

DECISION No 2/2019 OF THE EU-GEORGIA ASSOCIATION COMMITTEE IN TRADE CONFIGURATION

of 18 October 2019

updating Annex XVI to the Association Agreement [2019/1914]

THE ASSOCIATION COMMITTEE IN TRADE CONFIGURATION,

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

Having regard to Decision No 3/2014 of the Association Council of 17 November 2014 on the delegation of certain powers by the Association Council to the Association Committee in Trade configuration [2015/2263] ⁽¹⁾,

Whereas:

- (1) In accordance with Article 431 of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part ('the Agreement'), the Agreement entered into force on 1 July 2016.
- (2) Article 142 of the Agreement provides that the value thresholds for public procurement contracts provided for in Annex XVI-A are to be revised regularly, beginning in the year of entry into force of the Agreement, and that such revision is to be adopted by a decision of the Association Committee in Trade configuration.
- (3) Article 406(3) of the Agreement provides that the Association Council shall have the power to update or amend the Annexes to the Agreement. The Association Council, by its Decision No 3/2014, delegated the power to update or amend certain trade-related Annexes to the Association Committee in Trade configuration.
- (4) Article 146 of the Agreement provides that Georgia is to ensure that its public procurement legislation is gradually made compatible with the relevant Union *acquis*, in line with the schedule provided for in Annex XVI-B to the Agreement.
- (5) Several Union acts listed in Annex XVI to the Agreement have been recast or repealed and replaced by a new Union act since the initialling of the Agreement on 29 November 2013 and new Union acts have been notified to Georgia:
 - (a) Directive 2014/23/EU of the European Parliament and of the Council ⁽²⁾;
 - (b) Directive 2014/24/EU of the European Parliament and of the Council ⁽³⁾;
 - (c) Directive 2014/25/EU of the European Parliament and of the Council ⁽⁴⁾.

⁽¹⁾ OJ L 321, 5.12.2015, p. 72.

⁽²⁾ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

⁽³⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

⁽⁴⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

- (6) It is necessary to update Annex XVI to the Agreement in order to reflect the changes made to the Union *acquis* listed in that Annex, in accordance with Articles 142 and 146 of the Agreement.
- (7) In the interest of clarity, Annex XVI should be updated in its entirety and replaced,

HAS ADOPTED THIS DECISION:

Article 1

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

Article 2

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

Done at Brussels. 18 October 2019.

For the Association Committee in Trade configuration

G. ARVELADZE
The Chair

M. GABUNIA, R. MENGEL-JØRGENSEN
Secretaries

*ANNEX**'ANNEX XVI***PUBLIC PROCUREMENT'***ANNEX XVI-A***THRESHOLDS**

The value thresholds mentioned in Article 142(3) of this Agreement shall be for both Parties:

- (a) EUR 144 000 for public supply and service contracts awarded by central government authorities and design contests awarded by such authorities;
 - (b) EUR 221 000 in the case of public supply and public service contracts not covered by point (a);
 - (c) EUR 5 548 000 in the case of public works contracts;
 - (d) EUR 5 548 000 in the case of works contracts in the utilities sector;
 - (e) EUR 5 548 000 in the case of concessions;
 - (f) EUR 443 000 in the case of supply and service contracts in the utilities sector;
 - (g) EUR 750 000 for public service contracts for social and other specific services;
 - (h) EUR 1 000 000 for service contracts for social and other specific services in the utilities sector.
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INDICATIVE TIME SCHEDULE FOR INSTITUTIONAL REFORM, APPROXIMATION AND MARKET ACCESS

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

ANNEX XVI-C

BASIC ELEMENTS OF DIRECTIVE 2014/24/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ⁽¹⁾

(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: paragraph 1, points (1), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (18), (19), (20), (22), (23) and (24)
Article 3	Mixed procurement
Section 2	Thresholds
Article 4	Threshold amounts
Article 5	Methods for calculating the estimated value of procurement
Section 3	Exclusions
Article 7	Contracts in the water, energy, transport and postal services sectors
Article 8	Specific exclusions in the field of electronic communications
Article 9	Public contracts awarded and design contests organised pursuant to international rules
Article 10	Specific exclusions for service contracts
Article 11	Service contracts awarded on the basis of an exclusive right
Article 12	Public contracts between entities within the public sector
Section 4	Specific situations
Subsection 1:	Subsidised contracts and research and development services
Article 13	Contracts subsidised by contracting authorities
Article 14	Research and development services
Subsection 2:	Procurement involving defence and security aspects
Article 15	Defence and security
Article 16	Mixed procurement involving defence or security aspects
Article 17	Public contracts and design contests involving defence or security aspects which are awarded or organised pursuant to international rules
CHAPTER II	General Rules
Article 18	Principles of procurement
Article 19	Economic operators
Article 21	Confidentiality
Article 22	Rules applicable to communication: paragraphs 2-6
Article 23	Nomenclatures
Article 24	Conflicts of interest

⁽¹⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

TITLE II	Rules on public contracts
CHAPTER I	Procedures
Article 26	Choice of procedures: paragraphs 1, 2, first alternative of paragraph 4, 5, 6
Article 27	Open procedure
Article 28	Restricted procedure
Article 29	Competitive procedure with negotiation
Article 32	Use of the negotiated procedure without prior publication
CHAPTER III	Conduct of the procedure
Section 1	Preparation
Article 40	Preliminary market consultations
Article 41	Prior involvement of candidates or tenderers
Article 42	Technical specifications
Article 43	Labels
Article 44	Test reports, certification and other means of proof: paragraphs 1, 2
Article 45	Variants
Article 46	Division of contracts into lots
Article 47	Setting time limits
Section 2	Publication and transparency
Article 48	Prior information notices
Article 49	Contract notices
Article 50	Contract award notices: paragraphs 1 and 4
Article 51	Form and manner of publication of notices: first subparagraph of paragraph 1, first subparagraph of paragraph 5
Article 53	Electronic availability of procurement documents
Article 54	Invitations to candidates
Article 55	Informing candidates and tenderers
Section 3	Choice of participants and award of contracts
Article 56	General principles
Subsection 1:	Criteria for qualitative selection
Article 57	Exclusion grounds
Article 58	Selection criteria
Article 59	European Single Procurement Document: paragraph 1 <i>mutatis mutandis</i> , 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 by contracting authorities in the field of defence
ANNEX IV	Requirements relating to tools and devices for the electronic receipt of tenders, requests for participation as well as plans and projects in contests
ANNEX V	Information to be included in notices
Part A:	Information to be included in notices of the publication of a prior information notice on a buyer profile
Part B:	Information to be included in prior information notices (as referred to in Article 48)
Part C:	Information to be included in contract notices (as referred to in Article 49)
Part D:	Information to be included in contract award notices (as referred to in Article 50)
Part G:	Information to be included in notices of modifications of a contract during its term (as referred to in Article 72(1))
Part H:	Information to be included in contract notices concerning contracts for social and other specific services (as referred to in Article 75(1))
Part I:	Information to be included in prior information notices for social and other specific services (as referred to in Article 75(1))
Part J:	Information to be included in contract award notices concerning contracts for social and other specific services (as referred to in Article 75(2))
Annex VII	Definition of certain technical specifications
Annex IX	contents of the invitations to submit a tender, to participate in the dialogue or to confirm interest provided for under Article 54

Annex X	list of international social and environmental conventions referred to in Article 18(2)
Annex XII	Means of proof of selection criteria
Annex XIV	Services referred to in Article 74

ANNEX XVI-D

BASIC ELEMENTS OF COUNCIL DIRECTIVE 89/665/EEC ⁽²⁾

as amended by Directive 2007/66/EC of the European Parliament and of the Council ⁽³⁾ and Directive 2014/23/EU of the European Parliament and of the Council ⁽⁴⁾, ⁽⁵⁾

(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
	Paragraph 2 and 3
Article 2e	Infringements of this Directive and alternative penalties
Article 2f	Time limits

⁽²⁾ Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ L 395, 30.12.1989, p. 33).

⁽³⁾ Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts (OJ L 335, 20.12.2007, p. 31).

⁽⁴⁾ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

⁽⁵⁾ Georgian legislation implementing Annex XVI-D shall become effective with regard to review procedures relating to award of concessions (Directive 2014/23/EU) as from phase 4.

ANNEX XVI-E

BASIC ELEMENTS OF DIRECTIVE 2014/25/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ⁽⁹⁾

(PHASE 3)

TITLE I	Scope, definitions and general principles
CHAPTER I	Subject-matter and definitions
Article 1	Subject-matter and scope: paragraphs 1, 2, 5 and 6
Article 2	Definitions: points 1-9, 13-16 and 18-20
Article 3	Contracting authorities (paragraphs 1 and 4)
Article 4	Contracting entities: paragraphs 1-3
Article 5	Mixed procurement covering the same activity
Article 6	Procurement covering several activities
CHAPTER II	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: paragraph 1-4 and 7-14
Section 2	Excluded contracts and design contests; special provisions for procurement involving defence and security aspects
Subsection 1:	Exclusions applicable to all contracting entities and special exclusions for the water and energy sectors
Article 18	Contracts awarded for purposes of resale or lease to third parties: paragraph 1
Article 19	Contracts and design contests awarded or organised for purposes other than the pursuit of a covered activity or for the pursuit of such an activity in a third country: paragraph 1
Article 20	Contracts awarded and design contests organised pursuant to international rules
Article 21	Specific exclusions for service contracts
Article 22	Service contracts awarded on the basis of an exclusive right

⁽⁹⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

Article 23	Contracts awarded by certain contracting entities for the purchase of water and for the supply of energy or of fuels for the production of energy
Subsection 2:	Procurement involving defence and security aspects
Article 24	Defence and security
Article 25	Mixed procurement covering the same activity and involving defence 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, 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, 4
Article 71	Form and manner of publication of notices: paragraph 1, 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 contracts
Article 76	General principles
Subsection 1:	Qualification and qualitative selection
Article 78	Criteria for qualitative selection
Article 79	Reliance on the capacities of other entities: paragraph 2
Article 80	Use of exclusion grounds and selection criteria provided for under Directive 2014/24/EU
Article 81	Quality assurance standards and environmental management standards: paragraphs 1, 2
Subsection 2:	Award of the contract
Article 82	Contract award criteria
Article 83	Life-cycle costing: paragraphs 1 and 2
Article 84	Abnormally low tenders: paragraphs 1-4
CHAPTER IV	Contract performance
Article 87	Conditions for performance of contracts
Article 88	Subcontracting
Article 89	Modification of contracts during their term
Article 90	Termination of contracts
TITLE III	particular procurement regimes
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	Requirement relating to tools and devices for the electronic receipt of tenders, requests to participate, applications for qualification as well as plans and projects in contests
Annex VI	
Part A	Information to be included in the periodic indicative notice (as referred to in Article 67)
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 XI	Information to be included in contract notices (as referred to in Article 69)
Annex XII	Information to be included in the contract award notice (as referred to in Article 70)
Annex XIII	Contents of the invitations to submit a tender, to participate in the dialogue, to negotiate or to confirm interest provided for under Article 74
Annex XIV	List of International Social and Environmental Conventions referred to in Article 36(2)
Annex XVI	Information to be included in notices of modifications of a contract during its term (as referred to in Article 89(1))
Annex XVII	Services referred to in Article 91
Annex XVIII	Information to be included in notices concerning contracts for social and other specific services (as referred to in Article 92)

ANNEX XVI-F

BASIC ELEMENTS OF COUNCIL DIRECTIVE 92/13/EEC ⁽⁷⁾

as amended by Directive 2007/66/EC of the European Parliament and of the Council ⁽⁸⁾ and Directive 2014/23/EU of the European Parliament and of the Council ⁽⁹⁾, ⁽¹⁰⁾

(PHASE 3)

Article 1	Scope and availability of review procedures
Article 2	Requirements for review procedures
Article 2a	Standstill period
Article 2b	Derogations from the standstill period
	Point (b) of the first paragraph
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

⁽⁷⁾ Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ L 76, 23.3.1992, p. 14).

⁽⁸⁾ Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts (OJ L 335, 20.12.2007, p. 31).

⁽⁹⁾ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

⁽¹⁰⁾ Georgian legislation implementing Annex XVI-F shall become effective with regard to review procedures relating to award of concessions (Directive 2014/23/EU) as from phase 4.

ANNEX XVI-G

(PHASE 4)

I. Other non-mandatory elements of Directive 2014/24/EU of the European Parliament and of the Council ⁽¹¹⁾

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

TITLE I	Scope, definitions and general principles
CHAPTER I	Scope and definitions
Section 1	Subject-matter and definitions
Article 2	Definitions (paragraph 1, points (14) and (16))
CHAPTER II	General rules
Article 20	Reserved contracts
TITLE II	Rules on public 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
Subsection 1:	Criteria for qualitative selection
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

II. Non-mandatory elements of Directive 2014/23/EU of the European Parliament and of the Council ⁽¹²⁾

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

TITLE I	Subject matter, scope, principles and definitions
CHAPTER I	Scope, general principles and definitions
Section IV	Specific situations
Article 24	Reserved concessions

⁽¹¹⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

⁽¹²⁾ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

ANNEX XVI-H

(PHASE 4)

I. Other mandatory elements of Directive 2014/24/EU of the European Parliament and of the Council ⁽¹³⁾

TITLE I	Scope, definitions and general principles
CHAPTER I	Scope and definitions
Section 1	Subject-matter and definitions
Article 2	Definitions (paragraph 1 point (21))
CHAPTER II	General rules
Article 22	Rules applicable to communication: paragraph 1
TITLE II	Rules on public contracts
CHAPTER I	Procedures
Article 26	Choice of procedures: paragraph 3, second alternative of paragraph 4
Article 30	Competitive dialogue
Article 31	Innovation Partnership
CHAPTER II	Techniques and instruments for electronic and aggregated procurement
Article 33	Framework agreements
Article 34	Dynamic purchasing systems
Article 35	Electronic auctions
Article 36	Electronic catalogues
Article 38	Occasional joint procurement
CHAPTER III	Conduct of the procedure
Section 2	Publication and Transparency
Article 50	Contract award notices: paragraphs 2 and 3
TITLE III	Particular procurement regimes
CHAPTER II	Rules governing design contests
Article 78	Scope
Article 79	Notices
Article 80	Rules on the organisation of design contests and the selection of participants
Article 81	Composition of the jury
Article 82	Decisions of the jury
ANNEXES	
ANNEX V	Information to be included in notices
Part E:	Information to be included in design contest notices (as referred to in Article 79(1))

⁽¹³⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.

Part F:	Information to be included in notices of the results of a contest (as referred to in Article 79(2))
ANNEX VI	Information to be included in the procurement documents relating to electronic auctions (article 35(4))

II. Mandatory elements of Directive 2014/23/EU of the European Parliament and of the Council ⁽¹⁴⁾

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
Section IV	Specific situations
Article 25	Research and development services
CHAPTER II	Principles
Article 26	Economic operators

⁽¹⁴⁾ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

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 XVI-I

OTHER ELEMENTS OF COUNCIL DIRECTIVE 89/665/EEC ⁽¹⁵⁾**as amended by Directive 2007/66/EC of the European Parliament and of the Council ⁽¹⁶⁾ and Directive 2014/23/EU of the European Parliament and of the Council ⁽¹⁷⁾**

(PHASE 4)

Article 2b	Derogations from the standstill period
	Point (c) of the first paragraph
Article 2d	Ineffectiveness
	Point (c) of paragraph 1
	Paragraph 5

⁽¹⁵⁾ Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ L 395, 30.12.1989, p. 33).

⁽¹⁶⁾ Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts (OJ L 335, 20.12.2007, p. 31).

⁽¹⁷⁾ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

ANNEX XVI-J

(PHASE 5)

I. Other non-mandatory elements of Directive 2014/25/EU of the European Parliament and of the Council ⁽¹⁸⁾

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

TITLE I	Scope, definitions and general principles
CHAPTER I	Subject-matter and definitions
Article 2	Definitions: points 10-12
CHAPTER IV	General principles
Article 38	Reserved contracts
TITLE II	Rules applicable to contracts
CHAPTER II	Techniques and instruments for electronic and aggregated procurement
Article 55	Centralised purchasing activities and central purchasing bodies
TITLE III	Particular procurement regimes
CHAPTER I	Social and other specific services
Article 94	Reserved contracts for certain services

II. Other mandatory elements of directive 2014/25/EU of the European Parliament and of the Council ⁽¹⁹⁾

TITLE I	Scope, definitions and general principles
CHAPTER I	Subject-matter and definitions
Article 2	Definitions: point 17
CHAPTER III	Material scope
Section 1	Thresholds
Article 16	Methods for calculating the estimated value of procurement: paragraphs 5, 6
TITLE II	Rules applicable to contracts
CHAPTER I	Procedures
Article 44	Choice of procedures: paragraph 3
Article 48	Competitive dialogue
Article 49	Innovation Partnership
Article 50	Use of the negotiated procedure without prior call for competition: point (j)

⁽¹⁸⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

⁽¹⁹⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

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

ANNEX XVI-K

OTHER ELEMENTS OF COUNCIL DIRECTIVE 92/13/EEC ⁽²⁰⁾

as amended by Directive 2007/66/EC of the European Parliament and of the Council ⁽²¹⁾ and Directive 2014/23/EU of the European Parliament and of the Council ⁽²²⁾

(PHASE 5)

Article 2b	Derogations from the standstill period
	Point (c) of the first paragraph
Article 2d	Ineffectiveness
	Point (c) of paragraph 1
	Paragraph 5

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⁽²⁰⁾ Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ L 76, 23.3.1992, p. 14).

⁽²¹⁾ Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts (OJ L 335, 20.12.2007, p. 31).

⁽²²⁾ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

ANNEX XVI-L

I. Provisions of Directive 2014/24/EU of the European Parliament and of the Council ⁽²³⁾ outside the scope of approximation

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

TITLE I	Scope, definitions and general principles
CHAPTER I	Scope and definitions
Section 1	Subject-matter and definitions
Article 1	Subject-matter and scope: paragraphs 3 and 4
Article 2	Definitions: paragraph 2
Section 2	Thresholds
Article 6	Revision of the thresholds and of the list of central government authorities
TITLE II	Rules on public contracts
CHAPTER I	Procedures
Article 25	Conditions relating to the GPA and other international agreements
CHAPTER II	Techniques and instruments for electronic and aggregated procurement
Article 39	Procurement involving contracting authorities from different Member States
CHAPTER III	Conduct of the procedure
Section 1	Preparation
Article 44	Test reports, certification and other means of proof: paragraph 3
Section 2	Publication and transparency
Article 51	Form and manner of publication of notices: second subparagraph of paragraph 1, paragraphs 2, 3, 4, second subparagraph of paragraph 5, paragraph 6
Article 52	Publication at national level
Section 3	Choice of participants and award of contracts
Subsection 1:	Criteria for qualitative selection
Article 61	Online repository of certificates (e-Certis)
Article 62	Quality assurance standards and environmental management standards: paragraph 3
Subsection 3:	Award of the Contract
Article 68	Life-cycle costing: paragraph 3
Article 69	Abnormally low tender: paragraph 5
TITLE IV	Governance
Article 83	Enforcement
Article 84	Individual reports on procedures for the award of contracts
Article 85	National reporting and statistical information
Article 86	Administrative cooperation
TITLE V	Delegated powers, implementing powers and final provisions
Article 87	Exercise of the delegation of powers

⁽²³⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

Article 88	Urgency procedure
Article 89	Committee procedure
Article 90	Transposition and transitional provisions
Article 91	Repeals
Article 92	Review
Article 93	Entry into force
Article 94	Addressees
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ANNEX I	Central government authorities
Annex VIII	Features concerning publication
Annex XI	Registers
Annex XIII	List of EU legislation referred to in Article 68(3)
Annex XV	Correlation table

II. Provisions of Directive 2014/23/EU of the European Parliament and of the Council ⁽²⁴⁾ outside the scope of approximation

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

TITLE I	Subject matter, scope, principles and definitions
CHAPTER I	Scope, general principles and definitions
Section I	Subject-matter, scope, general principles, definitions and threshold
Article 1	Subject-matter and scope: paragraph 3
Article 6	Contracting authorities: paragraphs 2 and 3
Article 9	Revision of the threshold
Section II	Exclusions
Article 15	Notification of information by contracting entities
Article 16	Exclusion of activities which are directly exposed to competition
TITLE II	Rules on the award of concessions: general principles and procedural guarantees
CHAPTER I	General principles
Article 30	General principles: paragraph 4
Article 33	Form and manner of publication of notices: second subparagraph of paragraph 1, paragraphs 2, 3 and 4
TITLE IV	Amendments to Directives 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

⁽²⁴⁾ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

Article 50	Committee procedure
Article 51	Transposition
Article 52	Transitional provisions
Article 53	Monitoring and reporting
Article 54	Entry into force
Article 55	Addressees

ANNEX XVI-M

**PROVISIONS OF DIRECTIVE 2014/25/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ⁽²⁵⁾
OUTSIDE THE SCOPE OF APPROXIMATION**

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

TITLE I	Scope, definitions and general principles
CHAPTER I	Subject-matter and definitions
Article 1	Subject matter and scope: paragraphs 3 and 4
Article 3	Contracting authorities: paragraphs 2 and 3
Article 4	Contracting entities: paragraph 4
CHAPTER III	Material scope
Section 1	Thresholds
Article 17	Revision of the thresholds
Section 2	Excluded contracts and design contests; special provisions for procurement involving defence and security aspects
Subsection 1:	Exclusions applicable to all contracting entities and special exclusions for the water and energy sector
Article 18	Contracts awarded for purposes of resale or lease to third parties: paragraph 2
Article 19	Contracts and design contests awarded or organised for purposes other than the pursuit of a covered activity or for the pursuit of such an activity in a third country: paragraph 2
Subsection 3:	Special relations (cooperation, affiliated undertakings and joint ventures)
Article 31	Notification of information
Subsection 4:	Specific situations
Article 33	Contracts subject to special arrangements
Subsection 5:	Activities directly exposed to competition and procedural provisions relating thereto
Article 34	Activities directly exposed to competition
Article 35	Procedure for establishing whether Article 34 is applicable
TITLE II	Rules applicable to contracts
CHAPTER I	Procedures
Article 43	Conditions relating to the GPA and other international agreements
CHAPTER II	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

⁽²⁵⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

Article 72	Publication at national level
Section 3	Choice of participants and award of contracts
Subsection 1:	Qualification and qualitative selection
Article 81	Quality assurance standards and environmental management standards: paragraph 3
Subsection 2:	Award of the contract
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
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Annex II	List of Union legal acts referred to in Article 4(3)
Annex III	List of Union legal acts referred to in Article 34(3)
Annex IV	Deadlines for the adoption of the implementing acts referred to in Article 35
Annex XV	List of Union legal acts referred to in Article 83(3)

ANNEX XVI-N

PROVISIONS OF COUNCIL DIRECTIVE 89/665/EEC ⁽²⁶⁾ AS AMENDED BY DIRECTIVE 2007/66/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ⁽²⁷⁾ AND DIRECTIVE 2014/23/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ⁽²⁸⁾ 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 paragraph 1
	Paragraph 4
Article 3	Corrective mechanism
Article 3a	Content of a notice for voluntary <i>ex ante</i> transparency
Article 3b	Committee procedure
Article 4	Implementation
Article 4a	Review

⁽²⁶⁾ Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ L 395, 30.12.1989, p. 33).

⁽²⁷⁾ Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts (OJ L 335, 20.12.2007, p. 31).

⁽²⁸⁾ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

ANNEX XVI-O

PROVISIONS OF COUNCIL DIRECTIVE 92/13/EEC ⁽²⁹⁾ AS AMENDED BY DIRECTIVE 2007/66/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ⁽³⁰⁾ AND DIRECTIVE 2014/23/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ⁽³¹⁾ 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 paragraph 1
	Paragraph 4
Article 3a	Content of a notice for voluntary <i>ex ante</i> transparency
Article 3b	Committee procedure
Article 8	Corrective mechanism
Article 12	Implementation
Article 12a	Review

⁽²⁹⁾ Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ L 76, 23.3.1992, p. 14).

⁽³⁰⁾ Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts (OJ L 335, 20.12.2007, p. 31).

⁽³¹⁾ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

ANNEX XVI-P

GEORGIA: INDICATIVE LIST OF ISSUES FOR COOPERATION

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