exclusion grounds listed in this Article. The competent authorities of the Member State of establishment shall provide this information in accordance with Article 88.

*Article 56*  
*Selection criteria*

1. Contracting authorities may establish conditions for participation relating to:
  - (a) suitability to pursue the professional activity;
  - (b) economic and financial standing;
  - (c) technical and professional ability.

They are not obliged to impose all the conditions listed in paragraphs 2, 3 and 4, but they shall not provide requirements other than those listed.

Contracting authorities shall limit any conditions for participation to those that are appropriate to ensure that a candidate or tenderer has the legal and financial capacities and the commercial and technical abilities to perform the contract to be awarded. All requirements shall be related and strictly proportionate to the subject-matter of the contract, taking into account the need to ensure genuine competition.

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

In procedures for the award of public service contracts, insofar as candidates or tenderers 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 sufficient economic and financial standing, contracting authorities may require economic operators to have adequate financial and economic capacity. For that purpose, they may require that economic operators have a certain minimum yearly turnover, including a certain minimum turnover in the area covered by the contract and an adequate professional risk indemnity insurance.

The minimum yearly turnover shall not exceed three times the estimated contract value, except in duly justified circumstances relating to the special risks attached to the nature of the works, services or supplies. The contracting authority shall indicate such exceptional circumstances in the procurement documents.

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 by reference to groups of lots for 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.

4. With regard to technical and professional ability, contracting authorities may require that economic operators possess the necessary human and technical resources and experience to perform the contract to an appropriate quality standard. Contracting authorities may conclude that economic operators will not perform the contract to an appropriate quality standard where the contracting authority established that they have conflicting interests which may negatively affect the performance of the contract.

In procedures for awarding public contracts having as their object supplies requiring siting or installation work, the provision of services or the execution of works, the 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*

##### *Self-declarations and other means of proof*

1. Contracting authorities shall accept self-declarations as preliminary evidence that candidates and tenderers fulfil any of the following conditions:
  - (a) they are not in one of the situations referred to in Article 55 in which economic operators shall or may be excluded;
  - (b) they meet the selection criteria that have been set out pursuant to Article 56;
  - (c) where applicable, they meet the objective rules and criteria that have been set out pursuant to Article 64;
  - (d) they will be able, upon request and without delay, to provide the supporting documentation that contracting authorities have required in accordance with Articles 59, 60 and, where appropriate, Articles 61 and 63.
2. A contracting authority may ask a candidate or tenderer at any moment during the procedure to submit all or parts of the required documentation where this appears necessary to ensure the proper conduct of the procedure.

Before awarding the contract, the contracting authority shall require the tenderer to which it has decided to award the contract to submit the documentation in accordance with Articles 59 and 60 and, where appropriate, Article 61. The contracting authority may invite economic operators to supplement or clarify the certificates and documents submitted pursuant to Articles 59, 60 and 61.

3. Contracting authorities shall not require certificates other than those referred to in Articles 60 and 61; in respect of Article 62, economic operators may rely on any appropriate means to prove to the contracting authority that they will have at their disposal the resources necessary.

Candidates and tenderers shall not be required to re-submit a certificate or other documentary evidence that has already been submitted to the same contracting authority within the past four years in an earlier procedure and is still valid.

4. Upon request, Member States shall make available to other Member States, in accordance with Article 88, any information related to the exclusion grounds listed in Article 55, to the suitability, financial and technical capacities of tenderers described in Article 56 and to the content or nature of the means of proof indicated in this Article.

#### *Article 58*

##### *Online repository of certificates (e-Certis)*

1. With a view to facilitating cross-border tendering, Member States shall ensure that the information concerning certificates and other forms of documentary evidence introduced in e-Certis is constantly kept up to date.
2. Recourse to e-Certis shall become obligatory and contracting authorities shall be obliged to require only such of types of certificates or forms of documentary evidence that are available in e-Certis at the latest 2 years after the date provided for in Article 92(1).

#### *Article 59*

##### *European Procurement Passport*

1. National authorities shall issue, at the request of an economic operator established in the relevant Member State and fulfilling the necessary conditions, a European Procurement Passport. The European Procurement Passport shall contain the particulars set out in Annex XIII and shall be drawn up on the basis of a standard form.

The Commission shall be empowered to adopt delegated acts in accordance with Article 89 in order to modify Annex XIII due to technical progress or for administrative reasons. It shall also establish the standard form for the European Procurement Passport. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 91.

2. At the latest 2 years after the date provided for in Article 92(1), the passport shall be provided exclusively in electronic form.

3. The authority issuing the passport shall seek the relevant information directly from the competent authorities, except where prohibited by national rules on the protection of personal data.
4. The European Procurement Passport shall be recognised by all contracting authorities as proof of fulfilment of the conditions for participation covered by it and shall not be questioned without justification. Such justification may be related to the fact that the passport was issued more than six months earlier.
5. Member States shall make available to other Member States, upon request, any information relating to the authenticity and content of the European Procurement Passport. The competent authorities of the Member State of establishment shall provide this information in accordance with Article 88.

#### *Article 60* *Certificates*

1. Contracting authorities shall accept the following as sufficient evidence that none of the cases specified in Article 55 apply to the economic operator:
  - (a) as regards paragraph 1 of that Article, the production of an extract from the relevant register, such as judicial records or, failing that, of an equivalent document issued by a competent judicial or administrative authority in the country of origin or the country where the economic operator is established showing that those requirements have been met;
  - (b) as regards paragraph 2 and point (b) of paragraph 3 of that Article, a certificate issued by the competent authority in the Member State concerned;
  - (c) where the country in question does not issue such documents or certificates, or where these do not cover all the cases specified in paragraphs 1, 2 and point (b) of paragraph 3 of that Article, they may be replaced by an official declaration to that effect by the national liaison point designated in accordance with Article 88.
2. 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.
3. Evidence of the economic operators' technical abilities may be provided by one or more of the means listed in Annex XIV, part 2, according to the nature, quantity or importance, and use of the works, supplies or services.
4. Upon request, Member States shall make available to other Member States, in accordance with Article 88, any information relating to the evidence on exclusion grounds, the documents attesting the suitability to pursue the professional activity,



and financial and technical capacities of tenderers, as well as any other means of proof referred to in paragraphs 1, 2 and 3 of this Article.

#### *Article 61*

##### *Quality assurance standards and environmental management standards*

1. 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, contracting authorities shall 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 from economic operators that have no access to such certificates, or no possibility of obtaining them within the relevant time limits.
2. Where contracting authorities require the production of certificates drawn up by independent bodies attesting that the economic operator complies with certain environmental management schemes or standards, they shall refer to the European Union Eco-Management and Audit Scheme (EMAS) or to other environmental management schemes as recognized in accordance with Article 45 of Regulation (EC) No 1221/2009 of the European Parliament and of the Council<sup>41</sup> or other environmental management standards based on the relevant European or international standards by accredited bodies. They shall recognise equivalent certificates from bodies established in other Member States. They shall also accept other evidence of equivalent environmental management measures from economic operators that have no access to such certificates, or no possibility of obtaining them within the relevant time limits.
3. Upon request, Member States shall make available to other Member States, in accordance with Article 88, any information relating to the documents produced as evidence of compliance with quality and environmental standards referred to in paragraphs 1 and 2 of this Article.

#### *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. It shall in that case prove to the contracting authority that it will have at its disposal the resources necessary, for example, by producing an undertaking by those entities to that effect. In the case of economic and financial standing, contracting authorities may require that the economic operator and those entities are jointly liable for the execution of the contract.

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<sup>41</sup> OJ L 342, 22.12.2009, p. 1.

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

2. In the case of works contracts, service contracts and siting and 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 a tender is submitted by a group of economic operators as referred to in Article 6, a participant in the group.

#### *Article 63*

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

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

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

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

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

3. Economic operators registered on the official lists or having a certificate may, for each contract, submit to the contracting authority a certificate of registration issued by the competent authority or the certificate issued by the competent certification body. Those certificates shall state the references which enabled those economic operators to be registered in the list or to obtain certification and the classification given in that list.
4. Certified registration on official lists by the competent bodies or a certificate issued by the certification body shall constitute a presumption of suitability with regard to requirements for qualitative selection encompassed by the list or certificate.
5. Information that can be deduced from registration on official lists or certification shall not be questioned without justification. With regard to the payment of social security contributions and taxes, an additional certificate may be required of any registered economic operator whenever a contract is to be awarded.

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

6. The requirements of proof for the criteria for qualitative selection encompassed by the list or certificate shall comply with Articles 59, 60 and, where appropriate, Article 61. For any registration of economic operators of other Member States in an official list or for their certification, no further proof or statements shall be required other than those requested of national economic operators.

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

7. Economic operators from other Member States shall not be obliged to undergo such registration or certification in order to participate in a public contract. The contracting authorities shall recognise equivalent certificates from bodies established in other Member States. They shall also accept other equivalent means of proof.
8. Upon request, Member States shall make available to other Member States, in accordance with Article 88, any information relating to the documents produced as evidence that the economic operators fulfil the requirements to be registered in the list of approved economic operators or as evidence that economic operators from another Member State possess an equivalent certification. .

## **SUBSECTION 2**

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

#### *Article 64*

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

1. In restricted procedures, competitive procedures with negotiation, competitive dialogue procedures and innovation partnerships, contracting authorities may limit the number of candidates meeting the selection criteria that they will invite to tender or to conduct a dialogue, provided a sufficient number of qualified candidates is available.

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.

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

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

#### *Article 65*

#### *Reduction of the number of tenders and solutions*

Where contracting authorities exercise the option of reducing the number of tenders to be negotiated as provided for in Article 27(5) or of solutions to be discussed as provided for in Article 28(4), they shall do so by applying the award criteria stated in the contract notice, in the specifications or in the descriptive document. In the final stage, the number arrived at shall make for genuine competition insofar as there are enough 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 remuneration of certain services, the criteria on which contracting authorities shall base the award of public contracts shall be one of the following:

- (a) the most economically advantageous tender;
  - (b) the lowest cost.

Costs may be assessed, on the choice of the contracting authority, on the basis of the price only or using a cost-effectiveness approach, such as a life-cycle costing approach, under the conditions set out in Article 67.

2. The most economically advantageous tender referred to in point (a) of paragraph 1 from the point of view of the contracting authority shall be identified on the basis of criteria linked to the subject-matter of the public contract in question. Those criteria shall include, in addition to the price or costs referred to in point (b) of paragraph 1, other criteria linked to the subject-matter of the public contract in question, such as:

- (a) quality, including technical merit, aesthetic and functional characteristics, accessibility, design for all users, environmental characteristics and innovative character;
  - (b) for service contracts and contracts involving the design of works, the organisation, qualification and experience of the staff assigned to performing the contract in question may be taken into consideration, with the consequence that, following the award of the contract, such staff may only be replaced with

the consent of the contracting authority, which must verify that replacements ensure equivalent organisation and quality;

- (c) after-sales service and technical assistance, delivery date and delivery period or period of completion;
  - (d) the specific process of production or provision of the requested works, supplies or services or of any other stage of its life cycle as referred to in point (22) of Article 2, to the extent that those criteria are specified in accordance with paragraph 4 and they concern factors directly involved in these processes and characterise the specific process of production or provision of the requested works, supplies or services.
3. Member States may provide that the award of certain types of contracts shall be based on the most economically advantageous tender as referred to in point (a) of paragraph 1 and in paragraph 2.
4. Award criteria shall not confer an unrestricted freedom of choice on the contracting authority. They shall ensure the possibility of effective competition and shall be accompanied by requirements that allow the information provided by the tenderers to be effectively verified. Contracting authorities shall verify effectively, on the basis of the information and proof provided by the tenderers, whether the tenders meet the award criteria.
5. In the case referred to in point (a) of paragraph 1 the contracting authority shall specify, in the contract notice, in the invitation to confirm interest, in the procurement documents or, in the case of a competitive dialogue, in the descriptive document, the relative weighting which it gives to each of the criteria chosen to determine the most economically advantageous tender.

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 the following costs over the life cycle of a product, service or works as defined in point (22) of Article 2:
- (a) internal costs, including costs relating to acquisition, such as production costs, use, such as energy consumption, maintenance costs, and end of life, such as collection and recycling costs and
  - (b) external environmental costs directly linked to the life cycle, provided their monetary value can be determined and verified, which 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 methodology used for the calculation of the life-cycle costs. The methodology used must fulfil all of the following conditions:
  - (a) it has been drawn up on the basis of scientific information or is based on other objectively verifiable and non-discriminatory criteria;
  - (b) it has been established for repeated or continuous application;
  - (c) it is accessible to all interested parties.

Contracting authorities shall allow economic operators, including economic operators from third countries, to apply a different methodology for establishing the life-cycle costs of their offer, provided that they prove that this methodology complies with the requirements set out in points a, b and c and is equivalent to the methodology indicated by the contracting authority.

3. Whenever a common methodology for the calculation of life-cycle costs is adopted as part of a legislative act of the Union, including by delegated acts pursuant to sector specific legislation, it shall be applied where life-cycle costing is included in the award criteria referred to in Article 66(1).

A list of such legislative and delegated acts is set out in Annex XV. The Commission shall be empowered to adopt delegated acts in accordance with Article 89 concerning the update of this list, when on the basis of the adoption of new legislation, repeal or modification of such legislation, such amendments prove necessary.

#### *Article 68* *Impediments to award*

Contracting authorities shall not award the contract to the tenderer submitting the best tender where one of the following conditions is fulfilled:

- (a) the tenderer is not able to provide the certificates and documents required pursuant to Articles 59, 60 and 61;
- (b) the declaration provided by the tenderer pursuant to Article 22 is false;
- (c) the declaration provided by the tenderer pursuant to Article 21(3)(b) is false.

#### *Article 69* *Abnormally low tenders*

1. Contracting authorities shall require economic operators to explain the price or costs charged, where all of the following conditions are fulfilled:
  - (a) the price or cost charged is more than 50 % lower than the average price or costs of the remaining tenders

- (b) the price or cost charged is more than 20 % lower than the price or costs of the second lowest tender;
  - (c) at least five tenders have been submitted.
- 2. Where tenders appear to be abnormally low for other reasons, contracting authorities may also request such explanations.
- 3. The explanations referred to in paragraphs 1 and 2 may in particular relate to:
  - (a) the economics of the construction method, the manufacturing process or the services provided;
  - (b) the technical solutions chosen or any exceptionally favourable conditions available to the tenderer for the execution of the work or for the supply of the goods or services;
  - (c) the originality of the work, supplies or services proposed by the tenderer;
  - (d) compliance, at least in an equivalent manner, with obligations established by Union legislation in the field of social and labour law or environmental law or of the international social and environmental law provisions listed in Annex XI or, where not applicable, with other provisions ensuring an equivalent level of protection;
  - (e) the possibility of the tenderer obtaining State aid.
- 4. The contracting authority shall verify the information provided by consulting the tenderer. It may only reject the tender where the evidence does not justify the low level of price or costs charged, 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 obligations established by Union legislation in the field of social and labour law or environmental law or by the international social and environmental law provisions listed in Annex XI.
- 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 of the Treaty. 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, in accordance with Article 88, any information 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 indicated in the call for competition or in the specifications. Those conditions may, in particular, concern social and environmental considerations. They may also include the requirement that economic operators foresee compensations for risks of price increases that are the result of price fluctuations (hedging) and that could substantially impact the performance of a contract.

#### *Article 71*

##### *Subcontracting*

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 main contractor. In such case, Member States shall put in place 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 and 2 shall be without prejudice to the question of the principal economic operator's liability.

#### *Article 72*

##### *Modification of contracts during their term*

1. A substantial modification of the provisions of a public contract during its term shall be considered as a new award for the purposes of this Directive and shall require a new procurement procedure in accordance with this Directive.
2. A modification of a contract during its term shall be considered substantial within the meaning of paragraph 1, where it renders the contract substantially different from the one initially concluded. In any case, without prejudice to paragraph 3 and 4, a modification shall be considered substantial where one of the following conditions is met:
  - (a) the modification introduces conditions which, had they been part of the initial procurement procedure, would have allowed for the selection of other



candidates than those initially selected or would have allowed for awarding the contract to another tenderer;

- (b) the modification changes the economic balance of the contract in favour of the contractor;
- (c) the modification extends the scope of the contract considerably to encompass supplies, services or works not initially covered.

3. The replacement of the contractual partner shall be considered a substantial modification within the meaning of paragraph 1.

However, the first subparagraph shall not apply in the event of universal or partial succession into the position of the initial contractor, following corporate restructuring operations 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.

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed the thresholds set out in Article 4 and where it is below 5% of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.
5. Contract modifications shall not be considered substantial within the meaning of paragraph 1 where they have been provided for in the procurement documents in clear, precise and unequivocal review 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.
6. By way of derogation from paragraph 1, a substantial modification shall not require a new procurement procedure where the following cumulative conditions are fulfilled:
- (a) the need for modification has been brought about by circumstances which a diligent contracting authority could not foresee;
  - (b) the modification does not alter the overall nature of the contract;
  - (c) any increase in price is not higher than 50% of the value of the original contract.

Contracting authorities shall publish in the *Official Journal of the European Union* a notice on such modifications. Such notices shall contain the information set out in Annex VI part G and be published in accordance with Article 49.

7. Contracting authorities shall not have recourse to modifications of the contract in the following cases:

- (a) where the modification would aim at remedying deficiencies in the performance of the contractor or the consequences, which can be remedied through the enforcement of contractual obligations;
- (b) where the modification would aim at compensating risks of price increases that have been hedged by the contractor.

*Article 73*  
*Termination of contracts*

Member States shall ensure that contracting authorities have the possibility, under the conditions determined by the applicable national contract law, to terminate a public contract during its term, where one of the following conditions is fulfilled:

- (a) the exceptions provided for in Article 11 cease to apply following a private participation in the legal person awarded the contract pursuant to Article 11(4);
- (b) a modification of the contract constitutes a new award within the meaning of Article 72;
- (c) the Court of Justice of the European Union finds, in a procedure pursuant to Article 258 of the Treaty, that a Member State has failed to fulfil its obligations under the Treaties due to the fact that a contracting authority belonging to that Member State has awarded the contract in question without complying with its obligations under the Treaties and this Directive.

## **Title III**

### **Particular procurement regimes**

#### **CHAPTER I**

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

###### *Article 74*

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

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

###### *Article 75*

###### *Publication of notices*

1. Contracting authorities intending to award a public contract for the services referred to in Article 74 shall make known their intention by means of a contract notice.
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.
3. The notices referred to in paragraphs 1 and 2 shall contain the information referred to in Annexes VI Part H and I, in accordance with the standard forms.

The Commission shall establish the standard forms. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 91.

4. The notices referred to in paragraphs 1 and 2 shall be published in accordance with Article 49.

###### *Article 76*

###### *Principles of awarding contracts*

1. Member States shall put in place appropriate procedures for the award of contracts subject to this Chapter, ensuring full compliance with the principles of transparency and equal treatment of economic operators and allowing 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, availability and comprehensiveness of the services, the specific needs of different categories of users, the involvement and empowerment of users and innovation. Member States may also provide that the

choice of the service provider shall not be made solely on the basis of the price for the provision of the service.

## **CHAPTER II**

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

#### *Article 77* *General provisions*

1. The rules for the organisation of design contests shall be in conformity with this Chapter and shall be communicated to those interested in participating in the contest.
2. 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.

#### *Article 78* *Scope*

This Chapter shall apply to:

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

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

#### *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(3), this shall be indicated in the contest notice.

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

Where the release of information on the outcome of the contest would impede law enforcement, be contrary to the public interest, or prejudice the legitimate

commercial interests of a particular enterprise, whether public or private, or might prejudice fair competition between service providers, such information may be withheld from publication.

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

The Commission shall establish the standard forms. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 91.

#### *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 this Directive.
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*

In conformity with Council Directive 89/665/EEC, Member States shall ensure correct application of this Directive by effective, available and transparent mechanisms which complement the system in place for the review of decisions taken by contracting authorities.

### *Article 84 Public oversight*

1. Member States shall appoint a single independent body responsible for the oversight and coordination of implementation activities (hereinafter 'the oversight body'). Member States shall inform the Commission of their designation.

All contracting authorities shall be subject to such oversight.

2. The competent authorities involved in the implementation activities shall be organised in such a manner that conflicts of interests are avoided. The system of public oversight shall be transparent. For this purpose, all guidance and opinion documents and an annual report illustrating the implementation and application of rules laid down in this Directive shall be published.

The annual report shall include the following:

- (a) an indication of the success rate of small and medium-sized enterprises (SMEs) in public procurement; where the percentage is lower than 50 % in terms of values of contracts awarded to SMEs, the report shall provide an analysis of the reasons therefore;
  - (b) a global overview of the implementation of sustainable procurement policies, including on procedures taking into account considerations linked to the protection of the environment, social inclusion including accessibility for persons with disabilities, or fostering innovation;
  - (c) information on the monitoring and follow-up of breaches to procurement rules affecting the budget of the Union in accordance with paragraphs 3 to 5 of the present article;
  - (d) centralized data about reported cases of fraud, corruption, conflict of interests and other serious irregularities in the field of public procurement, including those affecting projects cofinanced by the budget of the Union.
3. The oversight body shall be responsible for the following tasks:

- (a) monitoring the application of public procurement rules and the related practice by contracting authorities and in particular by central purchasing bodies;
- (b) providing legal advice to contracting authorities on the interpretation of public procurement rules and principles and on the application of public procurement rules in specific cases;
- (c) issuing own-initiative opinions and guidance on questions of general interest pertaining to the interpretation and application of public procurement rules, on recurring questions and on systemic difficulties related to the application of public procurement rules, in the light of the provisions of this Directive and of the relevant case-law of the Court of Justice of the European Union;
- (d) establishing and applying comprehensive, actionable 'red flag' indicator systems to prevent, detect and adequately report instances of procurement fraud, corruption, conflict of interest and other serious irregularities;
- (e) drawing the attention of the national competent institutions, including auditing authorities, to specific violations detected and to systemic problems;
- (f) examining complaints from citizens and businesses on the application of public procurement rules in specific cases and transmitting the analysis to the competent contracting authorities, which shall have the obligation to take it into account in their decisions or, where the analysis is not followed, to explain the reasons for disregarding it;
- (g) monitoring the decisions taken by national courts and authorities following a ruling given by the Court of Justice of the European Union on the basis of Article 267 of the Treaty or findings of the European Court of Auditors establishing violations of Union public procurement rules related to projects cofinanced by the Union; the oversight body shall report to the European Anti-Fraud Office any infringement to Union procurement procedures where these were related to contracts directly or indirectly funded by the European Union.

The tasks referred to in point (e) shall be without prejudice to the exercise of rights of appeal under national law or under the system established on the basis of Directive 89/665/EEC.

Member States shall empower the oversight body to seize the jurisdiction competent according to national law for the review of contracting authorities' decisions where it has detected a violation in the course of its monitoring and legal advising activity.

4. Without prejudice to the general procedures and working methods established by the Commission for its communications and contacts with Member States, the oversight body shall act as a specific contact point for the Commission when it monitors the application of Union law and the implementation of the budget from the Union on the basis of Article 17 of the Treaty on the European Union and Article 317 of the Treaty on the Functioning of the European Union. It shall report to the Commission any violation of this Directive in procurement procedures for the award of contracts directly or indirectly funded by the Union.

The Commission may in particular refer to the oversight body the treatment of individual cases where a contract is not yet concluded or a review procedure can still be carried out. It may also entrust the oversight body with the monitoring activities necessary to ensure the implementation of the measures to which Member States are committed in order to remedy a violation of Union public procurement rules and principles identified by the Commission.

The Commission may require the oversight body to analyse alleged breaches to Union public procurement rules affecting projects co-financed by the budget of the Union. The Commission may entrust the oversight body to follow-up certain cases and to ensure that the appropriate consequences of breaches to Union public procurement rules affecting projects co-financed are taken by the competent national authorities which will be obliged to follow its instructions.

5. The investigation and enforcement activities carried out by the oversight body to ensure that contracting authorities' decisions comply with this Directive and the principles of the Treaty shall not replace or prejudice the institutional role of the Commission as guardian of the Treaty. When the Commission decides to refer the treatment of an individual case pursuant to paragraph 4, it shall also retain the right to intervene in accordance with the powers conferred to it by the Treaty.
6. Contracting authorities shall transmit to the national oversight body the full text 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.
7. Without prejudice to the national law concerning access to information, and in accordance with national and EU legislation on data protection, the oversight body shall, upon written request, give unrestricted and full direct access, free of charge, to the concluded contracts referred to in paragraph 6. Access to certain parts of the contracts may be refused where their disclosure would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.

Access to the parts that may be released shall be given within a reasonable delay and no later than 45 days from the date of the request.

The applicants filing a request for access to a contract shall not need to show any direct or indirect interest related to that particular contract. The recipient of information should be allowed to make it public.
8. A summary of all the activities carried out by the oversight body in accordance with paragraphs 1 to 7 shall be included in the annual report referred to in paragraph 2.



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

For every contract or framework agreement, 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) the names of the successful candidates or tenderers and the reasons for their selection;
- (c) 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;
- (f) for negotiated procedures without prior publication, the circumstances referred to in Article 30 which justify the use of this procedure;
- (g) where necessary, 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, conflicts of interests detected and subsequent measures taken.

The contracting authorities shall document the progress of all procurement procedures, whether or not those are conducted by electronic means. To that end, they shall document all stages in the procurement procedure, including all communications with economic operators and internal deliberations, preparation of the tenders, dialogue or negotiation if any, selection and award of the contract.

The report, or its main elements, shall be communicated to the Commission or to the national oversight body where they so request.

*Article 86*  
*National reporting and lists of contracting authorities*

1. The bodies established or appointed in accordance with Article 84 shall forward to the Commission an implementation and statistical report on each year, based on a standard form, not later than 31 October of the following year.
2. The report referred to in paragraph 1 shall contain at least the following information:
  - (a) a complete and up-to-date list of all central government authorities, sub-central contracting authorities and bodies governed by public law, including sub-central authorities and associations of contracting authorities awarding public contracts or framework agreements, indicating for each authority the unique

identification number where such number is provided for in national legislation; this list shall be grouped by type of authority;

- (b) a complete and up-to-date list of all central purchasing bodies;
- (c) for all contracts above the thresholds laid down in Article 4 of this Directive:
  - (i) the number and value of contracts awarded broken down for each type of authority by procedure and by works, supplies and services identified by division of the CPV nomenclature;
  - (ii) where the contracts have been concluded under the negotiated procedure without prior publication, the data referred to in point (i) shall also be broken down according to the circumstances referred to in Article 30 and shall specify the number and value of contracts awarded, by Member State and third country of the successful contractor;
- (d) for all contracts which fall below the thresholds laid down in Article 4 of this Directive, but would be covered by this Directive if their value exceeded the threshold, the number and value of contracts awarded broken down by each type of authority.

3. 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;

The Commission may periodically publish the list of bodies governed by public law transmitted according to point (a) of paragraph 2 for information in the *Official Journal of the European Union*.

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.
5. The Commission shall establish the standard form for the annual implementation and statistical report referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 91.

#### *Article 87*

##### *Assistance to contracting authorities and businesses*

1. Member States shall make available technical support structures in order to provide legal and economic advice, guidance and assistance to contracting authorities in preparing and carrying out procurement procedures. Member States shall also ensure that each contracting authority can obtain competent assistance and advice on individual questions.

2. With a view to improving access to public procurement for economic operators, in particular SMEs, and in order to facilitate correct understanding of the provisions of this Directive, Member States shall ensure that appropriate assistance can be obtained, including by electronic means or using existing networks dedicated to business assistance.
3. Specific administrative assistance shall be available to economic operators intending to participate in a procurement procedure in another Member State. Such assistance shall at least cover administrative requirements in the Member State concerned, as well as possible obligations related to electronic procurement.

Member States shall ensure that interested economic operators have easy access to appropriate information on the obligations relating to taxes, environmental protection, and to social and labour law obligations, which are in force in the Member State, in the region or locality where the works are to be carried out or the services are to be provided and which will be applicable to the works carried out on site or to the services provided during the performance of the contract.

4. For the purposes of paragraphs 1, 2 and 3, Member States may appoint a single body or several bodies or administrative structures. Member States shall ensure due coordination between those bodies and structures.

#### *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, 59, 60, 61, 63 and 69. They shall ensure the confidentiality of the information which they exchange.
2. The competent authorities of all Member States concerned shall exchange information in compliance with personal data protection legislation provided for in Directives 95/46/EC of the European Parliament and of the Council<sup>42</sup> and 2002/58/EC of the European Parliament and of the Council<sup>43</sup>.
3. For the purposes of this Article, Member States shall designate one or more liaison points, the contact details of which shall be communicated to the other Member States, the oversight bodies and the Commission. Member States shall publish and regularly update the list of liaison points. The oversight body shall be in charge of the coordination of such liaison points.
4. The exchange of information shall take place via the Internal Market Information system established pursuant to Regulation (EU) N° XXX/XXXX of the European Parliament and Council<sup>44</sup> [proposal for a Regulation of the European Parliament and Council on the administrative cooperation through the Internal Market Information System ('the IMI Regulation') COM(2011) 522]. Member States shall supply

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<sup>42</sup> OJ L 281, 23.11.1995, p. 31.

<sup>43</sup> OJ L 201, 31.7.2002, p. 37.

<sup>44</sup> OJ L [...]

information requested by other Member States within the shortest possible period of time.

## **TITLE V**

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

#### *Article 89*

##### *Exercise of the delegation of powers*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Articles 6, 13, 19, 20, 23, 54, 59, 67 and 86 shall be conferred on the Commission for an indeterminate period of time from the [date of entry into force of the present Directive].
3. The delegation of power referred to in Articles 6, 13, 19, 20, 23, 54, 59, 67 and 86 may be revoked at any time by the European Parliament or by the Council. A revocation decision shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to this Article shall enter into force only where no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of the act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

#### *Article 90*

##### *Urgency procedure*

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

*Article 91*  
*Committee procedure*

1. The Commission shall be assisted by the Advisory Committee for Public Contracts established by Council Decision 71/306/EEC<sup>45</sup>. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this Article, Article 4 of Regulation (EU) No 182/2011 shall apply.

*Article 92*  
*Transposition*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2014 at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, 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 shall be repealed with effect from 30 June 2014.

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

*Article 94*  
*Review*

The Commission shall review the economic effects on the internal market resulting from the application of the thresholds set in Article 4 and report thereon to the European Parliament and the Council by 30 June 2017.

In the event of any change to the threshold amounts applicable under the Agreement, the report shall, where appropriate, be followed by a legislative proposal amending the thresholds set out in this Directive.

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<sup>45</sup> OJ L 185, 16.8.1971, p. 15.

*Article 95*  
*Entry into force*

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

*Article 96*  
*Addressees*

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## ANNEX I

### 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 Communication (Fedict);	FOD Informatie- en Communicatietechnologie (Fedict);
SPF Affaires étrangères, Commerce extérieur et Coopération au Développement;	FOD Buitenlandse Zaken, Buitenlandse 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 de Sécurité Sociale;	FOD Sociale Zekerheid en Openbare Instellingen van sociale Zekerheid
SPF Santé publique, Sécurité de la Chaîne alimentaire et Environnement;	FOD Volksgezondheid, Veiligheid van de Voedselketen en Leefmilieu;
SPF Justice;	FOD Justitie;
SPF Economie, PME, Classes moyennes et Energie;	FOD Economie, KMO, Middenstand en 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

Rigspolicehøveden, 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, Indvandrere 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 Risø 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 Øresundsbroskonsortiet (7 agencies and institutions, including Øresundsbroskonsortiet)

- 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 styrelser og institutioner (3 agencies and institutions)

### **Germany**

- Auswärtiges Amt
- Bundeskanzleramt
- Bundesministerium für Arbeit und Soziales
- Bundesministerium für Bildung und Forschung
- Bundesministerium für Ernährung, Landwirtschaft und Verbraucherschutz
- Bundesministerium der Finanzen
- Bundesministerium des Innern (only civil goods)
- Bundesministerium für Gesundheit
- Bundesministerium für Familie, Senioren, Frauen und Jugend



- Bundesministerium der Justiz
- Bundesministerium für Verkehr, Bau und Stadtentwicklung
- Bundesministerium für Wirtschaft und Technologie
- Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung
- Bundesministerium der Verteidigung (no military goods)
- Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit

### **Estonia**

- Vabariigi Presidendi Kantselei;
- Eesti Vabariigi Riigikogu;
- Eesti Vabariigi Riigikohus;
- Riigikontroll;
- Õiguskantsler;
- Riigikantselei;
- Rahvusarhiiv;
- Haridus- ja Teadusministeerium;
- Justiitsministeerium;
- Kaitseministeerium;
- Keskkonnaministeerium;
- Kultuuriministeerium;
- Majandus- ja Kommunikatsiooniministeerium;
- Põllumajandusministeerium;
- Rahandusministeerium;
- Siseministeerium;
- Sotsiaalministeerium;
- Välisministeerium;
- Keeleinspektsioon;
- Riigiprokuratuur;

- Teabeamet;
- Maa-amet;
- Keskkonnainspeksioon;
- Metsakaitse- ja Metsauuenduskeskus;
- Muinsuskaitseamet;
- Patendiamet;
- Tarbijakaitseamet;
- Riigihangete Amet;
- Taimetoodangu Inspeksioon;
- Põllumajanduse Registrite ja Informatsiooni Amet;
- Veterinaar- ja Toiduamet
- Konkurentsiamet;
- Maksu –ja Tolliamet;
- Statistikaamet;
- Kaitsepolitseiamet;
- Kodakondsus- ja Migratsiooni amet;
- Piirivalveamet;
- Politseiamet;
- Eesti Kohtuekspertiisi Instituut;
- Keskkriminaalpolitsei;
- Päästeamet;
- Andmekaitse Inspeksioon;
- Ravimiamet;
- Sotsiaalkindlustusamet;
- Tööturuamet;
- Tervishoiuamet;
- Tervisekaitseinspeksioon;

- Tööinspektsioon;
- Lennuamet;
- Maanteeamet;
- Veeteede Amet;
- Julgestuspolitsei;
- Kaitseressursside Amet;
- Kaitseväe Logistikakeskus;
- Tehnilise Järelevalve Amet.

### **Ireland**

- President's Establishment
- Houses of the Oireachtas — [Parliament]
- Department of the Taoiseach — [Prime Minister]
- Central Statistics Office
- Department of Finance
- Office of the Comptroller and Auditor General
- Office of the Revenue Commissioners
- Office of Public Works
- State Laboratory
- Office of the Attorney General
- Office of the Director of Public Prosecutions
- Valuation Office
- Office of the Commission for Public Service Appointments
- Public Appointments Service
- Office of the Ombudsman
- Chief State Solicitor's Office
- Department of Justice, Equality and Law Reform
- Courts Service

- Prisons Service
- Office of the Commissioners of Charitable Donations and Bequests
- Department of the Environment, Heritage and Local Government
- Department of Education and Science
- Department of Communications, Energy and Natural Resources
- Department of Agriculture, Fisheries and Food
- Department of Transport
- Department of Health and Children
- Department of Enterprise, Trade and Employment
- Department of Arts, Sports and Tourism
- Department of Defence
- Department of Foreign Affairs
- Department of Social and Family Affairs
- Department of Community, Rural and Gaeltacht — [Gaelic speaking regions] Affairs
- Arts Council
- National Gallery.

### **Greece**

- Υπουργείο Εσωτερικών;
- Υπουργείο Εξωτερικών;
- Υπουργείο Οικονομίας και Οικονομικών;
- Υπουργείο Ανάπτυξης;
- Υπουργείο Δικαιοσύνης;
- Υπουργείο Εθνικής Παιδείας και Θρησκευμάτων;
- Υπουργείο Πολιτισμού;
- Υπουργείο Υγείας και Κοινωνικής Αλληλεγγύης;
- Υπουργείο Περιβάλλοντος, Χωροταξίας και Δημοσίων Έργων;
- Υπουργείο Απασχόλησης και Κοινωνικής Προστασίας;

- Υπουργείο Μεταφορών και Επικοινωνιών;
- Υπουργείο Αγροτικής Ανάπτυξης και Τροφίμων;
- Υπουργείο Εμπορικής Ναυτιλίας, Αιγαίου και Νησιωτικής Πολιτικής;
- Υπουργείο Μακεδονίας- Θράκης;
- Γενική Γραμματεία Επικοινωνίας;
- Γενική Γραμματεία Ενημέρωσης;
- Γενική Γραμματεία Νέας Γενιάς;
- Γενική Γραμματεία Ισότητας;
- Γενική Γραμματεία Κοινωνικών Ασφαλίσεων;
- Γενική Γραμματεία Απόδημου Ελληνισμού;
- Γενική Γραμματεία Βιομηχανίας;
- Γενική Γραμματεία Έρευνας και Τεχνολογίας;
- Γενική Γραμματεία Αθλητισμού;
- Γενική Γραμματεία Δημοσίων Έργων;
- Γενική Γραμματεία Εθνικής Στατιστικής Υπηρεσίας Ελλάδος;
- Εθνικό Συμβούλιο Κοινωνικής Φροντίδας;
- Οργανισμός Εργατικής Κατοικίας;
- Εθνικό Τυπογραφείο;
- Γενικό Χημείο του Κράτους;
- Ταμείο Εθνικής Οδοποιίας;
- Εθνικό Καποδιστριακό Πανεπιστήμιο Αθηνών;
- Αριστοτέλειο Πανεπιστήμιο Θεσσαλονίκης;
- Δημοκρίτειο Πανεπιστήμιο Θράκης;
- Πανεπιστήμιο Αιγαίου;
- Πανεπιστήμιο Ιωαννίνων;
- Πανεπιστήμιο Πατρών;
- Πανεπιστήμιο Μακεδονίας;

- Πολυτεχνείο Κρήτης;
- Σιβιτανίδειος Δημόσια Σχολή Τεχνών και Επαγγελμάτων;
- Αιγινήτειο Νοσοκομείο;
- Αρεταίειο Νοσοκομείο;
- Εθνικό Κέντρο Δημόσιας Διοίκησης;
- Οργανισμός Διαχείρισης Δημοσίου Υλικού;
- Οργανισμός Γεωργικών Ασφαλίσεων;
- Οργανισμός Σχολικών Κτιρίων;
- Γενικό Επιτελείο Στρατού;
- Γενικό Επιτελείο Ναυτικού;
- Γενικό Επιτελείο Αεροπορίας;
- Ελληνική Επιτροπή Ατομικής Ενέργειας;
- Γενική Γραμματεία Εκπαίδευσης Ενηλίκων;
- Υπουργείο Εθνικής Άμυνας;
- Γενική Γραμματεία Εμπορίου.

### **Spain**

- Presidencia de Gobierno
- Ministerio de Asuntos Exteriores y de Cooperación
- Ministerio de Justicia
- Ministerio de Defensa
- Ministerio de Economía y Hacienda
- Ministerio del Interior
- Ministerio de Fomento
- Ministerio de Educación, Política Social y Deportes
- Ministerio de Industria, Turismo y Comercio
- Ministerio de Trabajo e Inmigración
- Ministerio de la Presidencia

- Ministerio de Administraciones Públicas
- Ministerio de Cultura
- Ministerio de Sanidad y Consumo
- Ministerio de Medio Ambiente y Medio Rural y Marino
- Ministerio de Vivienda
- Ministerio de Ciencia e Innovación
- Ministerio de Igualdad

## **France**

### **1. Ministries**

- Services du Premier ministre
- Ministère chargé de la santé, de la jeunesse et des sports
- Ministère chargé de l'intérieur, de l'outre-mer et des collectivités territoriales
- Ministère chargé de la justice
- Ministère chargé de la défense
- Ministère chargé des affaires étrangères et européennes
- Ministère chargé de l'éducation nationale
- Ministère chargé de l'économie, des finances et de l'emploi
- Secrétariat d'Etat aux transports
- Secrétariat d'Etat aux entreprises et au commerce extérieur
- Ministère chargé du travail, des relations sociales et de la solidarité
- Ministère chargé de la culture et de la communication
- Ministère chargé du budget, des comptes publics et de la fonction publique
- Ministère chargé de l'agriculture et de la pêche
- Ministère chargé de l'enseignement supérieur et de la recherche
- Ministère chargé de l'écologie, du développement et de l'aménagement durables
- Secrétariat d'Etat à la fonction publique
- Ministère chargé du logement et de la ville

- Secrétariat d’Etat à la coopération et à la francophonie
- Secrétariat d’Etat à l’outre-mer
- Secrétariat d’Etat à la jeunesse, des sports et de la vie associative
- Secrétariat d’Etat aux anciens combattants
- Ministère chargé de l’immigration, de l’intégration, de l’identité nationale et du co-développement
- Secrétariat d’Etat en charge de la prospective et de l’évaluation des politiques publiques
- Secrétariat d’Etat aux affaires européennes,
- Secrétariat d’Etat aux affaires étrangères et aux droits de l’homme
- Secrétariat d’Etat à la consommation et au tourisme
- Secrétariat d’Etat à la politique de la ville
- Secrétariat d’Etat à la solidarité
- Secrétariat d’Etat en charge de l’industrie et de la consommation
- Secrétariat d’Etat en charge de l’emploi
- Secrétariat d’Etat en charge du commerce, de l’artisanat, des PME, du tourisme et des services
- Secrétariat d’Etat en charge de l’écologie
- Secrétariat d’Etat en charge du développement de la région-capitale
- Secrétariat d’Etat en charge de l’aménagement du territoire

## 2. Institutions, independent authorities and jurisdictions

- Présidence de la République
- Assemblée Nationale
- Sénat
- Conseil constitutionnel
- Conseil économique et social
- Conseil supérieur de la magistrature
- Agence française contre le dopage
- Autorité de contrôle des assurances et des mutuelles



- Autorité de contrôle des nuisances sonores aéroportuaires
- Autorité de régulation des communications électroniques et des postes
- Autorité de sûreté nucléaire
- Autorité indépendante des marchés financiers
- Comité national d'évaluation des établissements publics à caractère scientifique, culturel et professionnel
- Commission d'accès aux documents administratifs
- Commission consultative du secret de la défense nationale
- Commission nationale des comptes de campagne et des financements politiques
- Commission nationale de contrôle des interceptions de sécurité
- Commission nationale de déontologie de la sécurité
- Commission nationale du débat public
- Commission nationale de l'informatique et des libertés
- Commission des participations et des transferts
- Commission de régulation de l'énergie
- Commission de la sécurité des consommateurs
- Commission des sondages
- Commission de la transparence financière de la vie politique
- Conseil de la concurrence
- Conseil des ventes volontaires de meubles aux enchères publiques
- Conseil supérieur de l'audiovisuel
- Défenseur des enfants
- Haute autorité de lutte contre les discriminations et pour l'égalité
- Haute autorité de santé
- Médiateur de la République
- Cour de justice de la République
- Tribunal des Conflits
- Conseil d'Etat

- Cours administratives d'appel
- Tribunaux administratifs
- Cour des Comptes
- Chambres régionales des Comptes
- Cours et tribunaux de l'ordre judiciaire (Cour de Cassation, Cours d'Appel, Tribunaux d'instance et Tribunaux de grande instance)

### 3. National public establishments

- Académie de France à Rome
- Académie de marine
- Académie des sciences d'outre-mer
- Académie des technologies
- Agence centrale des organismes de sécurité sociale (ACOSS)
- Agence de biomédecine
- Agence pour l'enseignement du français à l'étranger
- Agence française de sécurité sanitaire des aliments
- Agence française de sécurité sanitaire de l'environnement et du travail
- Agence Nationale pour la cohésion sociale et l'égalité des chances
- Agence nationale pour la garantie des droits des mineurs
- Agences de l'eau
- Agence Nationale de l'Accueil des Etrangers et des migrations
- Agence nationale pour l'amélioration des conditions de travail (ANACT)
- Agence nationale pour l'amélioration de l'habitat (ANAH)
- Agence Nationale pour la Cohésion Sociale et l'Egalité des Chances
- Agence nationale pour l'indemnisation des français d'outre-mer (ANIFOM)
- Assemblée permanente des chambres d'agriculture (APCA)
- Bibliothèque publique d'information
- Bibliothèque nationale de France
- Bibliothèque nationale et universitaire de Strasbourg

- Caisse des Dépôts et Consignations
- Caisse nationale des autoroutes (CNA)
- Caisse nationale militaire de sécurité sociale (CNMSS)
- Caisse de garantie du logement locatif social
- Casa de Velasquez
- Centre d'enseignement zootechnique
- Centre d'études de l'emploi
- Centre d'études supérieures de la sécurité sociale
- Centres de formation professionnelle et de promotion agricole
- Centre hospitalier des Quinze-Vingts
- Centre international d'études supérieures en sciences agronomiques (Montpellier Sup Agro)
- Centre des liaisons européennes et internationales de sécurité sociale
- Centre des Monuments Nationaux
- Centre national d'art et de culture Georges Pompidou
- Centre national des arts plastiques
- Centre national de la cinématographie
- Centre National d'Etudes et d'expérimentation du machinisme agricole, du génie rural, des eaux et des forêts (CEMAGREF)
- Centre national du livre
- Centre national de documentation pédagogique
- Centre national des œuvres universitaires et scolaires (CNOUS)
- Centre national professionnel de la propriété forestière
- Centre National de la Recherche Scientifique (C.N.R.S)
- Centres d'éducation populaire et de sport (CREPS)
- Centres régionaux des œuvres universitaires (CROUS)
- Collège de France
- Conservatoire de l'espace littoral et des rivages lacustres

- Conservatoire National des Arts et Métiers
- Conservatoire national supérieur de musique et de danse de Paris
- Conservatoire national supérieur de musique et de danse de Lyon
- Conservatoire national supérieur d'art dramatique
- Ecole centrale de Lille
- Ecole centrale de Lyon
- École centrale des arts et manufactures
- École française d'archéologie d'Athènes
- École française d'Extrême-Orient
- École française de Rome
- École des hautes études en sciences sociales
- Ecole du Louvre
- École nationale d'administration
- École nationale de l'aviation civile (ENAC)
- École nationale des Chartes
- École nationale d'équitation
- Ecole Nationale du Génie de l'Eau et de l'environnement de Strasbourg
- Écoles nationales d'ingénieurs
- Ecole nationale d'ingénieurs des industries des techniques agricoles et alimentaires de Nantes
- Écoles nationales d'ingénieurs des travaux agricoles
- École nationale de la magistrature
- Écoles nationales de la marine marchande
- École nationale de la santé publique (ENSP)
- École nationale de ski et d'alpinisme
- École nationale supérieure des arts décoratifs
- École nationale supérieure des arts et techniques du théâtre
- École nationale supérieure des arts et industries textiles Roubaix

- Écoles nationales supérieures d'arts et métiers
- École nationale supérieure des beaux-arts
- École nationale supérieure de céramique industrielle
- École nationale supérieure de l'électronique et de ses applications (ENSEA)
- Ecole nationale supérieure du paysage de Versailles
- Ecole Nationale Supérieure des Sciences de l'information et des bibliothécaires
- Ecole nationale supérieure de la sécurité sociale
- Écoles nationales vétérinaires
- École nationale de voile
- Écoles normales supérieures
- École polytechnique
- École technique professionnelle agricole et forestière de Meymac (Corrèze)
- École de sylviculture Crogny (Aube)
- École de viticulture et d'œnologie de la Tour- Blanche (Gironde)
- École de viticulture — Avize (Marne)
- Etablissement national d'enseignement agronomique de Dijon
- Établissement national des invalides de la marine (ENIM)
- Établissement national de bienfaisance Koenigswarter
- Établissement public du musée et du domaine national de Versailles
- Fondation Carnegie
- Fondation Singer-Polignac
- Haras nationaux
- Hôpital national de Saint-Maurice
- Institut des hautes études pour la science et la technologie
- Institut français d'archéologie orientale du Caire
- Institut géographique national
- Institut National de l'origine et de la qualité

- Institut national des hautes études de sécurité
- Institut de veille sanitaire
- Institut National d’enseignement supérieur et de recherche agronomique et agroalimentaire de Rennes
- Institut National d’Etudes Démographiques (I.N.E.D)
- Institut National d’Horticulture
- Institut National de la jeunesse et de l’éducation populaire
- Institut national des jeunes aveugles — Paris
- Institut national des jeunes sourds — Bordeaux
- Institut national des jeunes sourds — Chambéry
- Institut national des jeunes sourds — Metz
- Institut national des jeunes sourds — Paris
- Institut national de physique nucléaire et de physique des particules (I.N.P.N.P.P)
- Institut national de la propriété industrielle
- Institut National de la Recherche Agronomique (I.N.R.A)
- Institut National de la Recherche Pédagogique (I.N.R.P)
- Institut National de la Santé et de la Recherche Médicale (I.N.S.E.R.M)
- Institut national d’histoire de l’art (I.N.H.A.)
- Institut national de recherches archéologiques préventives
- Institut National des Sciences de l’Univers
- Institut National des Sports et de l’Education Physique
- Institut national supérieur de formation et de recherche pour l’éducation des jeunes handicapés et les enseignements inadaptés
- Instituts nationaux polytechniques
- Instituts nationaux des sciences appliquées
- Institut national de recherche en informatique et en automatique (INRIA)
- Institut national de recherche sur les transports et leur sécurité (INRETS)
- Institut de Recherche pour le Développement

- Instituts régionaux d’administration
  - Institut des Sciences et des Industries du vivant et de l’environnement (Agro Paris Tech)
  - Institut supérieur de mécanique de Paris
  - Institut Universitaires de Formation des Maîtres
  - Musée de l’armée
  - Musée Gustave-Moreau
  - Musée national de la marine
  - Musée national J.-J.-Henner
  - Musée du Louvre
  - Musée du Quai Branly
  - Muséum National d’Histoire Naturelle
  - Musée Auguste-Rodin
  - Observatoire de Paris
  - Office français de protection des réfugiés et apatrides
  - Office National des Anciens Combattants et des Victimes de Guerre (ONAC)
  - Office national de la chasse et de la faune sauvage
  - Office National de l’eau et des milieux aquatiques
  - Office national d’information sur les enseignements et les professions (ONISEP)
  - Office universitaire et culturel français pour l’Algérie
  - Ordre national de la Légion d’honneur
  - Palais de la découverte
  - Parcs nationaux
  - Universités
4. Other national public bodies
- Union des groupements d’achats publics (UGAP)
  - Agence Nationale pour l’emploi (A.N.P.E)
  - Caisse Nationale des Allocations Familiales (CNAF)

- Caisse Nationale d'Assurance Maladie des Travailleurs Salariés (CNAMS)
- Caisse Nationale d'Assurance-Vieillesse des Travailleurs Salariés (CNAVTS)

### **Italy**

- Purchasing bodies
  - Presidenza del Consiglio dei Ministri
  - Ministero degli Affari Esteri
  - Ministero dell'Interno
  - Ministero della Giustizia e Uffici giudiziari (esclusi i giudici di pace)
  - Ministero della Difesa
  - Ministero dell'Economia e delle Finanze
  - Ministero dello Sviluppo Economico
  - Ministero delle Politiche Agricole, Alimentari e Forestali
  - Ministero dell'Ambiente — Tutela del Territorio e del Mare
  - Ministero delle Infrastrutture e dei Trasporti
  - Ministero del Lavoro, della Salute e delle Politiche Sociali
  - Ministero dell'Istruzione, Università e Ricerca
  - Ministero per i Beni e le Attività culturali, comprensivo delle sue articolazioni periferiche
- Other national public bodies:
  - CONSIP (Concessionaria Servizi Informatici Pubblici)

### **Cyprus**

- Προεδρία και Προεδρικό Μέγαρο
  - Γραφείο Συντονιστή Εναρμόνισης
- Υπουργικό Συμβούλιο
- Βουλή των Αντιπροσώπων
- Δικαστική Υπηρεσία
- Νομική Υπηρεσία της Δημοκρατίας
- Ελεγκτική Υπηρεσία της Δημοκρατίας



- Επιτροπή Δημόσιας Υπηρεσίας
- Επιτροπή Εκπαιδευτικής Υπηρεσίας
- Γραφείο Επιτρόπου Διοικήσεως
- Επιτροπή Προστασίας Ανταγωνισμού
- Υπηρεσία Εσωτερικού Ελέγχου
- Γραφείο Προγραμματισμού
- Γενικό Λογιστήριο της Δημοκρατίας
- Γραφείο Επιτρόπου Προστασίας Δεδομένων Προσωπικού Χαρακτήρα
- Γραφείο Εφόρου Δημοσίων Ενισχύσεων
- Αναθεωρητική Αρχή Προσφορών
- Υπηρεσία Εποπτείας και Ανάπτυξης Συνεργατικών Εταιρειών
- Αναθεωρητική Αρχή Προσφύγων
- Υπουργείο Άμυνας
- Υπουργείο Γεωργίας, Φυσικών Πόρων και Περιβάλλοντος
  - Τμήμα Γεωργίας
  - Κτηνιατρικές Υπηρεσίες
  - Τμήμα Δασών
  - Τμήμα Αναπτύξεως Υδάτων
  - Τμήμα Γεωλογικής Επισκόπησης
  - Μετεωρολογική Υπηρεσία
  - Τμήμα Αναδασμού
  - Υπηρεσία Μεταλλείων
  - Ινστιτούτο Γεωργικών Ερευνών
  - Τμήμα Αλιείας και Θαλάσσιων Ερευνών
- Υπουργείο Δικαιοσύνης και Δημοσίας Τάξεως
  - Αστυνομία
  - Πυροσβεστική Υπηρεσία Κύπρου

- Τμήμα Φυλακών
- Υπουργείο Εμπορίου, Βιομηχανίας και Τουρισμού
  - Τμήμα Εφόρου Εταιρειών και Επίσημου Παραλήπτη
- Υπουργείο Εργασίας και Κοινωνικών Ασφαλίσεων
  - Τμήμα Εργασίας
  - Τμήμα Κοινωνικών Ασφαλίσεων
  - Τμήμα Υπηρεσιών Κοινωνικής Ευημερίας
  - Κέντρο Παραγωγικότητας Κύπρου
  - Ανώτερο Ξενοδοχειακό Ινστιτούτο Κύπρου
  - Ανώτερο Τεχνολογικό Ινστιτούτο
  - Τμήμα Επιθεώρησης Εργασίας
  - Τμήμα Εργασιακών Σχέσεων
- Υπουργείο Εσωτερικών
  - Επαρχιακές Διοικήσεις
  - Τμήμα Πολεοδομίας και Οικήσεως
  - Τμήμα Αρχείου Πληθυσμού και Μεταναστεύσεως
  - Τμήμα Κτηματολογίου και Χωρομετρίας
  - Γραφείο Τύπου και Πληροφοριών
  - Πολιτική Άμυνα
  - Υπηρεσία Μέριμνας και Αποκαταστάσεων Εκτοπισθέντων
  - Υπηρεσία Ασύλου
- Υπουργείο Εξωτερικών
- Υπουργείο Οικονομικών
  - Τελωνεία
  - Τμήμα Εσωτερικών Προσόδων
  - Στατιστική Υπηρεσία
  - Τμήμα Κρατικών Αγορών και Προμηθειών

- Τμήμα Δημόσιας Διοίκησης και Προσωπικού
- Κυβερνητικό Τυπογραφείο
- Τμήμα Υπηρεσιών Πληροφορικής
- Υπουργείο Παιδείας και Πολιτισμού
- Υπουργείο Συγκοινωνιών και Έργων
  - Τμήμα Δημοσίων Έργων
  - Τμήμα Αρχαιοτήτων
  - Τμήμα Πολιτικής Αεροπορίας
  - Τμήμα Εμπορικής Ναυτιλίας
  - Τμήμα Οδικών Μεταφορών
  - Τμήμα Ηλεκτρομηχανολογικών Υπηρεσιών
  - Τμήμα Ηλεκτρονικών Επικοινωνιών
- Υπουργείο Υγείας
  - Φαρμακευτικές Υπηρεσίες
  - Γενικό Χημείο
  - Ιατρικές Υπηρεσίες και Υπηρεσίες Δημόσιας Υγείας
  - Οδοντιατρικές Υπηρεσίες
  - Υπηρεσίες Ψυχικής Υγείας

### **Latvia**

- Ministries, secretariats of ministers for special assignments, and their subordinate institutions
  - Aizsardzības ministrija un tās padotībā esošās iestādes
  - Ārlietu ministrija un tas padotībā esošās iestādes
  - Bērnu un ģimenes lietu ministrija un tās padotībā esošās iestādes
  - Ekonomikas ministrija un tās padotībā esošās iestādes
  - Finanšu ministrija un tās padotībā esošās iestādes
  - Iekšlietu ministrija un tās padotībā esošās iestādes
  - Izglītības un zinātnes ministrija un tās padotībā esošās iestādes

- Kultūras ministrija un tās padotībā esošās iestādes
- Labklājības ministrija un tās padotībā esošās iestādes
- Reģionālās attīstības un pašvaldības lietu ministrija un tās padotībā esošās iestādes
- Satiksmes ministrija un tās padotībā esošās iestādes
- Tieslietu ministrija un tās padotībā esošās iestādes
- Veselības ministrija un tās padotībā esošās iestādes
- Vides ministrija un tās padotībā esošās iestādes
- Zemkopības ministrija un tās padotībā esošās iestādes
- Īpašu uzdevumu ministra sekretariāti un to padotībā esošās iestādes
- Satversmes aizsardzības birojs
- Other state institution
  - Augstākā tiesa
  - Centrālā vēlēšanu komisija
  - Finanšu un kapitāla tirgus komisija
  - Latvijas Banka
  - Prokuratūra un tās pārraudzībā esošās iestādes
  - Saeimas kanceleja un tās padotībā esošās iestādes
  - Satversmes tiesa
  - Valsts kanceleja un tās padotībā esošās iestādes
  - Valsts kontrole
  - Valsts prezidenta kanceleja
  - Tiesībsarga birojs
  - Nacionālā radio un televīzijas padome
  - Citas valsts iestādes, kuras nav ministriju padotībā (Other state institutions not subordinate to ministries)

### **Lithuania**

- Prezidentūros kanceliarija
- Seimo kanceliarija

- Institutions accountable to the Seimas [Parliament]:
  - Lietuvos mokslo taryba;
  - Seimo kontrolierių įstaiga;
  - Valstybės kontrolė;
  - Specialiųjų tyrimų tarnyba;
  - Valstybės saugumo departamentas;
  - Konkurencijos taryba;
  - Lietuvos gyventojų genocido ir rezistencijos tyrimo centras;
  - Vertybinių popierių komisija;
  - Ryšių reguliavimo tarnyba;
  - Nacionalinė sveikatos taryba;
  - Etninės kultūros globos taryba;
  - Lygių galimybių kontrolieriaus tarnyba;
  - Valstybinė kultūros paveldo komisija;
  - Vaiko teisių apsaugos kontrolieriaus įstaiga;
  - Valstybinė kainų ir energetikos kontrolės komisija;
  - Valstybinė lietuvių kalbos komisija;
  - Vyriausioji rinkimų komisija;
  - Vyriausioji tarnybinės etikos komisija;
  - Žurnalistų etikos inspektoriaus tarnyba.
- Vyriausybės kanceliarija
- Institutions accountable to the Vyriausybės [Government]:
  - Ginklų fondas;
  - Informacinės visuomenės plėtros komitetas;
  - Kūno kultūros ir sporto departamentas;
  - Lietuvos archyvų departamentas;
  - Mokestinių ginčų komisija;

- Statistikos departamentas;
- Tautinių mažumų ir išeivijos departamentas;
- Valstybinė tabako ir alkoholio kontrolės tarnyba;
- Viešųjų pirkimų tarnyba;
- Narkotikų kontrolės departamentas;
- Valstybinė atominės energetikos saugos inspekcija;
- Valstybinė duomenų apsaugos inspekcija;
- Valstybinė lošimų priežiūros komisija;
- Valstybinė maisto ir veterinarijos tarnyba;
- Vyriausioji administracinių ginčų komisija;
- Draudimo priežiūros komisija;
- Lietuvos valstybinis mokslo ir studijų fondas;
- Lietuvių grįžimo į Tėvynę informacijos centras
- Konstitucinis Teismas
- Lietuvos bankas
- Aplinkos ministerija
- Institutions under the Aplinkos ministerija [Ministry of Environment]:
  - Generalinė miškų urėdija;
  - Lietuvos geologijos tarnyba;
  - Lietuvos hidrometeorologijos tarnyba;
  - Lietuvos standartizacijos departamentas;
  - Nacionalinis akreditacijos biuras;
  - Valstybinė metrologijos tarnyba;
  - Valstybinė saugomų teritorijų tarnyba;
  - Valstybinė teritorijų planavimo ir statybos inspekcija.
- Finansų ministerija
- Institutions under the Finansų ministerija [Ministry of Finance]:

- Muitinės departamentas;
- Valstybės dokumentų technologinės apsaugos tarnyba;
- Valstybinė mokesčių inspekcija;
- Finansų ministerijos mokymo centras.
- Krašto apsaugos ministerija
- Institutions under the Krašto apsaugos ministerijos [Ministry of National Defence]:
  - Antrasis operatyvinių tarnybų departamentas;
  - Centralizuota finansų ir turto tarnyba;
  - Karo prievolės administravimo tarnyba;
  - Krašto apsaugos archyvas;
  - Krizių valdymo centras;
  - Mobilizacijos departamentas;
  - Ryšių ir informacinių sistemų tarnyba;
  - Infrastruktūros plėtros departamentas;
  - Valstybinis pilietinio pasipriešinimo rengimo centras.
- Lietuvos kariuomenė
- Krašto apsaugos sistemos kariniai vienetai ir tarnybos
- Kultūros ministerija
- Institutions under the Kultūros ministerijos [Ministry of Culture]:
  - Kultūros paveldo departamentas;
  - Valstybinė kalbos inspekcija.
- Socialinės apsaugos ir darbo ministerija
- Institutions under the Socialinės apsaugos ir darbo ministerijos [Ministry of Social Security and Labour]:
  - Garantinio fondo administracija;
  - Valstybės vaiko teisių apsaugos ir įvaikinimo tarnyba;
  - Lietuvos darbo birža;
  - Lietuvos darbo rinkos mokymo tarnyba;

- Trišalės tarybos sekretoriatas;
- Socialinių paslaugų priežiūros departamentas;
- Darbo inspekcija;
- Valstybinio socialinio draudimo fondo valdyba;
- Neįgalumo ir darbingumo nustatymo tarnyba;
- Ginčų komisija;
- Techninės pagalbos neįgaliesiems centras;
- Neįgalųjų reikalų departamentas.
- Susisiekimo ministerija
- Institutions under the Susisiekimo ministerijos [Ministry of Transport and Communications]:
  - Lietuvos automobilių kelių direkcija;
  - Valstybinė geležinkelio inspekcija;
  - Valstybinė kelių transporto inspekcija;
  - Pasienio kontrolės punktų direkcija.
- Sveikatos apsaugos ministerija
- Institutions under the Sveikatos apsaugos ministerijos [Ministry of Health]:
  - Valstybinė akreditavimo sveikatos priežiūros veiklai tarnyba;
  - Valstybinė ligonių kasa;
  - Valstybinė medicininio audito inspekcija;
  - Valstybinė vaistų kontrolės tarnyba;
  - Valstybinė teismo psichiatrijos ir narkologijos tarnyba;
  - Valstybinė visuomenės sveikatos priežiūros tarnyba;
  - Farmacijos departamentas;
  - Sveikatos apsaugos ministerijos Ekstremalių sveikatai situacijų centras;
  - Lietuvos bioetikos komitetas;
  - Radiacinės saugos centras.
- Švietimo ir mokslo ministerija



- Institutions under the Švietimo ir mokslo ministerijos [Ministry of Education and Science]:
  - Nacionalinis egzaminų centras;
  - Studijų kokybės vertinimo centras.
- Teisingumo ministerija
- Institutions under the Teisingumo ministerijos [Ministry of Justice]:
  - Kalėjų departamentas;
  - Nacionalinė vartotojų teisių apsaugos taryba;
  - Europos teisės departamentas
- Ūkio ministerija
- Įstaigos prie the Ūkio ministerijos [Ministry of Economy]:
  - Įmonių bankroto valdymo departamentas;
  - Valstybinė energetikos inspekcija;
  - Valstybinė ne maisto produktų inspekcija;
  - Valstybinis turizmo departamentas
- Užsienio reikalų ministerija
- Diplomatinės atstovybės ir konsulinės įstaigos užsienyje bei atstovybės prie tarptautinių organizacijų
- Vidaus reikalų ministerija
- Institutions under the Vidaus reikalų ministerijos [Ministry of the Interior]:
  - Asmens dokumentų išrašymo centras;
  - Finansinių nusikaltimų tyrimo tarnyba;
  - Gyventojų registro tarnyba;
  - Policijos departamentas;
  - Priešgaisrinės apsaugos ir gelbėjimo departamentas;
  - Turto valdymo ir ūkio departamentas;
  - Vadovybės apsaugos departamentas;
  - Valstybės sienos apsaugos tarnyba;
  - Valstybės tarnybos departamentas;

- Informatikos ir ryšių departamentas;
- Migracijos departamentas;
- Sveikatos priežiūros tarnyba;
- Bendrasis pagalbos centras.
- Žemės ūkio ministerija
- Institutions under the Žemės ūkio ministerijos [Ministry of Agriculture]:
  - Nacionalinė mokėjimo agentūra;
  - Nacionalinė žemės tarnyba;
  - Valstybinė augalų apsaugos tarnyba;
  - Valstybinė gyvulių veislininkystės priežiūros tarnyba;
  - Valstybinė sėklų ir grūdų tarnyba;
  - Žuvininkystės departamentas
- Teismai [Courts]:
  - Lietuvos Aukščiausiasis Teismas;
  - Lietuvos apeliacinis teismas;
  - Lietuvos vyriausiasis administracinis teismas;
  - apygardų teismai;
  - apygardų administraciniai teismai;
  - apylinkių teismai;
  - Nacionalinė teismų administracija
- Generalinė prokuratūra
- Other Central Public Administration Entities (institucijos [institutions], įstaigos [establishments], tarnybos[agencies])
  - Aplinkos apsaugos agentūra;
  - Valstybinė aplinkos apsaugos inspekcija;
  - Aplinkos projektų valdymo agentūra;
  - Miško genetinių išteklių, sėklų ir sodmenų tarnyba;
  - Miško sanitarinės apsaugos tarnyba;

- Valstybinė miškotvarkos tarnyba;
- Nacionalinis visuomenės sveikatos tyrimų centras;
- Lietuvos AIDS centras;
- Nacionalinis organų transplantacijos biuras;
- Valstybinis patologijos centras;
- Valstybinis psichikos sveikatos centras;
- Lietuvos sveikatos informacijos centras;
- Slaugos darbuotojų tobulinimosi ir specializacijos centras;
- Valstybinis aplinkos sveikatos centras;
- Respublikinis mitybos centras;
- Užkrečiamųjų ligų profilaktikos ir kontrolės centras;
- Trakų visuomenės sveikatos priežiūros ir specialistų tobulinimosi centras;
- Visuomenės sveikatos ugdymo centras;
- Muitinės kriminalinė tarnyba;
- Muitinės informacinių sistemų centras;
- Muitinės laboratorija;
- Muitinės mokymo centras;
- Valstybinis patentų biuras;
- Lietuvos teismo ekspertizės centras;
- Centrinė hipotekos įstaiga;
- Lietuvos metrologijos inspekcija;
- Civilinės aviacijos administracija;
- Lietuvos saugios laivybos administracija;
- Transporto investicijų direkcija;
- Valstybinė vidaus vandenių 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 ta' 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 Archiefsselectiedienst (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
  - Octrooi Centrum Nederland
  - Consumentenautoriteit
- Ministerie van Financiën
  - Bestuursdepartement
  - Belastingdienst Automatiseringscentrum
  - Belastingdienst
  - de afzonderlijke Directies der Rijksbelastingen (the various Divisions of the Tax and Customs Administration throughout the Netherlands)
  - Fiscale Inlichtingen- en Opsporingsdienst (incl. Economische Controle dienst (ECD))
  - Belastingdienst Opleidingen
  - Dienst der Domeinen
- Ministerie van Justitie
  - Bestuursdepartement
  - Dienst Justitiële Inrichtingen
  - Raad voor de Kinderbescherming
  - Centraal Justitie Incasso Bureau

- Openbaar Ministerie
- Immigratie en Naturalisatiedienst
- Nederlands Forensisch Instituut
- Dienst Terugkeer & Vertrek
- Ministerie van Landbouw, Natuur en Voedselkwaliteit
  - Bestuursdepartement
  - Dienst Regelingen (DR)
  - Agentschap Plantenziektenkundige Dienst (PD)
  - Algemene Inspectiedienst (AID)
  - Dienst Landelijk Gebied (DLG)
  - Voedsel en Waren Autoriteit (VWA)
- Ministerie van Onderwijs, Cultuur en Wetenschappen
  - Bestuursdepartement
  - Inspectie van het Onderwijs
  - Erfgoedinspectie
  - Centrale Financiën Instellingen
  - Nationaal Archief
  - Adviesraad voor Wetenschaps- en Technologiebeleid
  - Onderwijsraad
  - Raad voor Cultuur
- Ministerie van Sociale Zaken en Werkgelegenheid
  - Bestuursdepartement
  - Inspectie Werk en Inkomen
  - Agentschap SZW
- Ministerie van Verkeer en Waterstaat
  - Bestuursdepartement
  - Directoraat-Generaal Transport en Luchtvaart



- Directoraat-generaal Personenvervoer
- Directoraat-generaal Water
- Centrale diensten (Central Services)
- Shared services Organisatie Verkeer en Watersaat
- Koninklijke Nederlandse Meteorologisch Instituut KNMI
- Rijkswaterstaat, Bestuur
- De afzonderlijke regionale Diensten van Rijkswaterstaat (Each individual regional service of the Directorate-general of Public Works and Water Management)
- De afzonderlijke specialistische diensten van Rijkswaterstaat (Each individual specialist service of the Directorate-general of Public Works and Water Management)
- Adviesdienst Geo-Informatie en ICT
- Adviesdienst Verkeer en Vervoer (AVV)
- Bouwdienst
- Corporate Dienst
- Data ICT Dienst
- Dienst Verkeer en Scheepvaart
- Dienst Weg- en Waterbouwkunde (DWW)
- Rijksinstituut voor Kunst en Zee (RIKZ)
- Rijksinstituut voor Integraal Zoetwaterbeheer en Afvalwaterbehandeling (RIZA)
- Waterdienst
- Inspectie Verkeer en Waterstaat, Hoofddirectie
- Port state Control
- Directie Toezichtontwikkeling Communicatie en Onderzoek (TCO)
- 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-general 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 República
- Tribunal Constitucional
- Tribunal de Contas
- Provedoria de Justiça

### **Romania**

- Administrația Prezidențială
- Senatul României
- Camera Deputaților
- Înalta Curte de Casație și Justiție
- Curtea Constituțională

- Consiliul Legislativ
- Curtea de Conturi
- Consiliul Superior al Magistraturii
- Parchetul de pe lângă Înalta Curte de Casație și Justiție
- Secretariatul General al Guvernului
- Cancelaria primului ministru
- Ministerul Afacerilor Externe
- Ministerul Economiei și Finanțelor
- Ministerul Justiției
- Ministerul Apărării
- Ministerul Internele și Reformei Administrative
- Ministerul Muncii, Familiei și Egalității de Șanse
- Ministerul pentru Întreprinderi Mici și Mijlocii, Comerț, Turism și Profesii Libere
- Ministerul Agriculturii și Dezvoltării Rurale
- Ministerul Transporturilor
- Ministerul Dezvoltării, Lucrărilor Publice și Locuinței
- Ministerul Educației Cercetării și Tineretului
- Ministerul Sănătății Publice
- Ministerul Culturii și Cultelor
- Ministerul Comunicațiilor și Tehnologiei Informației
- Ministerul Mediului și Dezvoltării Durabile
- Serviciul Român de Informații
- Serviciul de Informații Externe
- Serviciul de Protecție și Pază
- Serviciul de Telecomunicații Speciale
- Consiliul Național al Audiovizualului
- Consiliul Concurenței (CC)



- Direcția Națională Anticorupție
- Inspectoratul General de Poliție
- Autoritatea Națională pentru Reglementarea și Monitorizarea Achizițiilor Publice
- Consiliul Național de Soluționare a Contestațiilor
- Autoritatea Națională de Reglementare pentru Serviciile Comunitare de Utilități Publice(ANRSC)
- Autoritatea Națională Sanitară Veterinară și pentru Siguranța Alimentelor
- Autoritatea Națională pentru Protecția Consumatorilor
- Autoritatea Navală Română
- Autoritatea Feroviară Română
- Autoritatea Rutieră Română
- Autoritatea Națională pentru Protecția Drepturilor Copilului
- Autoritatea Națională pentru Persoanele cu Handicap
- Autoritatea Națională pentru Turism
- Autoritatea Națională pentru Restituirea Proprietăților
- Autoritatea Națională pentru Tineret
- Autoritatea Națională pentru Cercetare Științifică
- Autoritatea Națională pentru Reglementare în Comunicații și Tehnologia Informației
- Autoritatea Națională pentru Serviciile Societății Informaționale
- Autoritatea Electorală Permanente
- Agenția pentru Strategii Guvernamentale
- Agenția Națională a Medicamentului
- Agenția Națională pentru Sport
- 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 Cooperatie
- 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 komisja za revizijo postopkov oddaje javnih naročil
- Slovenska akademija znanosti in umetnosti
- Vladne službe
- Ministrstvo za finance
- Ministrstvo za notranje zadeve
- Ministrstvo za zunanje zadeve
- Ministrstvo za obrambo
- Ministrstvo za pravosodje
- Ministrstvo za gospodarstvo
- Ministrstvo za kmetijstvo, gozdarstvo in prehrano

- Ministrstvo za promet
- Ministrstvo za okolje in, prostor
- Ministrstvo za delo, družino in socialne zadeve
- Ministrstvo za zdravje
- Ministrstvo za javno upravo
- Ministrstvo za šolstvo in šport
- Ministrstvo za visoko šolstvo, znanost in tehnologijo
- Ministrstvo za kulturo
- Vrhovno sodišče Republike Slovenije
- višja sodišča
- okrožna sodišča
- okrajna sodišča
- Vrhovno državno tožilstvo Republike Slovenije
- Okrožna državna tožilstva
- Državno pravobranilstvo
- Upravno sodišče Republike Slovenije
- Višje delovno in socialno sodišče
- delovna sodišča
- Davčna uprava Republike Slovenije
- Carinska uprava Republike Slovenije
- Urad Republike Slovenije za preprečevanje pranja denarja
- Urad Republike Slovenije za nadzor prirejanja iger na srečo
- Uprava Republike Slovenije za javna plačila
- Urad Republike Slovenije za nadzor proračuna
- Policija
- Inšpektorat Republike Slovenije za notranje zadeve
- General štab Slovenske vojske

- Uprava Republike Slovenije za zaščito in reševanje
- Inšpektorat Republike Slovenije za obrambo
- Inšpektorat Republike Slovenije za varstvo pred naravnimi in drugimi nesrečami
- Uprava Republike Slovenije za izvrševanje kazenskih sankcij
- Urad Republike Slovenije za varstvo konkurence
- Urad Republike Slovenije za varstvo potrošnikov
- Tržni inšpektorat Republike Slovenije
- Urad Republike Slovenije za intelektualno lastnino
- Inšpektorat Republike Slovenije za elektronske komunikacije, elektronsko podpisovanje in pošto
- Inšpektorat za energetiko in rudarstvo
- Agencija Republike Slovenije za kmetijske trge in razvoj podeželja
- Inšpektorat Republike Slovenije za kmetijstvo, gozdarstvo in hrano
- Fitosanitarna uprava Republike Slovenije
- Veterinarska uprava Republike Slovenije
- Uprava Republike Slovenije za pomorstvo
- Direkcija Republike Slovenije za caste
- Prometni inšpektorat Republike Slovenije
- Direkcija za vodenje investicij v javno železniško infrastrukturo
- Agencija Republike Slovenije za okolje
- Geodetska uprava Republike Slovenije
- Uprava Republike Slovenije za jedrsko varstvo
- Inšpektorat Republike Slovenije za okolje in prostor
- Inšpektorat Republike Slovenije za delo
- Zdravstveni inšpektorat
- Urad Republike Slovenije za kemikalije
- Uprava Republike Slovenije za varstvo pred sevanji
- Urad Republike Slovenije za meroslovje

- Urad za visoko šolstvo
- Urad Republike Slovenije za mladino
- Inšpektorat Republike Slovenije za šolstvo in šport
- Arhiv Republike Slovenije
- Inšpektorat Republike Slovenije za kulturo in medije
- Kabinet predsednika Vlade Republike Slovenije
- Generalni sekretariat Vlade Republike Slovenije
- Služba vlade za zakonodajo
- Služba vlade za evropske zadeve
- Služba vlade za lokalno samoupravo in regionalno politiko
- Urad vlade za komuniciranje
- Urad za enake možnosti
- Urad za verske skupnosti
- Urad za narodnosti
- Urad za makroekonomske analize in razvoj
- Statistični urad Republike Slovenije
- Slovenska obveščevalno-varnostna agencija
- Protokol Republike Slovenije
- Urad za varovanje tajnih podatkov
- Urad za Slovence v zamejstvu in po svetu
- Služba Vlade Republike Slovenije za razvoj
- Informacijski pooblaščenec
- Državna volilna komisija

### **Slovakia**

Ministries and other central government authorities referred to as in Act No. 575/2001 Coll. on the structure of activities of the Government and central state administration authorities in wording of later regulations:

- Kancelária Prezidenta Slovenskej republiky

- Národná rada Slovenskej republiky
- Ministerstvo hospodárstva Slovenskej republiky
- Ministerstvo financií Slovenskej republiky
- Ministerstvo dopravy, pôšt a telekomunikácií Slovenskej republiky
- Ministerstvo pôdohospodárstva Slovenskej republiky
- Ministerstvo výstavby a regionálneho rozvoja Slovenskej republiky
- Ministerstvo vnútra Slovenskej republiky
- Ministerstvo obrany Slovenskej republiky
- Ministerstvo spravodlivosti Slovenskej republiky
- Ministerstvo zahraničných vecí Slovenskej republiky
- Ministerstvo práce, sociálnych vecí a rodiny Slovenskej republiky
- Ministerstvo životného prostredia Slovenskej republiky
- Ministerstvo školstva Slovenskej republiky
- Ministerstvo kultúry Slovenskej republiky
- Ministerstvo zdravotníctva Slovenskej republiky
- Úrad vlády Slovenskej republiky
- Protimonopolný úrad Slovenskej republiky
- Štatistický úrad Slovenskej republiky
- Úrad geodézie, kartografie a katastra Slovenskej republiky
- Úrad jadrového dozoru Slovenskej republiky
- Úrad pre normalizáciu, metrológiu a skúšobníctvo Slovenskej republiky
- Úrad pre verejné obstarávanie
- Úrad priemyselného vlastníctva Slovenskej republiky
- Správa štátnych hmotných rezerv Slovenskej republiky
- Národný bezpečnostný úrad
- Ústavný súd Slovenskej republiky
- Najvyšší súd Slovenskej republiky

- Generálna prokuratúra Slovenskej republiky
- Najvyšší kontrolný úrad Slovenskej republiky
- Telekomunikačný úrad Slovenskej republiky
- Úrad priemyselného vlastníctva Slovenskej republiky
- Úrad pre finančný trh
- Úrad na ochranu osobných údajov
- Kancelária verejného ochrany práv

### **Finland**

- Oikeuskanslerinvirasto — Justitiekanslersämbetet
- Liikenne- Ja Viestintäministeriö — Kommunikationsministeriet
  - Ajoneuvohallintokeskus AKE — Fordonsförvaltningscentralen AKE
  - Ilmailuhallinto — Luftfärtsförvaltningen
  - 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 — Konsumenttvistnämnden
- 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 — Konsumenttvistnämnden
- Oikeushallinnon palvelukeskus — Justitieförvaltningens servicecentral
- Oikeushallinnon tietotekniikkakeskus — Justitieförvaltningens datateknikcentral
- Oikeuspoliittinen tutkimuslaitos (Optula) — Rättspolitiska forskningsinstitutet
- Oikeusrekisterikeskus — Rättsregistercentralen
- Onnettomuustutkimuskeskus — 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 elokuvataarkastamo — 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 — Polisnärättningen i Helsingfors
  - Pelastusopisto — Räddningsverket
  - Häätäkeskuslaitos — Nödcentralverket
  - Maahanmuuttovirasto — Migrationsverket
  - Sisäasiainhallinnon palvelukeskus — Inrikesförvaltningens servicecentral
  - Sosiaali- Ja Terveysministeriö — Social- Och Hälsovårdsministeriet
  - Työttömyysturvan muutoksenhakulautakunta — Besvärnämnden för utkomstskyddsärenden
  - Sosiaaliturvan muutoksenhakulautakunta — Besvärnämnden för socialtrygghet
  - Lääkelaitos — Läkemedelsverket
  - Terveysturvan oikeusturvakeskus — Rättsskyddscentralen för hälsovården
  - Säteilyturvakeskus — Strålsäkerhetscentralen
  - Kansanterveyslaitos — Folkhälsoinstitutet
  - Lääkehoidon kehittämiskeskus ROHTO — Utvecklingscentralen för läkemedelsbehandling

- Sosiaali- ja terveydenhuollon tuotevalvontakeskus — Social- och hälsovårdens produktill-synscentral
- Sosiaali- ja terveystieteiden tutkimus- ja kehittämiskeskus Stakes — Forsknings- och utvecklingscentralen för social- och hälsovården Stakes
- Vakuutusvalvontavirasto — Försäkringsinspektionen
- Työ- ja Elinkeinoministeriö — Arbets- Och Näringsministeriet
- Kuluttajavirasto — Konsumentverket
- Kilpailuvirasto — Konkurrensverket
- Patentti- ja rekisterihallitus — Patent- och registerstyrelsen
- Valtakunnansovittelijain toimisto — Riksförlikningsmännens byrå
- Valtion turvapaikanhakijoiden vastaanottokeskukset– Statliga förläggningar för asylsökande
- Energiamarkkinavirasto – Energimarknadsverket
- Geologian tutkimuskeskus — Geologiska forskningscentralen
- Huoltovarmuuskeskus — Försörjningsberedskapscentralen
- Kuluttajatutkimuskeskus — Konsumentforskningscentralen
- Matkailun edistämiskeskus (MEK) — Centralen för turistfrämjande
- Mittatekniikan keskus (MIKES) — Mätteknikcentralen
- Tekes — teknologian ja innovaatioiden kehittämiskeskus –Tekes — utvecklingscentralen för teknologi och innovationer
- Turvatekniikan keskus (TUKES) — Säkerhetsteknikcentralen
- Valtion teknillinen tutkimuskeskus (VTT) — Statens tekniska forskningscentral
- Syrjintälautakunta — Nationella diskrimineringsnämnden
- Työneuvosto — Arbetsrådet
- Vähemmistövaltuutetun toimisto — Minoritetombudsmännens byrå
- Ulkoasiainministeriö — Utrikesministeriet
- Valtioneuvoston Kanslia — Statsrådets Kansli
- Valtiovarainministeriö — Finansministeriet
  - Valtiokonttori — Statskontoret

- Verohallinto — Skatteförvaltningen
- Tullilaitos — Tullverket
- Tilastokeskus — Statistikcentralen
- Valtiontaloudellinen tutkimuskeskus — Statens ekonomiska forskningscentral
- Ympäristöministeriö — Miljöministeriet
  - Suomen ympäristökeskus — Finlands miljöcentral
  - Asumisen rahoitus- ja kehityskeskus — Finansierings- och utvecklingscentralen för boendet
- Valtiontalouden Tarkastusvirasto — Statens Revisionsverk

## **Sweden**

### **A**

- Affärsverket svenska kraftnät
- Akademien för de fria konsterna
- Alkohol- och läkemedelssortiments-nämnden
- Allmänna pensionsfonden
- Allmänna reklamationsnämnden
- Ambassader
- Ansvarsnämnd, statens
- Arbetsdomstolen
- Arbetsförmedlingen
- Arbetsgivarverk, statens
- Arbetslivsinstitutet
- Arbetsmiljöverket
- Arkitekturmuseet
- Arrendenämnder
- Arvsfondsdelegationen
- Arvsfondsdelegationen

## B

- Banverket
- Barnombudsmannen
- Beredning för utvärdering av medicinsk metodik, statens
- Bergsstaten
- Biografbyrå, statens
- Biografiskt lexikon, svenskt
- Birgittaskolan
- Blekinge tekniska högskola
- Bokföringsnämnden
- Bolagsverket
- Bostadsnämnd, statens
- Bostadskreditnämnd, statens
- Boverket
- Brottsförebyggande rådet
- Brottsöffermyndigheten

## 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
- Flygmedicencentrum
- 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
- Försvarshistoriska museer, statens
- Försvarshögskolan
- Försvarsmakten
- 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 försvarsuppfindingar
- 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
- Höskoleverket
- Högsta domstolen

## I

- ILO kommittén
- Inspektionen för arbetslöshetsförsäkringen
- Inspektionen för strategiska produkter
- Institut för kommunikationsanalys, statens
- Institut för psykosocial medicin, statens
- Institut för särskilt utbildningsstöd, statens
- Institutet för arbetsmarknadspolitisk utvärdering
- Institutet för rymdfysik
- Institutet för tillväxtpolitiska studier

- Institutionsstyrelse, statens
- Insättningsgarantinämnden
- Integrationsverket
- Internationella programkontoret för utbildningsområdet

## J

- Jordbruksverk, statens
- Justitiekanslern
- Jämställdhetsombudsmannen
- Jämställdhetsnämnden
- Järnvägar, statens
- Järnvägsstyrelsen

## K

- Kammarkollegiet
- Kammarrätterna
- Karlstads universitet
- Karolinska Institutet
- Kemikalieinspektionen
- Kommerskollegium
- Konjunkturinstitutet
- Konkurrensverket
- Konstfack
- Konsthögskolan
- Konstnärsnämnden
- Konstråd, statens
- Konsulat
- Konsumentverket
- Krigsvetenskapsakademin



- Krigsförsäkringsnämnden
- Kriminaltekniska laboratorium, statens
- Kriminalvården
- Krisberedskapsmyndigheten
- Kristinaskolan
- Kronofogdemyndigheten
- Kulturråd, statens
- Kungl. Biblioteket
- Kungl. Konsthögskolan
- Kungl. Musikhögskolan i Stockholm
- Kungl. Tekniska högskolan
- Kungl. Vitterhets-, historie- och antikvitetsakademien
- Kungl Vetenskapsakademin
- Kustbevakningen
- Kvalitets- och kompetensråd, statens
- Kärnavfallsfondens styrelse

## L

- Lagrådet
- Lantbruksuniversitet, Sveriges
- Lantmäteriverket
- Linköpings universitet
- Livrustkammaren, Skoklosters slott och Hallwylska museet
- Livsmedelsverk, statens
- Livsmedelsekonomiska institutet
- Ljud- och bildarkiv, statens
- Lokala säkerhetsnämnderna vid kärnkraftverk
- Lotteriinspektionen

- Luftfartsverket
- Luftfartsstyrelsen
- Luleå tekniska universitet
- Lunds universitet
- Läkemedelsverket
- Läkemedelsförmånsnämnden
- Länsrätterna
- Länsstyrelserna
- Lärarhögskolan i Stockholm

## M

- Malmö högskola
- Manillaskolan
- Maritima muséer, statens
- Marknadsdomstolen
- Medlingsinstitutet
- Meteorologiska och hydrologiska institut, Sveriges
- Migrationsverket
- Militärhögskolor
- Mittuniversitetet
- Moderna museet
- Museer för världskultur, statens
- Musikaliska Akademien
- Musiksamlingar, statens
- Myndigheten för handikappolitisk samordning
- Myndigheten för internationella adoptionsfrågor
- Myndigheten för skolutveckling
- Myndigheten för kvalificerad yrkesutbildning

- Myndigheten för nätverk och samarbete inom högre utbildning
- Myndigheten för Sveriges nätuniversitet
- Myndigheten för utländska investeringar i Sverige
- Mälardalens högskola

## N

- Nationalmuseum
- Nationellt centrum för flexibelt lärande
- Naturhistoriska riksmuseet
- Naturvårdsverket
- Nordiska Afrikainstitutet
- Notarienämnden
- Nämnd för arbetstagares uppfinningar, statens
- Nämnden för statligt stöd till trossamfund
- Nämnden för styrelserepresentationsfrågor
- Nämnden mot diskriminering
- Nämnden för elektronisk förvaltning
- Nämnden för RH anpassad utbildning
- Nämnden för hemslöjdsfrågor

## O

- Oljekrisnämnden
- Ombudsmannen mot diskriminering på grund av sexuell läggning
- Ombudsmannen mot etnisk diskriminering
- Operahögskolan i Stockholm

## P

- Patent- och registreringsverket
- Patentbesvärsrätten
- Pensionsverk, statens

- Personregisternämnd statens, SPAR-nämnden
- Pliktverk, Totalförsvarets
- Polarforskningssekretariatet
- Post- och telestyrelsen
- Premiepensionsmyndigheten
- Presstödsnämnden

## R

- Radio- och TV-verket
- Rederinämnden
- Regeringskansliet
- Regeringsrätten
- Resegarantinämnden
- Registernämnden
- Revisorsnämnden
- Riksantikvarieämbetet
- Riksarkivet
- Riksbanken
- Riksdagsförvaltningen
- Riksdagens ombudsmän
- Riksdagens revisorer
- Riksgäldskontoret
- Rikshemvärnsrådet
- Rikspolisstyrelsen
- Riksrevisionen
- Rikstrafiken
- Riksutställningar, Stiftelsen
- Riksvärderingsnämnden

- Rymdstyrelsen
- Rådet för Europeiska socialfonden i Sverige
- Räddningsverk, statens
- Rättshjälpmyndigheten
- Rättshjälpnämnden
- Rättsmedicinalverket

## S

- Samarbetsnämnden för statsbidrag till trossamfund
- Sameskolestyrelsen och sameskolor
- Sametinget
- SIS, Standardiseringen i Sverige
- Sjöfärtsverket
- Skatterättsnämnden
- Skatteverket
- Skaderegleringsnämnd, statens
- Skiljenämnden i vissa trygghetsfrågor
- Skogsstyrelsen
- Skogsvårdsstyrelserna
- Skogs och lantbruksakademien
- Skolverk, statens
- Skolväsendets överklagandenämnd
- Smittskyddsinstitutet
- Socialstyrelsen
- Specialpedagogiska institutet
- Specialskolmyndigheten
- 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
- Växtsortnämnd, 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 2(8)(a)**

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

NACE Rev. 1 <sup>(1)</sup>					CPV code
SECTION F			CONSTRUCTION		
Division	Group	Class	Subject	Notes	
45			Construction	This division includes:  — construction of new buildings and works, restoring and common repairs.	45000000
	45.1		Site preparation		45100000
		45.11	Demolition and wrecking of buildings; earth moving	This class includes:  — demolition of buildings and other structures,  — clearing of building sites,  — earth moving: excavation, landfill, levelling and grading of construction sites, trench digging, rock removal, blasting, etc.  — site preparation for mining:  — overburden removal and other development and preparation of mineral properties and sites.  This class also includes:  — building site drainage.  — drainage of agricultural or forestry land.	45110000
		45.12	Test drilling and boring	This class includes:  — test drilling, test boring and core sampling for construction, geophysical, geological or similar purposes.	45120000



				<p>This class excludes:</p> <ul style="list-style-type: none"> <li>— drilling of production oil or gas wells, see 11.20.</li> <li>— water well drilling, see 45.25,</li> <li>— shaft sinking, see 45.25,</li> <li>— oil and gas field exploration, geophysical, geological and seismic surveying, see 74.20.</li> </ul>	
	45.2		Building of complete constructions or parts thereof; civil engineering		45200000
		45.21	General construction of buildings and civil engineering works	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— construction of all types of buildings construction of civil engineering constructions,</li> <li>— bridges, including those for elevated highways, viaducts, tunnels and subways,</li> <li>— long-distance pipelines, communication and power lines,</li> <li>— urban pipelines, urban communication and power lines,</li> <li>— ancillary urban works,</li> <li>— assembly and erection of prefabricated constructions on the site.</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>— service activities incidental to oil and gas extraction, see 11.20,</li> <li>— erection of complete prefabricated constructions from self-manufactured parts not of concrete, see divisions 20, 26 and 28,</li> <li>— construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports</li> </ul>	<p>45210000</p> <p>Except:</p> <ul style="list-style-type: none"> <li>- 45213316</li> <li>45220000</li> <li>45231000</li> <li>45232000</li> </ul>

				installations, see 45.23,  — building installation, see 45.3,  — building completion, see 45.4,  — architectural and engineering activities, see 74.20,  — project management for construction, see 74.20.	
		45.22	Erection of roof covering and frames	This class includes:  — erection of roofs,  — roof covering,  — waterproofing.	45261000
		45.23	Construction of highways, roads, airfields and sport facilities	This class includes:  — construction of highways, streets, roads, other vehicular and pedestrian ways,  — construction of railways,  — construction of airfield runways,  — construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations,  — painting of markings on road surfaces and car parks.  This class excludes:  — preliminary earth moving, see 45.11.	45212212 and DA03  45230000  except:  - 45231000 - 45232000 - 45234115
		45.24	Construction of water projects	This class includes  — construction of:  — waterways, harbour and river works, pleasure ports (marinas), locks, etc.,  — dams and dykes,  — dredging,	45240000

				— subsurface work.	
		45.25	Other construction work involving special trades	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— construction activities specialising in one aspect common to different kinds of structures, requiring specialised skill or equipment,</li> <li>— construction of foundations, including pile driving,</li> <li>— water well drilling and construction, shaft sinking,</li> <li>— erection of non-self-manufactured steel elements,</li> <li>— steel bending,</li> <li>— bricklaying and stone setting,</li> <li>— scaffolds and work platform erecting and dismantling, including renting of scaffolds and work platforms,</li> <li>— erection of chimneys and industrial ovens.</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>— renting of scaffolds without erection and dismantling, see 71.32</li> </ul>	<p>45250000</p> <p>45262000</p>
	45.3		Building installation		45300000
		45.31	Installation of electrical wiring and fittings	<p>This class includes:</p> <p>installation in buildings or other construction projects of:</p> <ul style="list-style-type: none"> <li>— electrical wiring and fittings,</li> <li>— telecommunications systems,</li> <li>— electrical heating systems,</li> <li>— residential antennas and aerials,</li> <li>— fire alarms,</li> </ul>	<p>45213316</p> <p>45310000</p> <p>Except:</p> <p>-</p> <p>45316000</p>

				— burglar alarm systems, — lifts and escalators, — lightning conductors, etc.	
		45.32	Insulation work activities	This class includes: — installation in buildings or other construction projects of thermal, sound or vibration insulation.  This class excludes: — waterproofing, see 45.22.	45320000
		45.33	Plumbing	This class includes: — 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.  This class excludes: — installation of electrical heating systems, see 45.31.	45330000
		45.34	Other building installation	This class includes: — 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.	45234115 45316000 45340000
	45.4		Building completion		45400000
		45.41	Plastering	This class includes:	45410000

				— application in buildings or other construction projects of interior and exterior plaster or stucco, including related lathing materials.	
		45.42	Joinery installation	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— installation of not self-manufactured doors, windows, door and window frames, fitted kitchens, staircases, shop fittings and the like, of wood or other materials,</li> <li>— interior completion such as ceilings, wooden wall coverings, movable partitions, etc.</li> </ul> <p>This class excludes:</p> <ul style="list-style-type: none"> <li>— laying of parquet and other wood floor coverings, see 45.43.</li> </ul>	45420000
		45.43	Floor and wall covering	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— laying, tiling, hanging or fitting in buildings or other construction projects of:</li> <li>—</li> <li>— ceramic, concrete or cut stone wall or floor tiles,</li> <li>— parquet and other wood floor coverings carpets and linoleum floor coverings,</li> <li>— including of rubber or plastic,</li> <li>— terrazzo, marble, granite or slate floor or wall coverings,</li> <li>— wallpaper.</li> </ul>	45430000
		45.44	Painting and glazing	<p>This class includes:</p> <ul style="list-style-type: none"> <li>— interior and exterior painting of buildings,</li> <li>— painting of civil engineering structures,</li> <li>— installation of glass, mirrors, etc.</li> </ul> <p>This class excludes:</p>	45440000

				— installation of windows, see 45.42,	
		45.45	Other building completion	<p>This class includes:</p> <p>— installation of private swimming pools,</p> <p>— steam cleaning, sand blasting and similar activities for building exteriors,</p> <p>— other building completion and finishing work n.e.c.</p> <p>This class excludes:</p> <p>— interior cleaning of buildings and other structures, see 74.70.</p>	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	<p>This class excludes:</p> <p>— renting of construction or demolition machinery and equipment without operators, see 71.32.</p>	45500000
<p>(1) Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1), regulation as amended by Commission Regulation (EEC) No 761/93 (OJ L 83, 3.4.1993, p. 1).</p>					

**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 Government Procurement Agreement on which the following indicative list of products is based:

Chapter 25:	Salt, sulphur, earths and stone, plastering materials, lime and cement
Chapter 26:	Metallic ores, slag and ash
Chapter 27:	Mineral fuels, mineral oils and products of their distillation, bituminous substances, mineral waxes  except:  ex 27.10: special engine fuels
Chapter 28:	Chemicals, organic and inorganic compounds of precious metals, of rare-earth metals, of elements and of isotopes  except:  ex 28.09: explosives  ex 28.13: explosives  ex 28.14: tear gas  ex 28.28: explosives  ex 28.32: explosives  ex 28.39: explosives  ex 28.50: toxic products  ex 28.51: toxic products  ex 28.54: explosives
Chapter 29:	Organic chemicals  except:  ex 29.03: explosives

	ex 29.04: explosives ex 29.07: explosives ex 29.08: explosives ex 29.11: explosives ex 29.12: explosives ex 29.13: toxic products ex 29.14: toxic products ex 29.15: toxic products ex 29.21: toxic products ex 29.22: toxic products ex 29.23: toxic products ex 29.26: explosives ex 29.27: toxic products ex 29.29: explosives
Chapter 30:	Pharmaceutical products
Chapter 31:	Fertilisers
Chapter 32:	Tanning and dyeing extracts, tannings and their derivatives, dyes, colours, paints and varnishes, putty, fillers and stoppings, inks
Chapter 33:	Essential oils and resinoids, perfumery, cosmetic or toilet preparations
Chapter 34:	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing and scouring preparations, candles and similar articles, modelling pastes and 'dental waxes'
Chapter 35:	Albuminoidal substances, glues, enzymes
Chapter 37:	Photographic and cinematographic goods



Chapter 38:	Miscellaneous chemical products, except: ex 38.19: toxic products
Chapter 39:	Artificial resins and plastic materials, celluloses esters and ethers, articles thereof, except: ex 39.03: explosives
Chapter 40:	Rubber, synthetic rubber, factice, and articles thereof, except: ex 40.11: bullet-proof tyres
Chapter 41:	Raw hides and skins (other than fur skins) and leather
Chapter 42:	Articles of leather, saddlery and harness, travel goods, handbags and similar containers, articles of animal gut (other than silk-worm gut)
Chapter 43:	Fur skins and artificial fur, manufactures thereof
Chapter 44:	Wood and articles of wood, wood charcoal
Chapter 45:	Cork and articles of cork
Chapter 46:	Manufactures of straw of esparto and of other plaiting materials, basketware and wickerwork
Chapter 47:	Paper-making material
Chapter 48:	Paper and paperboard, articles of paper pulp, of paper or of paperboard
Chapter 49:	Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans
Chapter 65:	Headgear and parts thereof

Chapter 66:	Umbrellas, sunshades, walking-sticks, whips, riding-crops and parts thereof
Chapter 67:	Prepared feathers and down and articles made of feathers or of down, artificial flowers, articles of human hair
Chapter 68:	Articles of stone, of plaster, of cement, of asbestos, of mica and of similar materials
Chapter 69:	Ceramic products
Chapter 70:	Glass and glassware
Chapter 71:	Pearls, precious and semi-precious stones, precious metals, rolled precious metals, and articles thereof; imitation jewellery
Chapter 73:	Iron and steel and articles thereof
Chapter 74:	Copper and articles thereof
Chapter 75:	Nickel and articles thereof
Chapter 76:	Aluminium and articles thereof
Chapter 77:	Magnesium and beryllium and articles thereof
Chapter 78:	Lead and articles thereof
Chapter 79:	Zinc and articles thereof
Chapter 80:	Tin and articles thereof
Chapter 81:	Other base metals employed in metallurgy and articles thereof
Chapter	Tools, implements, cutlery, spoons and forks, of base metal, parts thereof,

82:	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	Vehicles, other than railway or tramway rolling-stock, and parts thereof

87:	<p>except:</p> <p>ex 87.08: tanks and other armoured vehicles</p> <p>ex 87.01: tractors</p> <p>ex 87.02: military vehicles</p> <p>ex 87.03: breakdown lorries</p> <p>ex 87.09: motorcycles</p> <p>ex 87.14: trailers</p>
Chapter 89:	<p>Ships, boats and floating structures,</p> <p>except:</p> <p>ex 89.01 A: warships</p>
Chapter 90:	<p>Optical, photographic, cinematographic, measuring, checking, precision, medical and surgical instruments and apparatus, parts thereof,</p> <p>except:</p> <p>ex 90.05: binoculars</p> <p>ex 90.13: miscellaneous instruments, lasers</p> <p>ex 90.14: telemeters</p> <p>ex 90.28: electrical and electronic measuring instruments</p> <p>ex 90.11: microscopes</p> <p>ex 90.17: medical instruments</p> <p>ex 90.18: mechano-therapy appliances</p> <p>ex 90.19: orthopaedic appliances</p> <p>ex 90.20: X-ray apparatus</p>
Chapter 91:	<p>Manufacture of watches and clocks</p>
Chapter 92:	<p>Musical instruments, sound recorders or reproducers, television image and sound recorders or reproducers, parts and accessories of such articles</p>
Chapter	<p>Furniture and parts thereof, bedding, mattresses, mattress supports, cushions and similar</p>

94:	stuffed furnishings,  except:  ex 94.01 A: 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 DEVICES FOR THE ELECTRONIC RECEIPT**  
**OF TENDERS, REQUESTS FOR PARTICIPATION AND PLANS AND PROJECTS**  
**IN CONTESTS**

Devices for the electronic receipt of tenders, requests for participation and plans and projects in contests must at least guarantee, through technical means and appropriate procedures, that:

- (a) the exact time and date of the receipt of tenders, requests to participate and the submission of plans and projects can be determined precisely;
- (b) it may be reasonably ensured that, before the time limits laid down, no-one can have access to data transmitted under these requirements;
- (c) where that access prohibition is infringed, it may be reasonably ensured that the infringement is clearly detectable;
- (d) only authorised persons may set or change the dates for opening data received;
- (e) during the different stages of the procurement procedure or of the contest access to all data submitted, or to part thereof, must be possible only through simultaneous action by authorised persons;
- (f) simultaneous action by authorised persons must give access to data transmitted 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, and
- (h) authentication of tenders must conform to the requirements set out in this Annex.

**ANNEX V**  
**LIST OF INTERNATIONAL AGREEMENTS REFERRED TO IN ARTICLE 23**

Agreements with the following countries or groupings of countries:

- Albania (OJ L 107, 28.4.2009)
- Former Yugoslav Republic of Macedonia (OJ L 87, 20.03.2004)
- CARIFOUM (OJ L 289, 30.10.2008)
- Chile (OJ L 352, 30.12.2002)
- Croatia (OJ L 26, 28.1.2005)
- Mexico (OJ L 276, 28.10.2000, L 157/30.6.2000)
- Montenegro (OJ L 345 of 28.12.2007)
- South Korea - (OJ L 127/14.5.2011)
- Switzerland (OJ L 300, 31/12/1972)

**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**  
**(as referred to in Article 46(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. 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 involved.
4. CPV Nomenclature reference No(s).
5. Internet address of the "buyer profile" (URL).
6. Date of dispatch of the notice of the publication of the prior information notice on the buyer profile.

**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 specifications and any supporting documents will be available for unrestricted and full direct access, free of charge.
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 involved.
5. CPV Nomenclature reference No(s); where the contract is divided into lots, this information shall be provided for each lot.
6. NUTS code for the main location of works in case of works contracts or NUTS code for the main place of delivery or performance in supply and service contracts; where the contract is divided into lots, this information shall be provided for each lot.



7. Brief description of the procurement: nature and extent of works, nature and quantity or value of supplies, nature and extent of services.
8. Where this notice is not used as a means of calling for competition, estimated date(s) for publication of a contract notice or contract notices in respect of the contract(s) referred to in this prior information notice
9. Date of dispatch of the notice.
10. Any other relevant information.
11. Indication whether the contract is covered by the Agreement.

*II. ADDITIONAL INFORMATION TO BE SUPPLIED WHERE THE NOTICE IS USED AS A MEANS OF CALLING FOR COMPETITION (ARTICLE 46(2))*

1. A reference to the fact that interested economic operators shall advise the authority of their interest in the contract or contracts.
2. Type of award procedure (restricted or competitive procedures with negotiation, dynamic purchasing system, competitive dialogue or innovation partnership).
3. Where appropriate, indication whether:
  - (a) a framework agreement is involved,
  - (b) a dynamic purchasing system is involved.
4. As far as already known, time-frame for delivery or provision of goods, works or services and duration of the contract.
5. As far as already known, conditions for participation, including:
  - (a) where appropriate, indication whether the public contract is restricted to sheltered workshops, or whether its execution is restricted to the framework of protected job programmes,
  - (b) where appropriate, indication whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession,
  - (c) brief description of selection criteria.
6. As far as already known, brief description of criteria to be used for award of the contract: 'lowest cost' or 'most economically advantageous tender'.
7. As far as already known, estimated total value of contract(s); where the contract is divided into lots, this information shall be provided for each lot.
8. Time limits for receipt of expressions of interest.
9. Address where expressions of interest shall be transmitted.
10. Language or languages authorised for the presentation of candidatures or tenders.

11. Where appropriate, indication whether:
  - (a) E-submission of tenders or requests to participate will be required/accepted,
  - (b) E-ordering will be used,
  - (c) E-invoicing will be used,
  - (d) E-payment will be accepted.
12. Information whether the contract is related to a project and /or programme financed by European Union funds.
13. Name and address of the oversight body and 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 specifications and any supporting documents will be available for unrestricted and full direct access, free of charge.
3. Type of contracting authority and main activity exercised.
4. Where appropriate, indication that the contracting authority is a central purchasing body or that any other form of joint procurement is involved.
5. CPV Nomenclature reference No(s); where the contract is divided into lots, this information shall be provided for each lot.
6. NUTS code for the main location of works in case of works contracts or NUTS code for the main place of delivery or performance in supply and service contracts; where the contract is divided into lots, this information shall be provided for each lot.
7. Description of the procurement: nature and extent of works, nature and quantity or value of supplies, nature and extent of services. Where the contract is divided into lots, this information shall be provided for each lot. Where appropriate, description of any options.
8. Estimated total value 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 and frequency of contracts to be awarded, number and, where appropriate, proposed maximum number of economic operators to participate.
  - (b) In the case of a dynamic purchasing system, indication of the planned duration of the system; as far as possible, indication of value and frequency of contracts to be awarded.
11. Conditions for participation, including:
  - (a) where appropriate, indication whether the public contract is restricted to sheltered workshops, or whether its execution is restricted to the framework of protected job programmes,
  - (b) where appropriate, indication whether the provision of the service is reserved by law, regulation or administrative provision to a particular profession; reference to the relevant law, regulation or administrative provision,
  - (c) a list and brief description of criteria regarding the personal situation of economic operators that may lead to their exclusion and of selection criteria; minimum level(s) of standards possibly required; indication of required information (self-declarations, documentation).
12. Type of award procedure; where appropriate, reasons for use of an accelerated procedure (in open, restricted and competitive procedure with negotiation);
13. Where appropriate, indication whether:
  - (a) a framework agreement is involved,
  - (b) a dynamic purchasing system is involved,
  - (c) an electronic auction is involved (in the event of open, restricted or competitive procedures with negotiation).
14. Where the contract is to be subdivided into lots, indication of the possibility of tendering for one, for several or for all of the lots; indication of any possible limitation of the number of lots that may be awarded to any one tenderer. Where the contract is not subdivided into lots, indication of the reasons therefore.
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 'lowest cost' or 'most economically advantageous tender'. Criteria representing the most economically advantageous tender as well as their weighting shall be indicated where they do not appear in the specifications or, in the event of a competitive dialogue, in the descriptive document.
19. Time limit for receipt of tenders (open procedures) or requests to participate (restricted procedures, competitive procedures with negotiation, dynamic purchasing systems, competitive dialogues, innovation partnerships).
20. Address where tenders or requests to participate shall be transmitted.
21. In the case of open procedures:
  - (a) time frame during which the tenderer must maintain its tender,
  - (b) date, time and place for the opening of tenders,
  - (c) persons authorised to be present at such opening.
22. Language or languages in which tenders or requests to participate must be drawn up.
23. Where appropriate, indication whether:
  - (a) E-submission of tenders or requests to participate will be accepted,
  - (b) E-ordering will be used,
  - (c) E-invoicing will be accepted,
  - (d) E-payment will be used.
24. Information whether the contract is related to a project and/or programme financed by European Union funds.
25. Name and address of the oversight body and the body responsible for review and, where appropriate, mediation procedures. Precise information concerning deadlines for review procedures, or if need be, the name, address, telephone number, fax number and email address of the service from which this information may be obtained.
26. Date(s) and reference(s) of previous publications in the *Official Journal of the European Union* relevant to the contract(s) advertised in this notice.

27. In the case of recurrent procurement, estimated timing for further notices to be published.
28. Date of dispatch of the notice.
29. Indication whether the contract is covered by the Agreement.
30. Any other relevant information.

**PART D**  
**INFORMATION TO BE INCLUDED IN CONTRACT AWARD NOTICES**  
**(as referred to in Article 48)**

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. Type of contracting authority and main activity exercised.
3. Where appropriate, indication whether the contracting authority is a central purchasing body or that any other form of joint procurement is involved.
4. CPV Nomenclature reference No(s).
5. NUTS code for the main location of works in case of works contracts or NUTS code for the main place of delivery or performance in supply and service contracts.
6. Description of the procurement: nature and extent of works, nature and quantity or value of supplies, nature and extent of services. Where the contract is divided into lots, this information shall be provided for each lot. Where appropriate, description of any options.
7. Type of award procedure; in the case of negotiated procedure without prior publication (Article 30), justification.
8. Where appropriate, indication whether:
  - (a) a framework agreement was involved,
  - (b) a dynamic purchasing system was involved.
9. Criteria referred to in Article 66 which were used for award of the contract or contracts. Where appropriate, indication whether the holding of an electronic auction was involved (in the event of open, restricted or competitive procedures with negotiation).
10. Date of contract award decision or decisions;
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 abroad,
  - (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 consortium.
  13. Value of the successful tender (tenders) or the highest tender and lowest tender taken into consideration for the contract award or awards;
  14. Where appropriate, for each award, value and proportion of contract likely to be subcontracted to third parties.
  15. Information whether the contract is related to a project and /or programme financed by European Union funds.
  16. Name and address of the 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
  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 specifications and any supporting documents will be available for unrestricted and full direct access, free of charge.
3. Type of contracting authority and main activity exercised
4. Where appropriate, indication whether the contracting authority is a central purchasing body or that any other form of joint procurement is involved.
5. CPV Nomenclature reference No(s); where the contract is divided into lots, this information shall be provided for each lot.

6. Description of the principal characteristics of the project.
7. Number and value of any prizes.
8. Type of contest (open or restricted).
9. In the event of an open contest, time limit for the submission of projects.
10. In the event of a restricted contest:
  - (a) number of participants contemplated,
  - (b) names of the participants already selected, if any,
  - (c) criteria for the selection of participants,
  - (d) time limit for requests to participate.
11. Where appropriate, indication that the participation is restricted to a specified profession.
12. Criteria to be applied in the evaluation of the projects.
13. Names of any members of the jury who have already been selected.
14. Indication whether the jury's decision is binding on the contracting authority.
15. Payments to be made to all participants, if any.
16. Indication whether any contracts following the contest will or will not be awarded to the winner or winners of the contest.
17. Date of dispatch of the notice.
18. Any other relevant information.

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

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. Type of contracting authority and main activity exercised.
3. Where appropriate, indication whether the contracting authority is a central purchasing body or that any other form of joint procurement is involved.
4. CPV Nomenclature reference No(s).

5. Description of the principal characteristics of the project.
6. Value of the prizes.
7. Type of contest (open or restricted).
8. Criteria which were applied in the evaluation of the projects.
9. Date of the jury decision.
10. Number of participants.
  - (a) Number of participants who are small and medium enterprises.
  - (b) Number of participants from abroad.
11. Name, address including NUTS code, telephone, fax number, email address and internet address of the winner(s) of the contest and indication whether the winner(s) are small and medium enterprises.
12. Information whether the design contest is related to a project or programme financed by Union funds.
13. Date(s) and reference(s) of previous publications in the *Official Journal of the European Union* relevant to the project(s) concerned by this notice.
14. Date of dispatch of the notice.
15. Any other relevant information.

**PART G**  
**INFORMATION TO BE INCLUDED IN NOTICES OF MODIFICATIONS OF A**  
**CONTRACT DURING ITS TERM**  
**(as referred to in Article 72(6))**

1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. CPV Nomenclature reference No(s);
3. NUTS code for the main location of works in case of works contracts or NUTS code for the main place of delivery or performance in supply and service contracts;
4. Description of the procurement before and after the modification: nature and extent of the works, nature and quantity or value of supplies, nature and extent of services.
5. Where applicable, increase in price caused by the modification.
6. Description of the circumstances which have rendered necessary the modification.
7. Date of contract award decision.



8. Where applicable, the name, address including NUTS code, telephone, fax number, email address and internet address of the new economic operator or operators.
9. Information whether the contract is related to a project and /or programme financed by European Union funds.
10. Name and address of the oversight body and the body responsible for review and, where appropriate, mediation procedures. Precise information concerning the deadline for review procedures, or if need be, the name, address, telephone number, fax number and email address of the service from which this information may be obtained.
11. Date(s) and reference(s) of previous publications in the *Official Journal of the European Union* relevant to the contract(s) concerned by this notice.
12. Date of dispatch of the notice.
13. Any other relevant information.

**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, 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. Where appropriate, email or internet address at which the specifications and any supporting documents will be available.
3. Type of contracting authority and main activity exercised.
4. Where appropriate, indication whether the contracting authority is a central purchasing body or that any other form of joint procurement is involved.
5. CPV Nomenclature reference No(s); where the contract is divided into lots, this information shall be provided for each lot.
6. 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
7. Description of the services and where applicable, incidental works and supplies to be procured
8. Estimated total value of contract(s); where the contract is divided into lots, this information shall be provided for each lot.
9. Conditions for participation, including

- (a) where appropriate, indication whether the contract is restricted to sheltered workshops, or whether its execution is restricted to the framework of protected job programmes,
  - (b) where appropriate, indication whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession.
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.
  12. Any other relevant information.

**PART I**  
**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, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.
2. Type of contracting authority and main activity exercised.
3. Where appropriate, indication whether the contracting authority is a central purchasing body or that any other form of joint procurement is involved.
4. CPV Nomenclature reference No(s); where the contract is divided into lots, this information shall be provided for each lot.
5. 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 ;
6. Brief description of the services, and where applicable, incidental works and supplies procured.
7. Number of tenders received.
8. Price or range of prices (maximum/minimum) paid.
9. For each award, name, address including NUTS code, telephone, fax number, email address and internet address of the successful economic operator or operators.
10. Any other relevant information.

**ANNEX VII**  
**INFORMATION TO BE INCLUDED IN THE SPECIFICATIONS IN ELECTRONIC**  
**AUCTIONS**  
**(Article 33(4))**

The specifications to be used where contracting authorities have decided to hold an electronic auction 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 approved by a recognised standardising body for repeated or continuous application, compliance with which is not compulsory and which falls into one of the following categories:
  - (a) international standard: a standard adopted by an international standards organisation and made available to the general public,
  - (b) European standard: a standard adopted by a European standards organisation and made available to the general public,
  - (c) national standard: a standard adopted by a national standards organisation and made available to the general public;
- (3) "European technical approval" means a favourable technical assessment of the fitness for use of a product for a particular purpose, based on the fulfilment of the essential requirements for building works, by means of the inherent characteristics of the product and the defined conditions of application and use. European technical

approvals are issued by an approval body designated for this purpose by the Member State;

- (4) "Common technical specification" means a technical specification laid down in accordance with a procedure recognised by the Member States or in accordance with Articles 9 and 10 of Parliament and Council Regulation [XXX] on European standardisation [and 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, 2009/105/EC and 2009/23/EC of the European Parliament and the Council] which has been published in the *Official Journal of the European Union*;
- (5) "Technical reference" means any deliverable produced by European standardisation bodies, other than European standards, according to procedures adapted to the development of market needs.

**ANNEX IX**  
**FEATURES CONCERNING PUBLICATION**

1. Publication of notices

The notices referred to in Articles 46, 47, 48, 75 and 79 must be sent by the contracting authorities to the Publications Office of the European Union and published in accordance with the following rules:

Notices referred to in Articles 46, 47, 48, 75 and 79 shall be published by the Publications Office of the European Union or by the contracting authorities in the event of a prior information notice published on a buyer profile in accordance with Article 46(1).

In addition, contracting authorities may publish this information on the Internet on a 'buyer profile' as referred to in point 2(b).

The Publications Office of the European Union will give the contracting authority the confirmation referred to in Article 49(5), second subparagraph.

2. Publication of complementary or additional information

(a) Contracting authorities shall publish the specifications and the additional 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.

3. Format and procedures for sending notices electronically

The format and procedure for sending notices electronically as established by the Commission are made accessible at the Internet address '<http://simap.europa.eu>'.

**ANNEX X**  
**CONTENTS OF THE INVITATIONS TO SUBMIT A TENDER, PARTICIPATE IN**  
**THE DIALOGUE OR TO CONFIRM INTEREST PROVIDED FOR UNDER**  
**ARTICLE 52**

1. The invitation to submit a tender or to participate in the dialogue provided for under Article 52 must contain at least:
  - (a) a reference to the call for competition published;
  - (b) the deadline for the receipt of the tenders, the address to which the tenders must be sent and the language or languages in which the tenders must be drawn up;
  - (c) in the case of competitive dialogue the date and the address set for the start of consultation and the language or languages used;
  - (d) a reference to any possible adjoining documents to be submitted, either in support of verifiable declarations by the tenderer in accordance with Articles 59 and 60 and, where appropriate, Article 61 or to supplement the information referred to in those Articles, and under the conditions laid down in Articles 59, 60 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 specifications or the descriptive document.

However, in the case of contracts awarded through a competitive dialogue or an innovation partnership, the information referred to in point (b) shall not appear in the invitation to participate in the dialogue or to negotiate but it shall appear in the invitation to submit a tender.

2. When a call for competition is made by means of a prior information notice, contracting authorities shall subsequently invite all candidates to confirm their interest on the basis of detailed information on the contract concerned before beginning the selection of tenderers or participants in negotiations.

This invitation shall include at least the following information:

- (a) nature and quantity, including all options concerning complementary contracts and, where possible, the estimated time available for exercising these options for renewable contracts, the nature and quantity and, where possible, the estimated publication dates of future notices of competition for works, supplies or services to be put out to tender;
- (b) type of procedure: restricted or competitive procedure with negotiation;
- (c) where appropriate, the date on which the delivery of supplies or the execution of works or services is to commence or terminate;

- (d) 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 entity which is to award the contract and the information necessary for obtaining the specifications and other documents;
- (f) economic and technical conditions, financial guarantees and information required from economic operators;
- (g) the amount and payment procedures for any sum payable for obtaining procurement documents;
- (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 specifications or in the invitation to tender or to negotiate.



**ANNEX XI**  
**LIST OF INTERNATIONAL SOCIAL AND ENVIRONMENTAL CONVENTIONS**  
**REFERRED TO IN ARTICLES 54(2), 55(3)(a) AND 69(4)**

- Convention 87 on Freedom of Association and the Protection of the Right to Organise;
- Convention 98 on the Right to Organise and Collective Bargaining;
- Convention 29 on Forced Labour;
- Convention 105 on the Abolition of Forced Labour;
- Convention 138 on Minimum Age;
- Convention 111 on Discrimination (Employment and Occupation);
- Convention 100 on Equal Remuneration;
- Convention 182 on Worst Forms of Child Labour;
- Vienna Convention for the protection of the Ozone Layer and its Montreal Protocol on substances that deplete the Ozone Layer;
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention);
- Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention);
- Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (UNEP/FAO) (The PIC Convention) Rotterdam, 10/09/1998 and its 3 regional Protocols.

## ANNEX XII REGISTERS<sup>46</sup>

The relevant professional and trade registers and corresponding declarations and certificates for each Member State are:

- in Belgium the "Registre du Commerce"/"Handelsregister", and, *in the case of service contracts*, the "Ordres professionnels/Beroepsorden";
- in Bulgaria, the "Търговски регистър";
- in the Czech Republic, the "obchodní rejstřík";
- in Denmark, the "Erhvervs- og Selskabsstyrelsen";
- in Germany, the "Handelsregister", the "Handwerksrolle", and, *in the case of service contracts*, the "Vereinsregister", the "Partnerschaftsregister" and the "Mitgliedsverzeichnisse der Berufskammern der Länder";
- in Estonia, the "Registrite ja Infosüsteemide Keskus";
- in Ireland, the economic operator may be requested to provide a certificate from the Registrar of Companies or the Registrar of Friendly Societies or, where he is not so certified, a certificate stating that the person concerned has declared on oath that he is engaged in the profession in question in the country in which he is established, in a specific place under a given business name;
- in Greece, the "Μητρώο Εργοληπτικών Επιχειρήσεων — ΜΕΕΠ" of the Ministry for Environment, Town and Country Planning and Public Works (Υ.ΠΕ.ΧΩ.Δ.Ε) *in respect of works contracts*; the "Βιοτεχνικό ή Εμπορικό ή Βιομηχανικό Επιμελητήριο" and the "Μητρώο Κατασκευαστών Αμυντικού Υλικού" *in the case of supplies contracts*; *in the case of service contracts*, the service provider may be asked to provide a declaration on the exercise of the profession concerned made on oath before a notary; in the cases provided for by existing national legislation, for the provision of research services as referred to in Annex I, the professional register "Μητρώο Μελετητών" and the "Μητρώο Γραφείων Μελετών";
- in Spain, the "Registro Oficial de Licitadores y Empresas Clasificadas del Estado" *in respect of works and services contracts*, and, *in the case of supplies contracts*, the "Registro Mercantil" or, in the case of non-registered individuals, a certificate stating that the person concerned has declared on oath that he is engaged in the profession in question;
- in France, the "Registre du commerce et des sociétés" and the "Répertoire des métiers";
- in Italy, the "Registro della Camera di commercio, industria, agricoltura e artigianato"; *in the case of supplies and services contracts* also the "Registro delle

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<sup>46</sup> For the purposes of Article 56(2), "professional or trade registers" means those listed in this Annex and, where changes have been made at national level, the registers which have replaced them.

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 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 ta'-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.

**ANNEX XIII**  
**CONTENT OF EUROPEAN PROCUREMENT PASSPORT**

The European Procurement Passport contains the following particulars:

- (a) Identification of the economic operator;
- (b) Certification that the economic operator has not been the subject of a conviction by final judgment for one of the reasons listed in Article 55(1);
- (c) Certification that the economic operator is not the subject of insolvency or winding-up proceedings as referred to in Article 55(3)(b) ;
- (d) Where applicable, certification of enrolment in a professional or trade register prescribed in the Member State of establishment, as referred to in Article 56(2);
- (e) Where applicable, certification that the economic operator possesses a particular authorisation or is member of a particular organisation within the meaning of Article 56(2);
- (f) Indication of the period of validity of the Passport, which shall be not less than 6 months.

**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 balance-sheets or extracts from the balance-sheets, where publication of the balance-sheet is required under the law of the country in which the economic operator is established;
- (c) a statement of the undertaking's overall turnover and, where appropriate, of turnover in the area covered by the contract for a maximum of the last three financial years available, depending on the date on which the undertaking was set up or the economic operator started trading, as far as the information on these turnovers is available.

*Part II: Technical ability*

Means providing evidence of the economic operators' technical abilities, as referred to in Article 56:

- (a) the following lists:
  - (i) a list of the works carried out over at the most the past five years, accompanied by certificates of satisfactory execution for the most important works; where necessary in order to ensure an adequate level of competition, contracting authorities may indicate that evidence of relevant works carried out more than five years before will be taken into account;
  - (ii) a list of the principal deliveries effected or the main services provided over at the most the past three years, with the sums, dates and recipients, whether public or private, involved. Where necessary in order to ensure an adequate level of competition, contracting authorities may indicate that evidence of relevant supplies or services delivered or performed more than three years before will be taken into account;
- (b) an indication of the technicians or technical bodies involved, whether or not belonging directly to the economic operator's undertaking, especially those responsible for quality control and, in the case of public works contracts, those upon whom the contractor can call in order to carry out the work;
- (c) a description of the technical facilities and measures used by the economic operator for ensuring quality and the undertaking's study and research facilities;
- (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;
- (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 specifications or standards.

**ANNEX XV**  
**LIST OF EU LEGISLATION REFERRED TO IN ARTICLE 67(3)**

Directive 2009/33/EC<sup>47</sup>

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<sup>47</sup> OJ L 120, 15.5.2009, p. 5.



**ANNEX XVI**  
**SERVICES REFERRED TO IN ARTICLE 74**

CPV Code	Description
79611000-0 and from 85000000-9 to 85323000-9 (except 85321000-5 and 85322000-2)	Health and social services
75121000-0, 75122000-7, 75124000-1; from 79995000-5 to 79995200-7; from 80100000- 5 to 80660000-8 (except 80533000-9, 80533100-0, 80533200-1); from 92000000-1 to 92700000-8 (except 92230000-2, 92231000-9, 92232000-6)	Administrative educational, healthcare and cultural services
75300000-9	Compulsory social security services
75310000-2, 75311000-9, 75312000-6, 75313000-3, 75313100-4, 75314000-0, 75320000-5, 75330000-8, 75340000-1	Benefit services
98000000-3	Other community, social and personal services
98120000-0	Services furnished by trade unions
98131000-0	Religious services

**ANNEX XVII**  
**CORRELATION TABLE**<sup>48</sup>

This Directive	Directive 2004/18/EC	
Art. 1		new
Art. 2, point (1)	Art. 1, par. 9, 1 <sup>st</sup> subparagraph	=
Art. 2, point (2)	Art. 7, point (a)	adapted
Art. 2, point (3)		new
Art. 2, point (4)		new
Art. 2, point (5)		new
Art. 2, point (6) (a), 1 <sup>st</sup> part	Art. 1, par. 9, 2 <sup>nd</sup> subparagraph, point (a)	=
Art. 2, point (6) (a), 2 <sup>nd</sup> part		new
Art. 2, point (6) (b)	Art. 1, par. 9, 2 <sup>nd</sup> subparagraph, point (b)	=
Art. 2, point (6) (c)	Art. 1, par. 9, 2 <sup>nd</sup> subparagraph, point (c)	=
Art. 2, point (7)	Art. 1, par. 2, point (a)	=
Art. 2, point (8)	Art. 1, par. 2, point (b), 1 <sup>st</sup> sentence	amended
Art. 2 point (9)	Art. 1, par. 2, point (b), 2 <sup>nd</sup> sentence	=
Art. 2, point (10)	Art. 1, par. 2, point (c)	adapted
Art. 2, point (11)	Art. 1, par. 2, point (d)	amended
Art. 2, point (12)	Art. 1, par. 8, 2 <sup>nd</sup> subparagraph	adapted
Art. 2, point (13)	Art. 1, par. 8, 3 <sup>rd</sup> subparagraph	adapted
Art. 2, point (14)	Art. 1, par. 8, 3 <sup>rd</sup>	amended

<sup>48</sup>

"Adapted" means that the wording of the text was changed, while the meaning of the repealed directives was preserved. Changes to the meaning of the provisions of the repealed directive are indicated by the term "amended".

	subparagraph	
Art. 2, point (15)	Art. 23, par. 1	amended
Art. 2, point (16)	Art. 1, par. 10	amended
Art. 2, point (17)		new
Art. 2, point (18)	Art. 1, par. 10	amended
Art. 2, point (19)		new
Art. 2, point (20)	Art. 1, par. 12	=
Art. 2, point (21)	Art. 1, par. 13	=
Art. 2, point (22)		new
Art. 2, point (23)	Art. 1, par. 11, point (e)	=
Art. 3, par. 1, 1 <sup>st</sup> subparagraph		new
Art. 3, par. 1, 2 <sup>nd</sup> subparagraph	Art. 1, par. 2, point (d)	amended
Art. 3, par. 2		new
Art. 4	Art. 7, 67	amended
Art. 5, par. 1	Art. 9, par. 1	adapted
Art. 5, par. 2	Art. 9, par. 3, Art. 9 par. 7, 2 <sup>nd</sup> subparagraph,	amended
Art. 5, par. 3	Art. 9, par. 2	amended
Art. 5, par. 4	Art. 9, par. 9	=
Art. 5, par. 5		new
Art. 5, par. 6	Art. 9, par. 4	amended
Art. 5, par. 7	Art. 9, par. 5, point (a), 1 <sup>st</sup> and 2 <sup>nd</sup> subparagraph	=
Art. 5, par. 8	Art. 9, par. 5, point (b), 1 <sup>st</sup> and 2 <sup>nd</sup> subparagraph	=
Art. 5, par. 9	Art. 9, par. 5, point (a), 3 <sup>rd</sup> subparagraph Art. 9, par. 5, point (b), 3 <sup>rd</sup>	adapted

	subparagraph	
Art. 5, par. 10	Art. 9, par. 7	=
Art. 5, par. 11	Art. 9, par. 6	=
Art. 5, par. 12	Art. 9, par. 8, point (a)	=
Art. 5, par. 13	Art. 9, par. 8, point (b)	=
Art. 6	Art. 78, Art. 79, par. 2, point (a)	adapted
Art. 7	Art. 12	amended
Art. 8, 1 <sup>st</sup> subparagraph	Art. 13	amended
Art. 8, 2 <sup>nd</sup> subparagraph	Art. 1, par. 15	amended
Art. 9, point (a)	Art. 15, point (a)	adapted
Art. 9, point (b)	Art. 15, point (b)	=
Art. 9, point (c)	Art. 15, point (c)	=
Art. 9, point (d)		new
Art. 10, point (a)	Art. 16, point (a)	=
Art. 10, point (b)	Art. 16, point (b)	adapted
Art. 10, point (c)	Art. 16, point (c)	=
Art. 10, point (d)	Art. 16, point (d)	amended
Art. 10, point (e)	Art. 16, point (e)	=
Art. 10, point (f)		new
Art. 11		new
Art. 12	Art. 8	adapted
Art. 13, par. 1	Art. 16, point (f)	adapted
Art. 13, par. 2.	Art. 79, par. 2, point (f)	adapted
Art. 14	Art. 10	amended
Art. 15	Art. 2	amended
Art. 16, par. 1	Art. 4, par. 1	adapted

Art. 16, par. 2	Art. 4, par. 2	amended
Art. 17	Art. 19	amended
Art. 18, par. 1	Art. 6	adapted
Art. 18, par. 2		new
Art. 19, par. 1	Art. 42, par. 1, Art. 71, par. 1	amended
Art. 19, par. 2	Art. 42, par. 2 and 3, Art. 71 par. 1	adapted
Art. 19, par. 3, 1 <sup>st</sup> subparagraph	Art. 42, par. 4, Art. 71 par. 1	amended
Art. 19, par. 3, 2 <sup>nd</sup> subparagraph	Art. 79, par. 2, point (g)	=
Art. 19, par. 3, 3 <sup>rd</sup> subparagraph		new
Art. 19, par. 4		new
Art. 19, par. 5	Art. 42, par. 5, Art. 71 par. 3	amended
Art. 19, par. 6	Art. 42, par. 6	adapted
Art. 19, par. 7		new
Art. 19, par. 8		new
Art. 20, par. 1	Art. 1, par. 14	adapted
Art. 20, par. 2	Art. 79, par. 2 points (e) and (f)	adapted
Art. 21		new
Art. 22		new
Art. 23, par. 1	Art. 5	amended
Art. 23, par. 2		new
Art. 24	Art. 28, Art. 30 par. 1	amended
Art. 25, par. 1	Art. 38, par. 2, Art. 1 par. 11 point (a)	amended

Art. 25, par. 2	Art. 38, par. 4	amended
Art. 25, par. 3	[see Art. 38, par. 8]	new
Art. 25, par. 4		new
Art. 26, par. 1	Art. 38, par. 3, Art. 1 par. 11 point (b)	amended
Art. 26, par. 2	Art. 38, par. 3	amended
Art. 26, par. 3	Art. 38, par. 4	amended
Art. 26, par. 4		new
Art. 26, par. 5		new
Art. 26, par. 6	Art. 38, par. 8	amended
Art. 27, par. 1		new
Art. 27, par. 2	Art. 1 par. 11 point (d)	amended
Art. 27, par. 3	Art. 30, par. 2	amended
Art. 27, par. 4	Art. 30, par. 3	amended
Art. 27, par. 5	Art. 30, par. 4	adapted
Art. 27, par. 6	Art. 30, par. 2	amended
Art. 28, par. 1	Art. 38, par. 3; Art. 1 par. 11 point (c)	amended
Art. 28, par. 2	Art. 29, par. 2, Art. 29 par. 7	adapted
Art. 28, par. 3	Art. 29, par. 3; Art. 1 par. 11 point (c)	amended
Art. 28, par. 4	Art. 29, par. 4	adapted
Art. 28, par. 5	Art. 29, par. 5	adapted
Art. 28, par. 6	Art. 29, par. 6	amended
Art. 28, par. 7	Art. 29, par. 7	amended
Art. 28, par. 8	Art. 29, par. 8	=
Art. 29		new

Art. 30, par. 1	Art. 31, 1 <sup>st</sup> sentence	amended
Art. 30, par. 2, 1 <sup>st</sup> subparagraph, point (a)	Art. 31, point (1) (a)	amended
Art. 30, par. 2, 1 <sup>st</sup> subparagraph, point (b)	Art. 31, point (1) (b)	amended
Art. 30, par. 2, 1 <sup>st</sup> subparagraph, point (c)	Art. 31, point (1) (b)	amended
Art. 30, par. 2, 1 <sup>st</sup> subparagraph, point (d)	Art. 31, point (1) (c)	adapted
Art. 30, par. 2, 2 <sup>nd</sup> – 4 <sup>th</sup> subparagraph		new
Art. 30, par. 3, point (a)	Art. 31, point (2) (a)	=
Art. 30, par. 3, point (b)	Art. 31, point (2) (b)	=
Art. 30, par. 3, point (c)	Art. 31, point (2) (c)	amended
Art. 30, par. 3, point (d)	Art. 31, point (2) (d)	adapted
Art. 30, par. 4	Art. 31, point (3)	adapted
Art. 30, par. 5	Art. 31, point (4) (b)	adapted
Art. 31, par. 1	Art. 32, par. 1, Art. 1, par. 5	amended
Art. 31, par. 2	Art. 32, par. 2	adapted
Art. 31, par. 3	Art. 32, par. 3	=
Art. 31, par. 4	Art. 32, par. 4	adapted
Art. 31, par. 5	Art. 32, par. 4	adapted
Art. 32, par. 1	Art. 33, par. 1; Art. 1, par. 6	amended
Art. 32, par. 2	Art. 33, par. 2	amended
Art. 32, par. 3	Art. 33, par. 3	adapted
Art. 32, par. 4	Art. 33, par. 4	amended
Art. 32, par. 5	Art. 33, par. 6	amended
Art. 32, par. 6		new

Art. 32, par. 7	Art. 33, par. 7, 3 <sup>rd</sup> subparagraph	=
Art. 33, par. 1	Art. 54, par. 1; Art. 1, par. 7	amended
Art. 33, par. 2	Art. 54, par. 2	adapted
Art. 33, par. 3	Art. 54, par. 2, 3 <sup>rd</sup> subparagraph	adapted
Art. 33, par. 4	Art. 54, par. 3	adapted
Art. 33, par. 5	Art. 54, par. 4	adapted
Art. 33, par. 6	Art. 54, par. 5	adapted
Art. 33, par. 7	Art. 54, par. 6	=
Art. 33, par. 8	Art. 54, par. 7	adapted
Art. 33, par. 9	Art. 54, par. 8, 1 <sup>st</sup> subparagraph	=
Art. 34		new
Art. 35, par. 1	Art. 11, par. 1	amended
Art. 35, par. 2		new
Art. 35, par. 3	Art. 11, par. 2	amended
Art. 35, par. 4		new
Art. 35, par. 5	Art. 11, par. 2	amended
Art. 35, par. 6		new
Art. 36		new
Art. 37		new
Art. 38		new
Art. 39, par. 1	Recital (8)	amended
Art. 39, par. 2		new
Art. 40, par. 1	Art. 23, par. 1	amended
Art. 40, par. 2	Art. 23, par. 2	adapted
Art. 40, par. 3	Art. 23, par. 3	adapted



Art. 40, par. 4	Art. 23, par. 8	=
Art. 40, par. 5	Art. 23, par. 4	adapted
Art. 40, par. 6	Art. 23, par. 5	amended
Art. 41, par. 1	Art. 23, par. 6	amended
Art. 41, par. 2	Art. 23, par. 6	adapted
Art. 41, par. 3		new
Art. 42, par. 1	Art. 23, par. 4, 5, 6, 7	amended
Art. 42, par. 2	Art. 23, par. 4, 5, 6	amended
Art. 42, par. 3	Art. 23, par. 7	adapted
Art. 42, par. 4		new
Art. 43, par. 1	Art. 24, par. 1 and 2	amended
Art. 43, par. 2	Art. 24, par. 3	adapted
Art. 43, par. 3	Art. 24, par. 4	adapted
Art. 44		new
Art. 45, par. 1	Art. 38, par. 1	adapted
Art. 45, par. 2	Art. 38, par. 7	amended
Art. 46, par. 1	Art. 35, par. 1	adapted
Art. 46, par. 2		new
Art. 47	Art. 35, par. 2; Art. 36, par. 1	adapted
Art. 48	Art. 35, par. 4	amended
Art. 49, par. 1	Art. 36, par. 1, Art. 79, par. 1, point (a)	amended
Art. 49, par. 2	Art. 36, par. 2, 3 and par. 4, 2nd subpar.	amended
Art. 49, par. 3	Art. 36, par. 4	adapted
Art. 49, par. 4		new
Art. 49, par. 5	Art. 36, par. 7 and 8	Amended

Art. 49, par. 6	Art. 37	amended
Art. 50, par. 1	Art. 36, par. 5, 1 <sup>st</sup> subpar.	amended
Art. 50, par. 2 and 3	Art. 36, par. 5, 2 <sup>nd</sup> & 3 <sup>rd</sup> subpar.	adapted
Art. 51	Art. 38, par. 6, Art. 39, par. 2	amended
Art. 52	Art. 40, par. 1, 2	adapted
Art. 53, par. 1	Art. 41, par. 1	adapted
Art. 53, par. 2	Art. 41, par. 2	adapted
Art. 53, par. 3	Art. 41, par. 3	=
Art. 54, par. 1	Art. 44, par 1	adapted
Art. 54, par. 2		new
Art. 54, par. 3		new
Art. 54, par. 4		new
Art. 55, par. 1,	Art. 45, par. 1	amended
Art. 55, par. 2	Art. 45, par. 2 (e), (f)	amended
Art. 55 par. 3	Art. 45, par. 2	amended
Art. 55, par. 4		new
Art. 55, par. 5 and 6	Art. 45, par. 4	amended
Art. 56, par. 1	Art. 44, par. 1, 2	amended
Art. 56, par. 2	Art. 46	adapted
Art. 56, par. 3	Art. 47	amended
Art. 56, par. 4	Art. 48	amended
Art. 56, par. 5	Art. 44, par. 2	adapted
Art. 57		new
Art. 58		new
Art. 59		new

Art. 60, par. 1	Art. 45 par. 3	adapted
Art. 60, par. 2	Art. 47	adapted
Art. 60, par. 3	Art. 48	adapted
Art. 60, par. 4		new
Art. 61, par. 1	Art. 49	amended
Art. 61, par. 2	Art. 50	amended
Art. 61, par. 3		new
Art. 62, par. 1	Art. 47, par. 2, 3; Art. 48, par. 3,4	adapted
Art. 62, par. 2		new
Art. 63, par. 1	Art. 52, par. 1, Art. 52 par. 7	adapted
Art. 63, par. 2, 1 <sup>st</sup> subparagraph	Art. 52, par. 1, 2 <sup>nd</sup> subparagraph	amended
Art. 63, par. 2, 2 <sup>nd</sup> subparagraph	Art. 52, par. 1, 3 <sup>rd</sup> subparagraph	=
Art. 63, par. 3	Art. 52, par. 2	=
Art. 63, par. 4	Art. 52, par. 3	amended
Art. 63, par. 5, 1 <sup>st</sup> subparagraph	Art. 52, par. 4, 1 <sup>st</sup> subparagraph	adapted
Art. 63, par. 5, 2 <sup>nd</sup> subparagraph	Art. 52, par. 4, 2 <sup>nd</sup> subparagraph	=
Art. 63, par. 6, 1 <sup>st</sup> subparagraph	Art. 52, par. 5, 1 <sup>st</sup> subparagraph	adapted
Art. 63, par. 6, 2 <sup>nd</sup> subparagraph	Art. 52, par. 6	=
Art. 63, par. 7	Art. 52, par. 5, 2 <sup>nd</sup> subparagraph	=
Art. 63, par. 8, 1 <sup>st</sup> subparagraph	Art. 52, par. 8	=
Art. 63, par. 8, 2 <sup>nd</sup>		new

subparagraph		
Art. 64	Art. 44, par. 3	adapted
Art. 65	Art. 44, par 4	=
Art. 66, par. 1	Art. 53, par 1	amended
Art. 66, par. 2	Art. 53, par 1, point (a)	amended
Art. 66, par. 3		new
Art. 66, par. 4	Recital 1; Recital 46, 3 <sup>rd</sup> par.	amended
Art. 66, par. 5	Art. 53, par. 2	amended
Art. 67		new
Art. 68		new
Art. 69, par. 1	Art. 55, par. 1	amended
Art. 69, par. 2	Art. 55, par. 1	adapted
Art. 69, par. 3, point (a)	Art. 55, point (a)	=
Art. 69, par. 3, point (b)	Art. 55, point (b)	=
Art. 69, par. 3, point (c)	Art. 55, point (c)	=
Art. 69, par. 3, point (d)	Art. 55, point (d)	amended
Art. 69, par. 3, point (e)	Art. 55, point (e)	=
Art. 69, par. 4, 1 <sup>st</sup> subparagraph	Art. 55, par. 2	amended
Art. 69, par. 4, 2 <sup>nd</sup> subparagraph		new
Art. 69, par. 5	Art. 55, par. 3	adapted
Art. 69, par. 6		new
Art. 70	Art. 26	amended
Art. 71, par. 1	Art. 25, 1 <sup>st</sup> subparagraph	=
Art. 71, par. 2		new
Art. 71, par. 3	Art. 25, 2 <sup>nd</sup> subparagraph	adapted

Art. 72, par. 1 – 4, 5, 7		new
Art. 72, par. 6	Art. 31, par. 4, point a	amended
Art. 72, par. 7		new
Art. 73		new
Art. 74		new
Art. 75		new
Art. 76		new
Art. 77	Art. 66	=
Art. 78	Art. 67	adapted
Art. 79, par. 1 - 2	Art. 69	adapted
Art. 79, par. 3	Art. 70; Art. 79, par. 1, point (a)	adapted
Art. 80, par. 1		new
Art. 80, par. 2	Art. 72	=
Art. 81	Art. 73	=
Art. 82	Art. 74	=
Art. 83	Art. 81, 1 <sup>st</sup> subparagraph	adapted
Art. 84, par. 1	Art. 81, 2 <sup>nd</sup> subparagraph	amended
Art. 84, par. 2 - 8		new
Art. 85	Art. 43	amended
Art. 86, par. 1	Art. 75	adapted
Art. 86, par. 2	Art. 76	amended
Art. 86, par. 3		new
Art. 86, par. 4		new
Art. 86, par. 5	Art. 79, par. 1, point (a)	adapted
Art. 87		new
Art. 88		new

Art. 89	Art. 77, par. 3 and 4	amended
Art. 90	Art. 77, par. 5	amended
Art. 91	Art. 77, par. 1, 2	adapted
Art. 92	Art. 80	adapted
Art. 93	Art. 82	adapted
Art. 94		new
Art. 95	Art. 83	amended
Art. 96	Art. 84	=
Annex I	Annex IV	=
Annex II	Annex I	=; except first sentence (amended)
Annex III	Annex V	=
Annex IV, (a) – (g)	Annex X (b) - (h)	=
Annex IV, (h)		new
Annex V		new
Annex VI	Annex VII	amended
Annex VII	Art. 54, par. 3, points (a) – (f)	=
Annex VIII	Annex VI	adapted (except for point (4), amended)
Annex IX	Annex VIII	adapted
Annex X, 1.	Article 40, par. 5	adapted
Annex X, 2.		new
Annex XI		new
Annex XII	Annex IX	adapted
Annex XIII		new
Annex XIV, Part 1	Article 47, par. 1	=
Annex XIV, Part 2	Article 48, par. 2	=; amended for points (a), (e)

		and (f)
Annex XV		new
Annex XVI	Annex II	amended
Annex XVII	Annex XII	amended