DECISION No 2/2016 OF THE EU-REPUBLIC OF MOLDOVA ASSOCIATION COMMITTEE IN TRADE CONFIGURATION of 19 October 2016

updating Annex XXIX to the Association Agreement [2016/2028]

THE ASSOCIATION COMMITTEE IN TRADE CONFIGURATION,

Having regard to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, and in particular Articles 269, 273 and 436 thereof,

Whereas:

(1) The Association Agreement between the European Union and the European Atomic Energy Community and their Member States of the one part, and the Republic of Moldova, of the other part ('the Agreement') entered into force on 1 July 2016.

(2) In accordance with Article 269(5) of the Agreement the value thresholds for public procurement contracts provided for in Annex XXIX-A are to be revised regularly every two years, beginning in the year of entry into force of the Agreement and such revision is to be adopted by decision of the Association Committee in Trade configuration, as set out in Article 438(4) of the Agreement.

(3) In accordance with Article 273 of the Agreement the Republic of Moldova is to ensure that its public procurement legislation is gradually made compatible with the relevant Union acquis, in line with the schedule provided in Annex XXIX to the Agreement.

(4) Several Union acts listed in Annex XXIX to the Agreement have been amended, recast or repealed and replaced by new Union acts since the initialling of the Agreement on 29 November 2013. In particular, the Union adopted and notified to the Republic of Moldova the following acts:


(5) The abovementioned new Directives amended the value thresholds for public procurement contracts provided for in Annex XXIX-A.

(6) It is therefore necessary to update Annex XXIX to the Agreement in order to reflect the changes made to the Union acquis listed in that Annex, in accordance with Articles 269, 273 and 436 of the Agreement.

(7) The new Union acquis on public procurement has a new structure. It is appropriate to reflect this new structure in Annex XXIX. In the interest of clarity, Annex XXIX should be updated in its entirety and replaced by the text set out in the Annex to this Decision. It is furthermore appropriate to take into account the progress made by the Republic of Moldova in the process of approximation to the Union acquis.

(8) In accordance with Article 436(3) of the Agreement the EU-Republic of Moldova Association Council shall have the power to update or amend the Annexes to the Agreement. The Association Council empowered the Association Committee in Trade configuration by Decision No 3/2014 of 16 December 2014 to update or amend certain trade-related annexes,\

\(^1\) OJ L 260, 30.8.2014, p. 4.
\(^3\) OJ L 94, 28.3.2014, p. 65.
HAS ADOPTED THIS DECISION:

Article 1

Annex XXIX to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States of the one part, and the Republic of Moldova, of the other part, is replaced by the text appearing in the Annex to this Decision.

Article 2

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

Done at Brussels, 19 October 2016.

For the Association Committee in Trade
configuration
P. SOURMELIS
The Chair
ANNEX

Annex XXIX to the Agreement is replaced by the following:

ANNEX XXIX

PUBLIC PROCUREMENT

ANNEX XXIX-A

THRESHOLDS

1. The value thresholds referred to in Article 269(3) of this Agreement shall be for both Parties:
   (a) EUR 134,000 for public supply and service contracts awarded by central government authorities and design contests awarded by such authorities;
   (b) EUR 207,000 in the case of public supply and public service contracts not covered by point (a);
   (c) EUR 5,186,000 in the case of public works contracts;
   (d) EUR 5,186,000 in the case of works contracts in the utilities sector;
   (e) EUR 5,186,000 in the case of concessions;
   (f) EUR 414,000 in the case of supply and service contracts in the utilities sector;
   (g) EUR 750,000 for public service contracts for social and other specific services;
   (h) EUR 1,000,000 for service contracts for social and other specific services in the utilities sector.

2. The value thresholds referred to in paragraph 1 shall be adapted to reflect the thresholds applicable under Directives 2014/23/EU, 2014/24/EU and 2014/25/EU at the moment of the entry into force of this Agreement.

ANNEX XXIX-B

Indicative time schedule for institutional reform, approximation and market access

<table>
<thead>
<tr>
<th>Phase</th>
<th>Indicative time schedule</th>
<th>Market access granted to the EU by the Republic of Moldova</th>
<th>Market access granted to the EU by the Republic of Moldova</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Implementation of Articles 270(2) and 271 of this Agreement Agreement of the Reform Strategy set out in Article 272 of this Agreement</td>
<td>9 months after the entry into force of this Agreement</td>
<td>Supplies for central government authorities</td>
</tr>
<tr>
<td>2</td>
<td>Approximation and implementation of basic elements of Directive 2014/24/EU and of Directive 89/663/EEC</td>
<td>5 years after the entry into force of this Agreement</td>
<td>Supplies for state, regional and local authorities and bodies governed by public law</td>
</tr>
<tr>
<td>Phase</td>
<td>Indicative time schedule</td>
<td>Market access granted to the EU by the Republic of Moldova</td>
<td>Market access granted to the Republic of Moldova by the EU</td>
</tr>
<tr>
<td>-------</td>
<td>--------------------------</td>
<td>-----------------------------------------------------------</td>
<td>-----------------------------------------------------------</td>
</tr>
<tr>
<td>1</td>
<td>Approximation and \nimplementation of basic elements of Directive 2014/25/EU and of Directive 92/13/EEC</td>
<td>5 years after the entry into force of this Agreement</td>
<td>Supplies for all contracting entities</td>
</tr>
<tr>
<td>2</td>
<td>Approximation and \nimplementation of other elements of Directive 2014/24/EU</td>
<td>5 years after the entry into force of this Agreement</td>
<td>Supplies for all contracting entities</td>
</tr>
<tr>
<td>3</td>
<td>Approximation and \nimplementation of Directive 2014/23/EU</td>
<td>6 years after the entry into force of this Agreement</td>
<td>Supplies for all contracting authorities</td>
</tr>
<tr>
<td>4</td>
<td>Approximation and \nimplementation of other elements of Directive 2014/25/EU</td>
<td>8 years after the entry into force of this Agreement</td>
<td>Supplies for all contracting entities in the utilities sector</td>
</tr>
</tbody>
</table>

ANNEX XXIX-C


(Phase 2)

TITLE I Scope, definitions and general principles

CHAPTER I Scope and definitions

Section 1 Subject-matter and definitions

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

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

Article 3 Mixed procurement

Section 2 Thresholds

Article 4 Threshold amounts

Article 5 Methods for calculating the estimated value of procurement

Section 3 Exclusions

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

Article 8 Specific exclusions in the field of electronic communications

Article 9 Public contracts awarded and design contests organised pursuant to international rules
Article 10 Specific exclusions for service contracts
Article 11 Service contracts awarded on the basis of an exclusive right
Article 12 Public contracts between entities within the public sector
Section 4 Specific situations
Subsection 1 Subsidised contracts and research and development services
Article 13 Contracts subsidised by contracting authorities
Article 14 Research and development services
Subsection 2 Procurement involving defence and security aspects
Article 15 Defence and security
Article 16 Mixed procurement involving defence or security aspects
Article 17 Public contracts and design contests involving defence or security aspects which are awarded or organised pursuant to international rules

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

TITLE II Rules on public contracts

CHAPTER I Procedures
Article 26 Choice of procedures: paragraphs 1, 2, point (a) of paragraph 4, paragraphs 5 and 6
Article 27 Open procedure
Article 28 Restricted procedure
Article 29 Competitive procedure with negotiation
Article 32 Use of the negotiated procedure without prior publication

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

Article 48  Prior information notices

Article 49  Contract notices

Article 50  Contract award notices: paragraphs 1 and 4

Article 51  Form and manner of publication of notices: first subparagraph of paragraph 1 and first subparagraph of paragraph 5

Article 53  Electronic availability of procurement documents

Article 54  Invitations to candidates

Section 3  Choice of participants and award of contracts

Article 56  General principles

Subsection 1  Criteria for qualitative selection

Article 57  Exclusion grounds

Article 58  Selection criteria

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

Article 60  Means of proof

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

Article 63  Reliance on the capacities of other entities

Subsection 2  Reduction of numbers of candidates, tenders and solutions

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

Article 66  Reduction of the number of tenders and solutions

Subsection 3  Award of the contract

Article 67  Contract award criteria

Article 68  Life-cycle costing: paragraphs 1 and 2

Article 69  Abnormally low tenders: paragraphs 1-4

CHAPTER IV  Contract performance

Article 70  Conditions for performance of contracts

Article 71  Subcontracting

Article 72  Modification of contracts during their term

Article 73  Termination of contracts

TITLE III  Particular procurement regimes

CHAPTER I  Social and other specific services

Article 74  Award of contracts for social and other specific services

Article 75  Publication of notices

Article 76  Principles of awarding contracts

ANNEXES

Annex II  List of the activities referred to in point (6)(a) of Article 2(1)
Annex III List of products referred to in Article 4(b) with regard to contracts awarded contracting authorities in the field of defence

Annex IV Requirements relating to tools and devices for the electronic receipt of tenders, requests for participation as well as plans and projects in design contests

Annex V Information to be included in notices
   Part A Information to be included in notices of the publication of a prior information notice on a buyer profile
   Part B Information to be included in prior information notices (as referred to in Article 48)
   Part C Information to be included in contract notices (as referred to in Article 49)
   Part D Information to be included in contract award notices (as referred to in Article 50)
   Part G Information to be included in notices of modifications of a contract during its term (as referred to in Article 72(1))
   Part H Information to be included in contract notices concerning contracts for social and other specific services (as referred to in Article 75(1))
   Part I Information to be included in prior information notices for social and other specific services (as referred to in Article 75(1))
   Part J Information to be included in contract award notices concerning contracts for social and other specific services (as referred to in Article 75(2))

Annex VII Definition of certain technical specifications

Annex IX Contents of the invitations to submit a tender, to participate in the dialogue or to confirm interest provided for under Article 54

Annex X List of international social and environmental conventions referred to in Article 18(2)

Annex XII Means of proof of selection criteria

Annex XIV Services referred to in Article 74

ANNEX XXIX-D

Other mandatory elements of Directive 2014/24/EU

(Phase 2)

TITLE I Scope, definitions and general principles

CHAPTER I Scope and definitions
   Section 1 Subject-matter and definitions
   Article 2 Definitions: point (21) of paragraph 1
   Article 22 Rules applicable to communication: paragraph 1

TITLE II Rules on public contracts

CHAPTER I Procedures
   Article 26 Choice of procedures: paragraph 3 and point (b) of paragraph 4
   Article 30 Competitive dialogue
   Article 31 Innovation partnership
CHAPTER II Techniques and instruments for electronic and aggregated procurement
Article 33 Framework agreements
Article 34 Dynamic purchasing systems
Article 35 Electronic auctions
Article 36 Electronic catalogues
Article 38 Occasional joint procurement

CHAPTER III Conduct of the procedure
Section 2 Publication and transparency
Article 50 Contract award notices: paragraphs 2 and 3

TITLE III Particular procurement regimes

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

ANNEXES
Annex V Information to be included in notices
Part E Information to be included in design contest notices (as referred to in Article 79(1))
Part F Information to be included in notices of the results of a contest (as referred to in Article 79(2))
Annex VI Information to be included in the procurement documents relating to electronic auctions (Article 35(4))

ANNEX XXIX-E

Other non-mandatory elements of Directive 2014/24/EU
(Phase 2)

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

TITLE I Scope, definitions and general principles

CHAPTER I Scope and definitions
Section 1 Subject-matter and definitions
Article 2 Definitions: points (14) and (16) of paragraph 1
Article 20 Reserved contracts
CHAPTER II Techniques and instruments for electronic and aggregated procurement
Article 37 Centralised purchasing activities and central purchasing bodies

CHAPTER III Conduct of the procedure
Section 3 Choice of participants and award of contracts
Article 64 Official lists of approved economic operators and certification by bodies established under public or private law

TITLE III Particular procurement regimes

CHAPTER I Social and other specific services
Article 77 Reserved contracts for certain services

ANNEX XXIX-F

Provisions of Directive 2014/24/EU outside the scope of approximation

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

TITLE I Scope, definitions and general principles

CHAPTER I Scope and definitions
Section 1 Subject-matter and definitions
Article 1 Subject-matter and scope: paragraphs 3 and 4
Article 2 Definitions: paragraph 2
Section 2 Thresholds
Article 6 Revision of the thresholds and of the list of central government authorities

TITLE II Rules on public contracts

CHAPTER I Procedures
Article 25 Conditions relating to the GPA and other international agreements

CHAPTER II Techniques and instruments for electronic and aggregated procurement
Article 39 Procurement involving contracting authorities from different Member States

CHAPTER III Conduct of the procedure
Section 1 Preparation
Article 44 Test reports, certification and other means of proof: paragraph 3
Section 2 Publication and transparency
Article 51 Form and manner of publication of notices: second subparagraph of paragraph 1, paragraphs 2, 3 and 4, second subparagraph of paragraph 5, paragraph 6
Article 52 Publication at national level
Section 3 Choice of participants and award of contracts
Article 61 Online repository of certificates (e-Certis)
Article 62 Quality assurance standards and environmental management standards: paragraph 3
Article 68 Life-cycle costing: paragraph 3
Article 69 Abnormally low tender: paragraph 5

TITLE IV Governance
Article 83 Enforcement
Article 84 Individual reports on procedures for the award of contracts
Article 85 National reporting and statistical information
Article 86 Administrative cooperation

TITLE V Delegated powers, implementing powers and final provisions
Article 87 Exercise of the delegation
Article 88 Urgency procedure
Article 89 Committee procedure
Article 90 Transposition and transitional provisions
Article 91 Repeals
Article 92 Review
Article 93 Entry into force
Article 94 Addressees

ANNEXES
Annex I Central government authorities
Annex VIII Features concerning publication
Annex XI Registers
Annex XIII List of union legal acts referred to in Article 68(3)
Annex XV Correlation table

ANNEX XXIX-G


(Phase 2)
Article 3 Contracting authorities: paragraphs 1 and 4
Article 4 Contracting entities: paragraphs 1-3
Article 5 Mixed procurement covering the same activity
Article 6 Procurement covering several activities

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

CHAPTER III Material scope
Section 1 Thresholds
Article 15 Threshold amounts
Article 16 Methods for calculating the estimated value of procurement: paragraphs 1-4 and 7-14

Section 2 Excluded contracts and design contests: special provisions for procurement involving defence and security aspects
Subsection 1 Exclusions applicable to all contracting entities and special exclusions for the water and energy sector
Article 18 Contracts awarded for purposes of resale or lease to third parties: paragraph 1
Article 20 Contracts awarded and design contests organised pursuant to international rules
Article 21 Specific exclusions for service contracts
Article 22 Service contracts awarded on the basis of an exclusive right
Article 23 Contracts awarded by certain contracting authorities for the purchase of water and for the supply of energy or of fuels for the production of energy

Subsection 2 Procurement involving defence and security aspects
Article 24 Defence and security
Article 25 Mixed procurement covering the same activity and involving defence or security aspects
Article 26 Procurement covering several activities and involving defence or security aspects
Article 27 Contracts and design contests involving defence or security aspects which are awarded or organised pursuant to international rules

Subsection 3 Special relations (cooperation, affiliated undertakings and joint ventures)
Article 28 Contracts between contracting authorities
Article 29 Contracts awarded to an affiliated undertaking
Article 30 Contracts awarded to a joint venture or to a contracting entity forming part of a joint venture
Subsection 4  Specific situations
Article 32  Research and development services

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

TITLE II  Rules applicable to contracts

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

CHAPTER III  Conduct of the procedure
Section 1  Preparation
Article 58  Preliminary market consultations
Article 59  Prior involvement of candidates or tenderers
Article 60  Technical specifications
Article 61  Labels
Article 62  Test reports, certification and other means of proof
Article 63  Communication of technical specifications
Article 64  Variants
Article 65  Division of contracts into lots
Article 66  Setting time limits
Section 2  Publication and Transparency
Article 67  Periodic indicative notices
Article 68  Notices on the existence of a qualification system
Article 69  Contract notices
Article 70  Contract award notices: paragraphs 1, 3 and 4
Article 71  Form and manner of publication of notices: paragraph 1 and first subparagraph of paragraph 5
Article 73  Electronic availability of procurement documents
Article 74  Invitations to candidates
Article 75 Informing applicants for qualification, candidates and tenderers
Section 3 Choice of participants and award of contract
Article 76 General principles
Subsection 1 Qualification and qualitative selection
Article 78 Criteria for qualitative selection
Article 79 Reliance on the capacities of other entities: paragraph 2
Article 80 Use of exclusion grounds and selection criteria provided for under Directive 2014/24/EU
Article 81 Quality assurance standards and environmental management standards: paragraphs 1 and 2
Subsection 2 Award of the contract
Article 82 Contract award criteria
Article 83 Life-cycle costing: paragraphs 1 and 2
Article 84 Abnormally low tenders: paragraphs 1-4

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

TITLE III Particular procurement regimes

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

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

Other mandatory elements of Directive 2014/25/EU

(Phase 4)

TITLE I  Scope, definitions and general principles

CHAPTER I  Subject-matter and definitions

Article 2  Definitions: point (17)

CHAPTER III  Material scope

Section 1  Thresholds

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

TITLE II  Rules applicable to contracts

CHAPTER I  Procedures

Article 44  Choice of procedures: paragraph 3

Article 48  Competitive dialogue

Article 49  Innovation partnership

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

CHAPTER II  Techniques and instruments for electronic and aggregated procurement

Article 51  Framework agreements

Article 52  Dynamic purchasing systems

Article 53  Electronic auctions

Article 54  Electronic catalogues

Article 56  Occasional joint procurement
CHAPTER III Conduct of the procedure
Section 2 Publication and transparency
Article 70 Contract award notices: paragraph 2
Section 3 Choice of participants and award of contracts
Subsection 1 Qualification and qualitative selection
Article 77 Qualification systems
Article 79 Reliance on the capacities of other entities: paragraph 1

TITLE III Particular procurement regimes

CHAPTER II Rules governing design contests
Article 95 Scope
Article 96 Notices
Article 97 Rules on the organisation of design contests, the selection of participants and the jury
Article 98 Decision of the jury

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

ANNEX XXIX-I

Other non-mandatory elements of Directive 2014/25/EU

(Phase 4)

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

TITLE I Scope, definitions and general principles

CHAPTER I Subject-matter and definitions
Article 2 Definitions: points (10)-(12)

CHAPTER IV General principles
Article 38 Reserved contracts

TITLE II Rules applicable to contracts

CHAPTER I Procedures
Article 55 Centralised purchasing activities and central purchasing bodies
TITLE III  Particular procurement regimes

CHAPTER I  Social and other specific services
Article 94  Reserved contracts for certain services

ANNEX XXIX-J


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

TITLE I  Scope, definitions and general principles

CHAPTER I  Subject-matter and definitions
Article 1  Subject matter and scope: paragraphs 3 and 4
Article 3  Contracting authorities: paragraphs 2 and 3
Article 4  Contracting entities: paragraph 4

CHAPTER III  Material scope
Section 1  Thresholds
Article 17  Revision of the thresholds
Section 2  Excluded contracts and design contests: special provisions for procurement involving defence and security aspects
Subsection 1  Exclusions applicable to all contracting entities and special exclusions for the water and energy sector
Article 18  Contracts awarded for purposes of resale or lease to third parties: paragraph 2
Article 19  Contracts and design contests awarded or organised for purposes other than the pursuit of a covered activity or for the pursuit of such an activity in a third country: paragraph 2
Subsection 3  Special relations (cooperation, affiliated undertakings and joint ventures)
Article 31  Notification of information
Subsection 4  Specific situations
Article 33  Contracts subject to special arrangements
Subsection 5  Activities directly exposed to competition and procedural provisions relating thereto
Article 34  Activities directly exposed to competition
Article 35  Procedure for establishing whether Article 34 is applicable

TITLE II  Rules applicable to contracts

CHAPTER I  Procedures
Article 43  Conditions relating to the GPA and other international agreements
CHAPTER II Techniques and instruments for electronic and aggregated procurement

Article 57 Procurement involving contracting entities from different Member States

CHAPTER III Conduct of the procedure

Section 2 Publication and transparency

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

Article 72 Publication at national level

Section 3 Choice of participants and award of contract

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

Article 83 Life-cycle costing: paragraph 3

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

Article 85 Tenders comprising products originating in third countries

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

TITLE IV Governance

Article 99 Enforcement

Article 100 Individual reports on procedures for the award of contracts

Article 101 National reporting and statistical information

Article 102 Administrative cooperation

TITLE V Delegated powers, implementing powers and final provisions

Article 103 Exercise of the delegation

Article 104 Urgency procedure

Article 105 Committee procedure

Article 106 Transposition and transitional provisions

Article 107 Repeal

Article 108 Review

Article 109 Entry into force

Article 110 Addressees

ANNEXES

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

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

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

Annex XV List of Union legal acts referred to in Article 83(3)
ANNEX XXIX-K

(Phase 3)

TITLE I Subject-matter, scope, principles and definitions

CHAPTER I Scope, general principles and definitions

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

Article 1 Subject-matter and scope: paragraphs 1, 2 and 4

Article 2 Principle of free administration by public authorities

Article 3 Principle of equal treatment, non-discrimination and transparency

Article 4 Freedom to define services of general economic interest

Article 5 Definitions

Article 6 Contracting authorities: paragraphs 1 and 4

Article 7 Contracting entities

Article 8 Threshold and methods for calculating the estimated value of concessions

Section II Exclusions

Article 10 Exclusions applicable to concessions awarded by contracting authorities and contracting entities

Article 11 Specific exclusions in the field of electronic communications

Article 12 Specific exclusions in the field of water

Article 13 Concessions awarded to an affiliated undertaking

Article 14 Concessions awarded to a joint venture or to a contracting entity forming part of a joint venture

Article 17 Concessions between entities within the public sector

Section III General provisions

Article 18 Duration of the concession

Article 19 Social and other specific services

Article 20 Mixed contracts

Article 21 Mixed procurement contracts involving defence or security aspects

Article 22 Contracts covering both activities referred to in Annex II and other activities

Article 23 Concessions covering both activities referred to in Annex II and activities involving defence or security aspects

Article 25 Research and development services

CHAPTER II Principles

Article 26 Economic operators

Article 27 Nomenclatures

Article 28 Confidentiality

Article 29 Rules applicable to communication
TITLE II Rules on the award of concessions: general principles and procedural guarantees

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

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

TITLE III Rules on performance of concessions
Article 42 Subcontracting
Article 43 Modification of contracts during their term
Article 44 Termination of concessions
Article 45 Monitoring and reporting

ANNEXES
Annex I List of the activities referred to in point (7) of Article 5
Annex II Activities exercised by contracting entities as referred to in Article 7
Annex III List of legal acts of the union referred to in point (b) of Article 7(2)
Annex IV Services referred to in Article 19
Annex V Information to be included in concession notices referred to in Article 31
Annex VI Information to be included in prior information notices concerning concessions for social and other specific services, as referred to in Article 31(3)
Annex VII Information to be included in concession award notices, as referred to in Article 32
Annex VIII Information to be included in concession award notices concerning concessions for social and other specific services, as referred to in Article 32
Annex IX Features concerning publication
Annex X List of international social and environmental conventions referred to in Article 30(3)
Annex XI Information to be included in notices of modifications of a concession during its term according to Article 43
ANNEX XXIX-L

Other non-mandatory elements of Directive 2014/23/EU

(Phase 3)

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

TITLE I Subject-matter, scope, principles and definitions

CHAPTER I Scope, general principles and definitions

Section IV Specific situations

Article 24 Reserved concessions

ANNEX XXIX-M


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

TITLE I Subject-matter, scope, principles and definitions

CHAPTER I Scope, general principles and definitions

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

Article 1 Subject-matter and scope: paragraph 3

Article 6 Contracting authorities: paragraphs 2 and 3

Article 9 Revision of the threshold

Section II Exclusions

Article 15 Notification of information by contracting entities

Article 16 Exclusion of activities which are directly exposed to competition

TITLE II Rules on the award of concessions: general principles and procedural guarantees

CHAPTER I General principles

Article 30 General principles: paragraph 4

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

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

Article 46 Amendments to Directive 89/665/EEC

Article 47 Amendments to Directive 92/13/EEC
TITLE V  Delegated powers, implementing powers and final provisions
Article 48  Exercise of the delegation
Article 49  Urgency procedure
Article 50  Committee procedure
Article 51  Transposition
Article 52  Transitional provisions
Article 53  Monitoring and reporting
Article 54  Entry into force
Article 55  Addressees

ANNEX XXIX-N


(Phase 2)

ANNEX XXIX-O

Other elements of Directive 89/665/EEC

(Phase 2)

Article 2b  Derogations from the standstill period: point (c) of the first paragraph
Article 2d  Ineffectiveness: point (c) of the first paragraph, paragraph 5
ANNEX XXIX-P

Provisions of Directive 89/665/EEC outside the scope of approximation

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

Article 2b Derogations from the standstill period: point (a) of the first paragraph
Article 2d Ineffectiveness: point (a) of the first paragraph, paragraph 4
Article 3 Corrective mechanism
Article 3a Content of the notice for voluntary ex ante transparency
Article 3b Committee procedure
Article 4 Implementation
Article 4a Review

ANNEX XXIX-Q


(Phase 2)

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

ANNEX XXIX-R

Other elements of Directive 92/13/EEC

(Phase 4)

Article 2b Derogations from the standstill period: point (c) of the first paragraph, paragraph 5
ANNEX XXIX-S

Provisions of Directive 92/13/EEC outside the scope of approximation

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

Article 2b Derogations from the standstill period: point (a) of the first paragraph
Article 2d Ineffectiveness: point (a) of the first paragraph, paragraph 4
Article 3a Content of the notice for voluntary ex ante transparency
Article 3b Committee procedure
Article 8 Corrective mechanism
Article 12 Implementation
Article 12a Review

ANNEX XXIX-T

The Republic of Moldova: indicative list of issues for cooperation

1. Training, in the Union and the Republic of Moldova, of officials of the Republic of Moldova from government bodies engaged in public procurement.
2. Training of suppliers interested in participating in public procurement.
3. Exchange of information and experience on best practice and regulatory rules in the field of public procurement.
4. Enhancement of the functionality of the public procurement website and establishment of a system of public procurement monitoring.
5. Consultations and methodological assistance from the Union in application of modern electronic technologies in the field of public procurement.
6. Strengthening the bodies charged with guaranteeing a coherent policy in all areas related to public procurement and the independent and impartial consideration (review) of contracting authorities' decisions (see Article 270 of this Agreement).