

**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 <sup>(1)</sup> ('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- (4) Several Union acts listed in Annex XXIX to the Agreement have been amended, recast or repealed and replaced by new Union acts since the initialling of the Agreement on 29 November 2013.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:
  - (a) Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts <sup>(2)</sup>;
  - (b) Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC <sup>(3)</sup>;
  - (c) Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC <sup>(4)</sup>.
- (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,

<sup>(1)</sup> OJ L 260, 30.8.2014, p. 4.

<sup>(2)</sup> OJ L 94, 28.3.2014, p. 1.

<sup>(3)</sup> OJ L 94, 28.3.2014, p. 65.

<sup>(4)</sup> OJ L 94, 28.3.2014, p. 243.

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 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*

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## 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**

| Phase |                                                                                                                                          | Indicative time schedule                              | Market access granted to the EU by the Republic of Moldova                           | Market access granted to the Republic of Moldova by the EU                           |                           |
|-------|------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|--------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|---------------------------|
| 1     | Implementation of Articles 270(2) and 271 of this Agreement<br>Agreement of the Reform Strategy set out in Article 272 of this Agreement | 9 months 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                                   | 5 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 XXIX-C and XXIX-N |

| Phase |                                                                                                       | Indicative time schedule                             | Market access granted to the EU by the Republic of Moldova                       | Market access granted to the Republic of Moldova by the EU                       |                                    |
|-------|-------------------------------------------------------------------------------------------------------|------------------------------------------------------|----------------------------------------------------------------------------------|----------------------------------------------------------------------------------|------------------------------------|
|       | Approximation and implementation of basic elements of Directive 2014/25/EU and of Directive 92/13/EEC | 5 years after the entry into force of this Agreement | Supplies for all contracting entities in the utilities sector                    | Supplies for all contracting entities                                            | Annexes XXIX-G and XXIX-Q          |
|       | Approximation and implementation of other elements of Directive 2014/24/EU                            | 5 years after the entry into force of this Agreement | Service and works contracts for all contracting authorities                      | Service and works contracts for all contracting authorities                      | Annexes XXIX-D, XXIX-E, and XXIX-O |
| 3     | Approximation and implementation of Directive 2014/23/EU                                              | 6 years after the entry into force of this Agreement | Concessions for all contracting authorities                                      | Concessions for all contracting authorities                                      | Annexes XXIX-K and XXIX-L          |
| 4     | Approximation and implementation of other elements of Directive 2014/25/EU                            | 8 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 XXIX-H, XXIX-I and XXIX-R  |

## ANNEX XXIX-C

**Basic elements of 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**

(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

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|--------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| 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                                                      |

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|--------------|--------------------------------------------------------------------------------------------------------------------|
| 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 <i>mutatis mutandis</i> 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                                                                                                                            |

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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

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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                                              |
| <br>       |                                                                                 |
| 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                                                      |
| <br>       |                                                                                 |
| 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                                                                      |
| <br>       |                                                                                 |
| 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                                                               |

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ANNEX XXIX-G

**Basic elements of 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**

(Phase 2)

|           |                                                      |
|-----------|------------------------------------------------------|
| TITLE I   | Scope, definitions and general principles            |
| <br>      |                                                      |
| 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: 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                                                      |

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|--------------|----------------------------------------------------------------------------------------------|
| 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                                                                                                                                                   |
| <br>            |                                                                                                                                                                                          |
| 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                                                                                                                                                                 |
| <br>            |                                                                                                                                                                                          |
| TITLE III       | Particular procurement regimes                                                                                                                                                           |
| <br>            |                                                                                                                                                                                          |
| 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                                                                                                                                                         |
| <br>            |                                                                                                                                                                                          |
| 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 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 invitation 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)                 |

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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

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ANNEX XXIX-J

**Provisions of Directive 2014/25/EU outside the scope of approximation**

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

TITLE I Scope, definitions and general principles

CHAPTER I Subject-matter and definitions

Article 1 Subject matter and scope: paragraphs 3 and 4

Article 3 Contracting authorities: paragraphs 2 and 3

Article 4 Contracting entities: paragraph 4

CHAPTER III Material scope

Section 1 Thresholds

Article 17 Revision of the thresholds

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

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

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

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

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

Article 31 Notification of information

Subsection 4 Specific situations

Article 33 Contracts subject to special arrangements

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

Article 34 Activities directly exposed to competition

Article 35 Procedure for establishing whether Article 34 is applicable

TITLE II Rules applicable to contracts

CHAPTER I Procedures

Article 43 Conditions relating to the GPA and other international agreements



## CHAPTER II 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)

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## ANNEX XXIX-K

**Basic elements of Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts**

(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

**Provisions of Directive 2014/23/EU outside the scope of approximation**

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

TITLE I Subject-matter, scope, principles and definitions

CHAPTER I Scope, general principles and definitions

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

Article 1 Subject-matter and scope: paragraph 3

Article 6 Contracting authorities: paragraphs 2 and 3

Article 9 Revision of the threshold

Section II Exclusions

Article 15 Notification of information by contracting entities

Article 16 Exclusion of activities which are directly exposed to competition

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

CHAPTER I General principles

Article 30 General principles: paragraph 4

Article 33 Form and manner of publication of notices: 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                                                 |

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## ANNEX XXIX-N

**Basic elements of 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 as amended by Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and No 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts and by Directive 2014/23/EU**

(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                                                              |

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## 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           |

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## 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

**Basic elements of Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors as amended by Directive 2007/66/EC and Directive 2014/23/EU**

(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).'