

## **Law**

**Law no. 9643, dated 20.11.2006, as amended by Law no. 9800, dated 10.09.2007, Law no. 9855, dated 26.12.2007, Law no. 10170, dated 22.10.2009, Law No. 10 309, dated 22.07.2010, Law no. 22/2012, Law no. 131/2012 and Law no. 182/2014**

### **“ON PUBLIC PROCUREMENT”**

Pursuant to Articles 78 and 83 paragraph 1 of the Constitution, upon the proposal of the Council of Ministers,

## **THE ASSEMBLY OF THE REPUBLIC OF ALBANIA**

### **DECIDED:**

### **CHAPTER I GENERAL PROVISIONS**

#### **Article 1**

##### **The object and the purpose of the law**

- 1.** The object of this law is to set out the rules applying to the procurement of goods, works and services by contracting authorities.
- 2.** The purpose of this is as follows:
  - (a) To promote efficiency and efficacy in public procurement procedures carried on by CA;
  - (b) To ensure a better use of public funds and reduce procedural costs;
  - (c) To encourage economic operators to participate in public procurement procedures;
  - (ç) To promote competition among economic operators;
  - (d) To guarantee an equal and non-discriminatory treatment for all economic operators participating in public procurement procedures;
  - (dh) To guarantee integrity, public trust and transparency in public procurement procedures.

#### **Article 2**

##### **Award principles**

- 3.** The award of public contracts shall be governed by the following general principles:
  - (a) Non-discrimination and equality of treatment of actual and potential bidders;
  - (b) Transparency of procurement procedures;
  - (c) Equality in regard to the treatment of requirements and obligations, which are assigned to bidders or candidates;

### **Article 3 Definitions**

For the purpose of this law, the following definitions shall apply:

1. “Award procedures” are the procedures carried out by CA in order to award public contracts for works, supplies or services.

2. “Public contracts” are contracts for pecuniary interest concluded by exchange of written communication between one or more economic operators and one or more CA and having as their object the execution of works, the supply of goods or the provision of services within the meaning of this law.<sup>1</sup>

2/1 “Sectoral contracts” are public contracts concluded by contracting authorities that operate in the water, energy, transport and postal sectors to one or more economic operators, for the purposes of performing any of the activities referred to in Article 58/1.<sup>2</sup>

3. “Consultancy contracts” are contracts for *public*<sup>3</sup> consulting services of intellectual and advisory nature, excluding other types of services, where the physical aspects of the activity predominate.

4. “Public funds” means:

- a) Any monetary value of the State Budget determined to be used for public procurements;
- b) Any monetary value of the local budget determined to be used for public procurements;
- c) Aid funds or credit provided by foreign donors, based on international agreements, in which the application of the procedures of this law is required;<sup>4</sup>
- ç) Incomes from state, local enterprises, companies, and other entities, where the state has the majority of the shares or of the capital.

5. “Public service contracts” are public contracts having as their object the provision of services. A public contract having as its object both goods and services shall be considered to be a “public service contract” if the value of the services in question exceeds that of the goods covered by the contract. A public contract having as its object services and including works that are only incidental to the principal object of the contract shall be considered to be a “public service contract”.

6. “Public supply contracts” are public contracts having as their object the purchase, lease, rental or hire purchase, with or without option to buy, of goods. A public contract having as its object the supply of products, which covers also, as an incidental matter, sitting and installation operations shall be considered to be a “public supply contract”, if the value of “goods” exceeds the value of sitting and installation.

7. A “good” is any material thing with an economic value.

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8. “Public works contracts” are public contracts having as their object the design and accomplishment of works or a work, or the accomplishment by whatever means of a work corresponding to the requirements specified by the CA.

8.1 *“Framework agreement” means an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantities envisaged.*<sup>5</sup>

9. A “work” means the completion of building or civil engineering works, which fulfill an economic or technical function.

10. “Dynamic purchasing system” is a completely electronic process of purchasing common goods in the market, which meets the requirements of the CA, which has a deadline and is open to any economic operator, which satisfies the selection criteria and, which submits a tender that complies with the specifications.

11. “Electronic purchase” is a repetitive process involving an electronic device for the presentation of new prices, changes, and/or new values concerning certain elements of bids , which occurs after an initial evaluation of the bids by ranking them through the automatic evaluation methods. Certain types of service contracts and certain types of works contracts having as their object the intellectual work may not be the object of electronic auctions.

12. “Contractor”, “supplier” and “service provider” means any natural or legal person or public entity or group of such persons and/or bodies, which provide to the market one or several works, supply of goods or services.

13. “Economic operator” is all contractors, suppliers and service providers, without any kind of distinction.

a) “Bidder” is the economic operator who has submitted a bid in a public procurement.

b) “Candidate” is an economic operator, which seeks to be invited to participate in a restricted or negotiated public procurement procedure.

14. “Contracting authority” means any entity, which is subject to this law for the execution of its public contracts. These entities are the following:

a) Constitutional institutions, other central institutions, independent central institutions and local governing units,

b) Any entity:

(i) Established to pursue a general and non-economic or commercial interest;

(ii) Has legal personality;

(iii) Financed, for the most part, by the central government, regional or local authorities, or other public entities or managed by them or through an administrative, managerial or supervisory board, where more than half of the members is appointed by the central government, regional or local authorities, or by other public bodies;

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c) Organizations established by one or several of these authorities or one or several of such public bodies.  
ç).<sup>6</sup>

14.1 “Contracting authorities” means also the following:

a) Any contracting authority as defined in paragraph 14, when it performs one of the activities referred to in Article 58/1 of this law;

b) Public undertaking, if the contract is awarded for the purposes of exercising any of the activities referred to in Article 58/1 of this law. For the purpose of this provision “public undertaking” is any undertaking, over which contracting authorities listed in paragraph 14 may exercise, directly or indirectly, a dominant influence by virtue of their ownership of it, their financial participation therein, or the rules which govern it. A dominant influence is presumed when contracting authorities listed in paragraph 14, directly or indirectly, in relation to an undertaking:

i) Hold the majority of the entity’s subscribed capital; or

ii) Control the majority of the votes attached to shares issued by that entity; or

iii) May appoint more than half of the entity’s administrative, management or supervisory body.

c) Any other entity not mentioned in sub-paragraphs “a” or “b”, when it carries out one of the activities referred to in Article 58/1 of this law or a combination of them, based on the special or exclusive rights granted by a responsible authority.<sup>7</sup>

15. “Special or exclusive rights” are rights granted by a competent authority of the Republic of Albania by way of legislative, regulatory or administrative provisions, the effect of which is to limit the exercising of activities referred to in Article 58/1 to one or more entities, and which substantially affects the ability of other entities to carry out such an activity.<sup>8</sup>

16. A “central purchasing body” is a CA, which:

a) Acquires supplies and/or services for the CA;

b) Awards public contracts for works, supplies or services intended for contracting authorities.

17. “Open procedure” is the procedure whereby any interested economic operator may submit a bid.

18. “Restricted procedure” is the procedure, in which any economic operator may request to participate, but only the economic operators selected by the CA may submit a bid.

19. “Negotiated procedure” is the procedure, through which the CA selects the economic operators itself and negotiates the contract terms with one or more of them.

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20. “Request for proposals” is a negotiated procedure, by means of which the CA may call for bids from a limited number of economic operators of its choice, while it accepts also bids submitted by other interested economic operators;<sup>9</sup>

21. “Design contest” is the procedure, through which the CA selects by means of a jury through competitions a study or design of a merely aesthetic nature.

22. “Written communications” mean any expression consisting of words or figures, which can be read, reproduced and communicated, including also the information, which is transmitted and stored by electronic means;

23. “Electronically” means using electronic equipment for the processing and storage of data (including here also digital processing), which are transmitted, conveyed and received by wire, radio, optical means or other electromagnetic means.

24. “Procurement regulations” mean all bylaws issued by the Council of Ministers pursuant to this law.

25. “Public Procurement Bulletin” means the publication where public procurements issued by the Public Procurement Agency and of other public notices are published.

26. “Tender documents” are the documents, which the CA provides to potential candidates and bidders to prepare their bids.

27. “Information” means the document and information on the procedures, which is made available, upon request, to each bidder or candidate, who challenges one or more decisions made by the CA in the course of the procurement procedures. Providing of information may be limited to the extent necessary to meet the confidentiality obligations or security requirements.

28. “Threshold” means the monetary value, according to which the procurement procedure to be used by the CA is determined, under this law or under the public procurement rules.

29. “Postal services” means services consisting of the clearance, sorting, routing and delivery of postal items.<sup>10</sup>

30. “Postal item” means an item with an address in its final form, in which it is to be carried, irrespective of weight. In addition to correspondence items, such items also include, for instance, books, catalogues, newspapers, periodicals and postal packages containing merchandise with or without commercial value, irrespective of weight.<sup>11</sup>

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#### **Article 4**

##### **Scope**

This law shall apply to all awarding procedures except for cases as set out in Articles 5, 6, 7, 8 and 9 of this law.<sup>12</sup>

#### **Article 5**

##### **Defense procurement**

1. This law shall apply to all public contracts awarded in the field of national defense, except case provided in Paragraph 2 of this Article.

2. The provisions of this law shall not apply in the following cases:

- a) When the CA runs the risk of publishing data, which could adversely affect the essential interests of national security;
- b) For the purchase of weapons, munitions and war material and services related to them. This exception should not adversely affect the conditions of competition regarding products, which don't serve pure military purposes;
- c) In specific circumstances caused by natural disasters, armed conflicts, war operations, military training and participation in military missions outside the country.

#### **Article 6**

*Secret contracts, contracts requiring special security measures and contracts, which are dictated by substantial state interests*<sup>13</sup>

This law shall not apply to the public contracts awarding when their performance should be accompanied by special security measures in accordance with the laws and bylaws in force, or when such a thing is dictated by the substantial state interests.

#### **Article 7**

##### **Specific exemptions**

This law shall not apply to public service contracts for:

- a) The acquisition or rental, by whatever financial means, of immovable property or the rights thereon. Financial service contracts concluded at that moment, before or after the acquisition or rental contract, in whatever form, which are subject to this law;
- b) The acquisition, development, production or co-production of programs or commercials for broadcasting by radio and television broadcasters or publication in the print media, and contracts for broadcasting time;
- c) Arbitration services, conciliation services, ex officio lawyers' services and expertise for the purposes of criminal proceedings regulated by the Criminal Procedure Code;<sup>14</sup>
- ç) Financial services for selling, purchase or transfer of securities or other financial instruments, in particular transactions of the contracting authorities to raise money or capital, and central bank services;
- d) Research and development services, the outcomes of which are used by all, except for cases when the benefits accrue exclusively to the CA for its use in the conduct of its own affairs, on condition that the service provided is wholly remunerated by this contracting authority.

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- dh) All services referred to in Articles 58/3, 58/4, 58/5, 58/6, 58/7, of “Chapter V/1, “Organization of procedures for sectoral contracts”<sup>15</sup>  
e).<sup>16</sup> Employment contracts.

The exemption cases, as per the Sub-paragraphs from “a” to “e”<sup>17</sup> in this Article, shall be regulated with other laws or bylaws.

### **Article 8 International obligations**

To the extent that this law conflicts with an obligation of the state under an agreement with one or more other states or with an international organization, the provisions of that agreement shall prevail. In all other cases, public procurement procedures shall be governed by this law.

### **Article 9 Service contracts awarded on the basis of an exclusive right**

This law shall not apply to public service contracts concluded by a CA with<sup>18</sup> another CA, or to an association of CA, on the basis of an exclusive right which they enjoy under the legislation in force.

### **Article 10 Consultancy services**

Consultancy services are awarded according to the procedures provided in this law and the public procurement rules.

### **Article 11 Centralized purchasing**

**1.** When more than one CA needs the same kind of goods, works or services, if they so decide they may:

- a) Assign to one of them the task of procuring such goods, works or services on behalf of the others;
- b) Instruct the Central Purchasing Body established pursuant to the public procurement rules to carry out the relevant awarding procedures.

**2.** CA may ask the Central purchasing body to carry out a specific awarding procedure or a series of awarding procedures on their behalf, when centralized purchasing would be more beneficial due to the increase of the demanded amount of supplies with similar goods and similar conditions according to the market;

In carrying out the awarding procedures, the Central Purchasing Body shall apply of this law.

**3.** The Council of Ministers may assign a CA as the Central purchasing body for certain procurement procedures upon the request of a CA, or on its own initiative.

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*Article 11/1*  
*Public framework agreements*<sup>19</sup>

**CHAPTER II**

**PUBLIC PROCUREMENT ORGANIZATION**

**Article 12**  
**Responsibility of the CA**

1. The CA shall be responsible for procurement with public funds<sup>20</sup> under the provisions of this law and the provisions of the bylaws issued pursuant to it.

2. *CA must keep full records and documents regarding the awarding procedures carried out, so as to allow the control of the enforcement of the law.*

*For each procurement procedure, the records shall contain, at least, the following information:*

*a) a brief description of the goods, works or services to be procured, or the need for procurement, for which the CA has decided to launch the procedure;*

*b) Reasons for selecting a particular procedure;*

*c) A summary of all requests for clarification to the tender documents, answers to these requests, as well as a summary of all corrections made to these documents;*

*ç) The names and addresses of the bidders who have submitted bids, the name and address of the bidder, if there is one, whose bid is determined as the winner, and the contract value;*

*d) The qualification of bidders or candidates or their absence thereof;*

*dh) The amount or method of calculation of value and a summary of other essential conditions for each bid and procurement contract;*

*e) A summary of the evaluation and comparison of bids;*

*ë) In case of rejection of all bids, according to Article 24 of this Law, the declaration and the reasons for such refusal;*

*f) In the case when an bid is rejected for reasons provided for in Article 47 of this Law;*

*g) A summary of the appeals and their resolution.*<sup>21</sup>

3. The CA shall *administer*<sup>22</sup> all the records, tender documents and any other documents relating to awarding procedures.

*3.1. In the case of electronic procurement, the report generated by the system itself shall become, under the procurement rules by electronic means, part of the procurement file.*<sup>23</sup>

4. The CA must submit to the PPA every 4 (four) months a report on its procurement activities. Procurement regulations shall specify the format and contents of such reports.

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5. The CA shall establish a procurement unit within its structure, whose duties and responsibilities are defined in the public procurement rules. The CA may request support *in the form of advice or instructions*<sup>24</sup> from the PPA when setting up their individual or joint procurement units.

### **Article 13** **The Public Procurement Agency**

1. The PPA is a central body, a public legal person reporting to the Prime Minister, and financed by the State Budget.

2. The PPA:

- a) Submits proposals for procurement regulations to the Council of Ministers;
- b) Promotes and organizes training of central and local government officials engaged in public procurement activities;
- c) Drafts and issues a Public Notifications Bulletin, as described in the procurement regulations. The PPA shall publish in the Public Notifications Bulletin the list of excluded economic operators pursuant to Article 45 of this law;
- (ç) Prepares standard tender documents to be used in awarding procedures, in accordance with the public procurement rules;
- ç/1<sup>25</sup>
- (d) According to the request, provides advice and technical assistance to CA, which conducts a procurement procedure;
- (dh) Presents an annual report to the Council of Ministers regarding the overall functioning of the public procurement system;
- (e) Cooperates with international institutions and with other foreign entities on issues related to the PP system;
- (ë) Plans and coordinates foreign technical assistance to Albania in the field of PP;
- (f) Encourages and supports the use of international technical standards for the preparation of national technical specifications<sup>26</sup>, as well as maintains an ongoing relationship with the National Directorate of Standardizations;
- (g) *Verifies the implementation of public procurement procedures, after the phase of the procurement contract signing, under the requirements set out in laws and regulations, the recommendations of the auditing bodies for procurement procedures,<sup>27</sup> as well as monitors the public procurement system performance through information received from periodic reports obtained from Contracting Authorities,*<sup>28</sup>
- (gj).<sup>29</sup>
- h).<sup>30</sup>

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i) In case of violation of this law and the regulations issued pursuant to it, it imposes fines under Article 72 of this law or proposes to the head of the contracting authority or the higher bodies disciplinary measures for those contracting authorities, which have committed these violations;

(j)<sup>31</sup>

k) Prepares and adapts its internal regulations.

(l) *Carries out any other task, which is assigned by law*<sup>32</sup>.

3. The PPA can exclude an economic operator from participation in procurement procedures, irrespective of criminal proceedings, which may have started, for a period of 1 to 3 years for the following:

a) Misinformation and submission of documents containing false information for purposes of qualification, as defined in Articles 45 and 46 of this law;

b) Corruptive actions as set out in Paragraph 1, Subparagraph “a” of Article 26<sup>33</sup> of this law;

c) Conviction for crimes listed in Article 45, Paragraph 1 of this law;

ç) *Non-fulfillment of contractual obligations for public contracts within the deadlines defined in the procurement rules.*<sup>34</sup>

d) *When there is a final decision of the Commission of the Competition Authority for bid rigging*<sup>35</sup>.

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5. The PPA staff members enjoy the civil servant status, while the *assistant staff*<sup>37</sup> shall be appointed by the Director of the Agency and their status is regulated by the Labor Code.

#### **Article 14**

#### **Public Procurement Advocate**<sup>38</sup>

#### **Article 15**

#### **Appointment of the PP Advocate**<sup>39</sup>

#### **Article 16**

#### **Incompatibility**<sup>40</sup>

#### **Article 17**

#### **Termination of the office term of the Procurement Advocate**<sup>41</sup>

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**Article 18  
Reporting<sup>42</sup>**

**Article 19  
Staff and Budget of the PP Advocate<sup>43</sup>**

**Article 19/1<sup>44</sup>  
The Public Procurement Commission**

1. The Public Procurement Commission is the highest body in the field of procurement, which examines appeals on public procurement procedures in compliance with the requirements established by this law.
2. Upon completion of the appeals examination, the Public Procurement Commission takes decisions which are administratively final.
3. The Public Procurement Commission is a public legal body *subordinate to the Prime Minister*<sup>45</sup> and financed by the State Budget.
4. The Public Procurement Commission submits an annual report to the Council of Ministers. The contents of the report shall be set forth in the public procurement rules.

**Article 19/2<sup>46</sup>  
The composition, election and the mandate of the Public Procurement Commission**

1. The Public Procurement Commission is composed of 5 members.<sup>47</sup>
2. The members of the Public Procurement Commission are elected by the Council of Ministers, upon a proposal of the Prime Minister, with the right of only one re-election. The Council of Ministers appoints a chair and a deputy chair from among the members of the Public Procurement Commission.
3. The chair moderates the sessions and represents the institution in relation to the third parties. In his/her absence he/she is replaced by the deputy chair.
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5. The members of the Public Procurement Commission have a five year mandate.

**Article 19/3<sup>49</sup>  
Criteria to be selected a member of the Public Procurement Commission**

A member of the Public Procurement Commission can be any Albanian citizen that meets the following criteria:

- a) He/she has full capability to act;
- b) He/she has higher law education;<sup>50</sup>

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- c) He/she has at least 3 years of experience in the field of public procurement, and at least 5 years of work experience;
- ç) He/she has never been/is convicted by a final court decision for carrying out a criminal offence;
- d) He/she has not been dismissed from previous employment or a civil service function for disciplinary reasons.

#### **Article 19/4<sup>51</sup>**

#### **Incompatibility of the function of the Public Procurement Commission member**

The function of the Public Procurement Commission member is incompatible with the following:

- a) Membership in any political parties or participation in their activities;
- b) Management or administration of commercial organizations either personally or through a representative;
- c) Any other profitable activity, except for teaching.

#### **Article 19/5<sup>52</sup>**

#### **Termination of the function of the Public Procurement Commission member**

1. The function of the Public Procurement Commission member terminates early when:
  - a) He/she resigns;
  - b) He/she is convicted by a final court decision for the commitment of a criminal offence;
  - c) He/she is physically unable to perform his/her functions for a period of 6 months.
  - ç) His/her mandate terminates
2. The member of the Public Procurement Commission shall be dismissed by the Council of Ministers, when there is a final court decision for the following:
  - a) He/she has infringed the clauses of this law or other legal acts;
  - b) He/she is involved in activities that cause a conflict of interests;
  - c) If cases of his/her function incompatibility are discovered.
3. From the observation up to the moment when a final court decision is made, under paragraph 2 of this Article, the member of the Commission shall be suspended upon a decision by the Council of Ministers.
4. If the position of the Public Procurement Commission member remains vacant, the Council of Ministers shall appoint, within 30 days of his/her absence, the new candidate.

#### **Article 19/6<sup>53</sup>**

#### **The organizational chart and staffing of the of the Public Procurement Commission**

1. The organizational chart and the staffing of the Public Procurement Commission shall be decided upon an order of the Prime Minister.

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2. The staff of the Public Procurement Commission shall enjoy the civil servant status, whereas the assistant staff shall be appointed by the chair and their work relationships shall be regulated by the Labor Code of the Republic of Albania.
3. The decisions of the Public Procurement Commission shall be examined in sessions attended by at least 3 (three) members, one of which is the chair or his/her deputy. Upon completion of the examination, the decision made by the Commission shall be published on its website.
4. Detailed rules of the organization and functioning of the Public Procurement Commission shall be approved by the Council of Ministers.

#### **Article 19/7<sup>54</sup>**

Nobody should influence the decision-making of the Commission's members. Every effort, either direct or indirect to influence shall be penalized with a fine under this law, irrespectively of the civil or penal proceedings that might have already started.

### **CHAPTER III COMMON PROCUREMENT RULES**

#### **Article 20 Non-discrimination**

**CA** shall establish no criterion, requirement or procedure with respect to the qualification of economic operators that discriminates against or among suppliers or contractors or against their categories.

#### **Article 21 The right to information**

*1. The information managed under Article 12 of this law shall be made available to any interested person, party in the process, upon his request, after a tender has been awarded, or after the ranking of bids has been completed. The CA is obliged to make the information available within 5 days of receiving the request.<sup>55</sup>*

2. CA shall inform<sup>56</sup> not later than 5 days after the decision is made:

- a) Any unsuccessful candidates about the reasons for the rejection of his participation in the tender;
- b) Any unsuccessful bidder of the reasons for the rejection of his bid;
- c) Any *successful*<sup>57</sup> bidder, who has submitted a valid bid, about the *ranking of the selected bids*.<sup>58</sup>

3. Without prejudice of the provisions of this Article, the **CA** may decide not to disclose some of the information provided for in Paragraphs 1 and 2 of this Article if such a disclosure is against

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the legislation on data protection or affects the public or legal and economic interests of the parties or impedes fair competition..

## **Article 22**

### **Forms of communication**

1. All documents, notifications, decisions, information and other communications referred to in this law shall be made in writing or *with electronic means*.<sup>59</sup>

*"2. In cases where the contracting authority communicates in electronic form, the electronic communication means and their technical characteristics shall be non-discriminatory, available and interoperable with the products of information and communication technology, which are widely used. Rules and procedures for this form of communication shall be defined in the public procurement rules."*<sup>60</sup>

*"3. When the communication between economic operators and contracting authorities is carried out in some other form, other than those provided for in this Article, its content should be documented in writing immediately."*<sup>61</sup>

4. Communication, exchange and storage of information shall be carried out in such a way as to ensure the preservation of the integrity of data, the confidentiality of bids and requests to participate. The chosen method of communication, exchange and storage of information should also ensure that the CA may examine the content of bids and requests to participate only after the deadline set by this law for their submission has expired.

## **Article 23**

### **Technical specifications**

1. Technical specifications setting forth the characteristics of the goods, works or services to be procured should be prepared to very accurately and fully describing the object of procurement, thus creating conditions of fair and open competition between all candidates and bidders. Whenever possible these technical specifications should be defined in such a way as to be understood by the people with disabilities.

2. Technical specifications should enable equal access to all candidates and bidders and shouldn't serve as obstacles to the open competition in public procurement.

3. Technical specifications shall clearly describe the CA's requirements by referring to the following:

a) National standards, which rely on the international standards, international technical approvals, common technical specifications, international standards or other technical reference systems established by international standardization bodies. When these do not exist, they shall refer to

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national standards, national technical approvals or national technical specifications relating to the design, calculation and execution of the works or use of the products;

b) Requirements in functional terms, when such a thing requires referring to national or international standards as a means of presuming conformity with functional requirements;

c) Both methods defined in Paragraph 3, Subparagraphs “a” and “b” of this Article included in the same contract. *Each reference should be accompanied by the words "or its equivalent".*<sup>62</sup>

4. The description of works, goods or services should contain the technical specifications to be achieved in case of need, including even plans, drawings, models, etc. In cases of functional description of works or goods, the technical specifications should clearly and neutrally describe the scope of the works in order to indicate all the conditions and circumstances which are important to the preparation of the bid. The description of works or goods should indicate not only the scope of work, but also the requirements related to this work from the technical, economic, aesthetic and functional aspect. In order to guarantee the comparison of bids in relation to the requirements of the object of the contract for these goods or for their functions, the efficiency and function requirements should be accurate to provide bidders with a clear idea for the preparation of the bid. Specifications of goods or services appropriate for the environment shall also be indicated, as appropriate, in the description of works.

5. There shall be no requirement or reference in the technical specifications to a particular trademark or name, patent, design or type, specific origin, producer or service provider, except for cases when there is no sufficient, precise or understandable way of the requirements description provided that the words “or equivalent” are included in these specifications.

## **Article 24**

### **Cancellation of a procurement procedure**

1. CA shall cancel the procurement procedure only:

a) For reasons that go beyond the control of the contracting authority and that are unforeseeable at the time of commencement of the procurement procedure, while respecting the principles of equality and transparency, as defined in the public procurement rules;

b) If no bid is not submitted within the deadline;

c) When less than 2 candidates are qualified in the first phase of the restricted procedure and negotiated with prior publication of notice;

ç) If none of the bids submitted complies with the criteria specified in the tender documents;

d) If all submitted bids<sup>63</sup> contain prices that exceed the contracting authority's budget foreseen for a given contract;

dh) When the Public Procurement Commission decides cancellation under the provisions of Paragraph 3, Subparagraphs "b" and "d" of Article 64 of this Law.<sup>64</sup>

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2. CA shall bear no liability against the bidders who have submitted bids in regard to the decisions it has made under Paragraph 1 of this Article.

3. Under Article 21 this law, CA shall communicate to all candidates or bidders the decision and the reasons not to continue the procurement procedure within 5 (five) days of this decision.

4. CA shall publish the notification about the cancellation of the procurement procedure, in the same way as the contract notice has been published, *not later than 5 days*<sup>65</sup> after the cancellation decision has been made.

### **Article 25** **Process confidentiality**

Without prejudice to the provisions of this law on the obligations of the publication of procurement contracts and the information for candidates and bidders under Articles 21 and 57 of this law, the CA should not disclose information forwarded to them by economic operators labeled as confidential. Such information includes, in particular, technical aspects, trade secrets and confidential information of binds.

### **Article 26** **Corruption and Conflict of Interests**

1. CA shall reject a tender, or a request to participate, if:

a) The bidder or candidate gives, or promises to give, directly or indirectly, to an official or an employee a gratuity in any form, an employment opportunity or good, service or value, as an inducement with respect to an action or decision or procedure followed by the CA for the procurement procedure.

b) The bidder or candidate is in circumstances of conflict of interest.

Rejection and the reasons for such an action should be recorded in the procurement procedures records under Article 12 of this law and it should be immediately communicated officially to the candidate or bidder concerned. The decision may be challenged to the court.

2. Decisions, which are made by CA, under Paragraph 1 of this Article, shall not hinder criminal reporting to the prosecuting authorities, when the acts or actions concerned constitute a criminal.

3. *In the event that, at the time of bid opening, it is observed that one or more of the economic operators are in a conflict of interest with one or more of the officers who are assigned to evaluate the bids, and this conflict situation could not have been observed before this moment, then officer/officers in question should be replaced and then the procurement process should continue.*<sup>66</sup>

### **Article 27** **Thresholds**

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1. For the purposes of this law, the following thresholds shall be applied:
  - a) High value thresholds;
  - b) Low value thresholds.
2. Thresholds shall be set forth in the procurement rules.
3. The Council of Ministers shall review the thresholds every two years.

### **Article 28**

#### **Methods for calculating the value of public contracts**

1. The calculation of the value of a public contract shall be based on the total amount payable, excluding VAT, as estimated by the CA at the moment of the publication of the contract notice, as provided for in Article 38 of this law, or at the moment of starting the procurement procedure in cases when such a publication is not required. The calculation shall take into account the estimated total amount to be paid, including any form of option or renewal of the contract.
2. Dividing or splitting of the public contract value to circumvent the provisions of this law shall be prohibited
3. The methods for calculating the value of each type of public contract shall be set forth in the procurement rules.

### **Article 29**

#### **Standard procurement procedures**

1. When awarding the public contracts, the contracting authority shall apply the procedures set forth in this law. The types of procedures to be used for the award of public procurement contracts shall be:
  - a) Open procedures;
  - b) Restricted procedures;
  - c) Negotiated procedures, with or without prior publication of a contract notice;
  - ç) Request for proposals;
  - d) Design contests.
  - dh) “Consultancy service” procedure<sup>67</sup>.
2. Open procedure may be used for all contracts. Restricted procedure may be used, when it is necessary to distinguish between the selection phase where the qualification of the candidates is treated and the contract award phase when the bid is evaluated. Distinction between the open and restricted procedures shall be made as defined in the procurement rules.
3. For contracts above the low value thresholds, contracting authorities shall use open procedure and restricted procedure.<sup>68</sup> Negotiated procedures shall be used only in the specific circumstances as set forth in Articles 32 and 33 of this law and in the public procurement rules.

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4. For contracts of a value lower than the low value thresholds, contracting authorities may use negotiated procedures with or without prior publication and the request for proposals *under the conditions provided for in this law*.<sup>69</sup>

5. For small value *procurements*<sup>70</sup> of goods, services or works, below the low value threshold, CA may use simplified procedures, as provided for in the public procurement rules.

### **Article 30 Open Procedure**

1. The open procedure shall be the preferred procurement procedure.

2. In the case of open procedure, the contracting authority shall publish a notice - as provided for in Article 38 of this law, which contains a description of the contract to be awarded and the specific procedural rules.

3. All bidders shall submit their bids, namely the economic bid, the technical bid and evidence of the satisfaction of selection criteria as per Articles 45 and 46 of this law.

4. After the expiry of the deadline regarding the submission of bids, as set in the contract notice under Article 43 this law, the CA shall open the bids, verify the qualifications of bidders or the shortcomings of the bidders, under the criteria set out in Article 45 and 46 of the this law and shall award the contract after comparing the bids on the basis of the criteria set out in Article 55 of this law.

### **Article 31 Restricted procedure**

1. CA may use the restricted procedure to carry out a procurement, which leads to the award of a public contract, when:

- a) the respective good, service or work, having a rather complicated and special character, may be supplied, obtained or executed by economic operators, who possess the proper technical, professional or financial capacity;
- b) It shall be economically more effective for the CA to initially examine the capacities and the qualifications of the interested economic operators and then to invite those operators who possess specific minimal qualifications to submit their bids.

2. In restricted procedures the CA shall publish a notice, as provided for in Article 38 this law, which contains the following:

- a) A description of the object of the contract to be awarded;
- b) An indication of the selection criteria, as per Articles 45 and 46 this law;
- c) An invitation to express interest in participating to the procurement procedure.
- c) *The criteria of determining the winning bid as defined in Article 55.*<sup>71</sup>

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3. After the published deadline to submit requests to participate, as set out in the contract notice under Article 43 this law, has expired, the CA shall select the candidates under the criteria set out in Articles 45 and 46 this law.
4. The CA issue then an invitation to tender, under Article 40 this law, to the selected candidates asking them to submit a bid.
5. After the deadline to submit bids has expired, the CA shall open the bids and award the contract under the criteria set out in Article 55 this law.

**Article 32**  
**Negotiated procedure with prior publication of a contract notice**

1. When the value of the contract to be awarded is above the low value threshold, CA may use the negotiated procedure with prior publication of the contract notice, in the following cases:
  - a) In response to two consecutive procedures, open and restricted,<sup>72</sup> all bids are invalid or fail to satisfy the national legal provisions, insofar as no substantial alteration has been made to the contract, as provided for in the public procurement rules;
  - b) The nature of works, supplies or services or the risks attached thereto do not permit prior overall pricing, and namely:
    - i) In case of service contracts, particularly intellectual services such as services involving the works design, insofar as the nature of the services can't be established with sufficient precision to permit the selection of the best bid according to the rules governing open or restricted procedures;
    - ii) In case of contracts of research, experimenting or development, but not with the profit-making or reimbursement of research and development costs.
2. When the value of the contract is lower than the low value thresholds, the CA may use negotiated procedures with prior publication of a contract notice in any case, whenever it deems it appropriate, provided that the procedure complies with the principles of equal treatment, proportionality and transparency.
3. The CA shall negotiate with bidders to adapt the bids submitted by them to the requirements set out in the contract notice, to the specifications and additional documents, if any, to select the best bid in accordance with Article 55 this law.
4. When conducting the dialogue individually with each of the bidders, the CA shall ensure equal treatment of all them. In particular, no discriminatory information or any information that may give some bidders an advantage over the others should be provided.
5. CA may take measures so that the negotiated procedure takes place in different stages by applying the evaluation criteria as set out in the contract notice or the specifications in order to

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reduce the number of bids to be negotiated. This option, if applied, should be published in the notice or in the specifications.

### Article 33

#### Negotiated procedure without prior publication of a contract notice

1. For contracts of a value above *or below*<sup>73</sup> the low value thresholds, CA may use negotiated procedure without prior publication of a contract notice only in specific circumstances under this Article and the public procurement rules. Application of this procedure should not lead to the avoidance of competition or the discrimination of candidates.

2. Negotiated procedures without prior publication of a contract notice may be used for all types of public contracts as follows:

a) When minimal competition have not been ensured in response to two consecutive open or restricted procedures, provided there is no substantial alteration to the initial conditions of the contract;<sup>74</sup>

b) When for reasons connected with exclusive rights or intellectual property rights, the contract may be executed only by a particular economic operator;

c) *When for reasons of extreme need, brought about by causes unforeseeable and uncontrollable by the CA, the deadline, as foreseen in Article 43 of Law no. 9643, dated 20 November 2006 on the contract notice for open, restricted or negotiated procedures, can't be respected. The circumstances described to justify urgency should not, in any event, be caused by the action or omission of the CA. The conditions and circumstances for the use of this procedure are determined in the public procurement rules.*<sup>75</sup>

ç) *For goods quoted and purchased on a commodity stock exchange under the public procurement rules;*<sup>76</sup>

d) *For purchases that allow the procurement of goods for a very short delivery time, or for a particularly profitable case, which appear in a very short period of time and with a price considerably lower than normal prices in the market and in compliance with the criteria set out in the public procurement rules.*<sup>77</sup>  
dh).<sup>78</sup>

3. Negotiated procedures without prior publication of a contract notice may be used for supply contracts:

a) When the required goods are produced purely for the purpose of research, experimentation, study or development. This doesn't include large quantity production for commercial purposes or to recover research and development costs;

b) For additional deliveries by the previous supplier for the partial replacement of normal deliveries or installations or as the extension of existing supplies or installations, since the change of supplier will oblige the CA to acquire goods with different technical characteristics, which may result in considerable incompatibility and technical difficulties in terms of setting

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them in operation and maintaining them. In this case, the additional contract has to be signed within a deadline of 3 months of the end of the original contract.

4. Negotiated procedures without prior publication of a contract notice may be used for service contracts with the successful candidate, who has succeeded after the design contest, under Article 34 of the this law.

5. Negotiated procedures without prior publication of a contract notice may be used for works and service contracts:

a) For additional works or services, which were not included in the initial contract, but which have become necessary as a result of unforeseen circumstances, on condition to be awarded to the economic operator, which carries out these works or services, as well as when the value of additional works and services does not exceed 20 % of the value of the initial contract:

i) When additional works or services cannot be technically or separated from the original contract without major technical and economic inconveniences to the CA;

ii) When such works or services, although separate from the original contract, are necessary for its execution.

b) For new works or services consisting in the repetition of similar works or services entrusted to the economic operator, to whom the same CA awarded the original contract, provided that such works or services comply with the basic project, for which the initial contract was awarded on the basis of open or restricted procedure. The possible use of this procedure should be included in the contract notice of the initial contract and the CA shall make an estimation of the total cost of subsequent works or services. The above procedure may be used only within 3 years following the conclusion of the original contract. In no case the contracts supplement should exceed the value of 20% of the total value of the original contract.

6. The selection of the economic operators should be carried out in a non-discriminatory manner. The CA should change as frequently as possible entrepreneurs to be invited.

### **Article 34** **Request for proposals**

1. CA may use the request for proposals procedure for contracts of a value below the low thresholds. Under this procedure, CA may call for bids from a limited number of economic operators of its choice, or may use the electronic communication, as provided for in Article 36 of this law.<sup>79</sup> It's required to invite, at least, 5 *economic operators*<sup>80</sup> for this selection, except for cases when this is impossible due to technical reasons or lack of competition. This procedure should not be used in order to circumvent competitive procurement procedures.

The CA should, in any case, accept bids from bidders other than the ones invited by it.

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2. When CA uses electronic communications, it has to publish an electronic notice, in accordance with Paragraph 4, Article 38 of this law and as determined in the public procurement rules.

Article 34/1<sup>81</sup>  
*Consultancy Service*

1. Contracting Authority, which undertakes a consultancy service procedure, shall announce the purpose of the procurement through the publication of a contract notice, in accordance with Article 38 of this Law. The notice should contain the information provided for in Article 39 of this Law.

2. Detailed procedures of conducting this procurement procedure shall be provided for in the procurement rules.

**Article 35**  
**Design contest**

1. The Contracting Authority may organize a design contest as part of a procedure, which leads to the award of contract for a plan or design, which has been chosen by a jury, on the bases of a competition procedure, mainly in the field of urban, rural, architecture, engineering, etc., planning.<sup>82</sup>

2. Design contest may be organized:

a) As a part of a procedure leading to the award of a public service contract;

b) For obtaining the only design *against the price*.<sup>83</sup>

3. The CA, which undertakes to launch a design contest, shall make known its procurement intention by means of publishing the notice of participation in the contest, under Article 38 this law. The notice should contain the information as set forth in Article 39 this law.

4. Detailed procedures of organization for both forms of design contest, under paragraph 2 of this Article, shall be laid down in the procurement rules.

5. The contest rules shall be communicated to all those who are seeking to participate in the contest. Participation in the contest may be limited to a number of selected candidates, based on clear and non-discriminatory criteria, which have been made known to all interested persons, provided that the number of candidates invited under the procurement rules to participate is sufficient to ensure fair competition.

6. The admission of participants to a contest may not be limited:

a) Due to nationality, territory or residence;

b) On the grounds of being either a natural or legal person.

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7. The commission shall be constituted according to the rules laid down in procurement regulations. The commission shall be composed of persons, who have no conflict of interest with the participants in the contest and it shall make its decisions independently, based on the criteria set out in the contest notice and respecting the privacy principle.

### **Article 35/1<sup>84</sup>** **Framework Agreements**

1. For public contracts, the contracting authorities may conclude a framework agreement after conducting an open procedure, restricted procedure, request for proposal, consultancy service or negotiated procedure with prior publication of a contract notice, whereas for sector contracts, the contracting authorities may conclude a framework agreement also after conducting a negotiated procedure without prior publication of a contract notice.<sup>85</sup>

2. The parties to the framework agreement shall be chosen by applying the award criteria set forth under Article 55 of this law.

3. Contracts based on a framework agreement shall be concluded in accordance with the procedures laid down in paragraphs 5 and 6 of this Article. These procedures may be applied only between the contracting authorities and the economic operators that have originally been parties to the framework agreement. When contracts based on a framework agreement are concluded, the parties may under no circumstances make substantial amendments to the terms laid down in that framework agreement, in particular in the case referred to in paragraph 5 of this Article.

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

5. Where a framework agreement is concluded with a single economic operator, contracts based on that agreement shall be concluded within the deadlines and the terms laid down in the framework agreement. For the procurement of these contracts, the contracting authority shall communicate in writing with the economic operator, party to the framework agreement, requesting from it to complete the bid in accordance with the requests.

6. Where a framework agreement is concluded with several economic operators, the latter should be, at least, three in numbers, insofar as there is a sufficient number of economic operators to satisfy the selection criteria and/or of admissible bids, which meet the selection and/or suitability criteria, under Article 55 of this law.

The contracts based on framework agreements as concluded between several economic operators may be concluded in one of the following manners:<sup>86</sup>

a) By means of the application of the terms laid down in the framework agreement without reopening competition;

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b) Where not all the terms are laid down in the framework agreement, when the parties are again in competition, on the basis of the same and, if necessary, more precisely formulated terms, and, where appropriate, other terms referred to in the specifications of the framework agreement, in accordance with the following procedure:

i) For every contract to be procured, the contracting authorities should consult in writing the economic operators capable of performing the contract;

ii) Contracting authorities should fix a deadline, which is sufficient to for bids submission for each specific contract taking into account the complexity of the object of the contract and the time needed to submit the bids;

iii) Bids shall be submitted in writing and their content should remain confidential until the stipulated deadline for the reply has expired;

iv) Contracting authorities shall award each contract to the bidder who has submitted the best bid on the basis of the award criteria as set out in the specifications of the framework agreement.

7. Contracting authorities can't misuse framework agreements in order to hinder, limit or distort competition.

8. In any case the framework agreement shall be implemented in accordance with the requirements set forth in public procurement bylaws.

## **CHAPTER IV ELECTRONIC PROCUREMENT**

### **Article 36 Rules applicable to electronic communications**

*1. Without prejudice to the general principle of non-discrimination and the provisions of Article 22 of this Law, the following rules shall be applicable to the receipt of tenders and participation requests through the electronic transmission means:*

*a) Information relating to the specifications necessary for the electronic submission of binds and requests to participate, including encryption, shall be me available to interested parties. Means for the electronic receipt of bids and requests to participate should comply with requirements, which are set out in the public procurement rules and in the relevant legislation;*

*b) Electronic bids should in compliance with the relevant legislation in force on electronic signature, electronic document, and with the state database;*

*c) In advance of the expiry of the deadline set for receipt of bids or requests to participate, bidders shall undertake to submit the documents, certificates and evidence as mentioned in Articles 45 and 46 of this Law, if the latter do not exist in the electronic format.<sup>87</sup>*

2. Without prejudice to the general principle of non-discrimination and provisions of Article 22 this law, the following rules are applicable to electronic signatures required for everything that has to do with the submission and receipt of bids and all documents related to them:

a) Where the public procurement law requires a signature of a person, that requirement shall be deemed met for all tender documents, if the applied electronic signature is reliable and appropriate for the purpose, for which the electronic document was generated or communicated,

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taking into account all the concrete circumstances, or in compliance with relevant laws or rules of general application to electronic commerce;

b) An electronic signature shall be considered reliable and in compliance with the procurement law, if:

i) The signature is visible and within the material, in which it is presented, logically linked to the signatory and to no other person;

ii) The original documents or data used to create the electronic signature were, at the time of signing, under the exclusive control of the signatory and shall maintain as such during the procurement process and for a reasonable time after the completion of the procurement process and as provided for by the legislation or public procurement rules;

iii) Any alteration to the electronic signature, which is made after the time of signing, is detectable with reasonable diligence;

iv) None of the provisions of this paragraph are intended to limit the ability of any person or economic operator to confirm or challenge the reliability of an electronic signature in every way allowed by the legislation in force.

### **Article 37** **Electronic purchasing and dynamic purchasing systems**

In order to carry out an electronic procedure, the CA shall follow the rules of electronic purchasing and dynamic purchasing systems as provided for in the public procurement rules and in the relevant legislation in force, under the legislation in force and the principles as mentioned in article 2 and the international and European standards.

*Article 37/1<sup>88</sup>*

## **CHAPTER V** **CONDUCT OF THE PROCEDURES**

### **Article 38** **Notices**

*1. The contracting authority, which conducts bidding for public contracts through the open procedure, restricted procedure, negotiated procedure with prior publication of the notice, request for proposal or consultancy service, under Articles 30, 31, 32, 34 and 34 / 1 of this Law, or when it sets off the design contest procedure, it shall, under Article 35 of the Law, make a public announcement for the performance of the respective type of public procurement.<sup>89</sup>*

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2. Contract notices for procurements of a value above the high value thresholds shall be published on the Public Notifications Bulletin and in, at least, one newspaper of European distribution.

3. Notices for procurements of a value lower than the high value thresholds, but above the low value thresholds, shall be published in the Public Notifications Bulletin.

4. All procurement notices shall be published on the web-site of the PPA.

### **Article 39** **Content of the notices**

1. The notices to be published under the provisions of Article 38 of this law should contain all relevant information so as to allow economic operators to decide whether or not to participate in the procurement procedures.

2. In case of an open procedure, the notice shall also contain the place, the address and deadline regarding where and when the bids will be sent, the language, or languages, in which bids must be drawn up. The notice should define also the manner and the conditions of obtaining the tender documents, as provided for in Article 41 of this law.

3. The content of standard notices shall be determined in the public procurement rules.

### **Article 40** **Invitation to tender**

1. The CA shall simultaneously invite thorough a communication in writing or *through electronic means*<sup>90</sup> the candidates selected in a restricted procedure and negotiated procedure with publication of a contract notice in the sense of Article 31 and 32 of this law to submit their bids or to negotiate.

2. The invitation to the candidates shall include also the following:

- a) A copy of the tender documents and any supporting documents;
- b) A reference to accessing the tender documents and the other documents as indicated above by electronic means.

3. The templates of the invitation to tender of the invitation to negotiate shall be drafted according to the templates as described in the procurement rules. Such invitation shall, in any case, contain at least:

- a) A reference to the contract notice, which is published;
- b) Data about the location and the deadline of submitting the binds, as well as the the language, or languages, in which bids must be drawn up;
- c) Information about any additional documents to be submitted, either in support of bidders' declarations, under Articles 45 and 46 of the this law, or to supplement the information referred to in those articles;

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ç) Ranking according to the relative weighting of the criteria set for the award of the contract, as well as the the specifications or the descriptive document in cases when these haven't been published in the invitation notice.

*4. The contracting authority, when using restricted procedures and negotiated procedures, shall invite all candidates who qualify in the first stage of the procedure to submit bids. The contracting authority may continue the procurement procedure only when there are at least 2 candidates with the exception of the negotiated procedure without prior publication of notice. The contracting authority should define in the tender notice objective, non-discriminatory criteria, as well as, the rules to be applied.*<sup>91</sup>

#### **Article 41<sup>92</sup>**

##### **Tender documents**

*1. The contracting authority, when drafting the tender documents, shall use standard documents, as defined in the procurement rules, and it shall make them electronically available for free.*

*2. The contracting authority, when requested by the economic operators, shall make available to interested parties the tender documents against payment. In any case, the names and the number of economic operators who have expressed interest in purchasing the tender documentation or in its examination, should be kept secret.*

#### **Article 42**

##### **Clarifications and modification of tender documents**

1. Potential bidder may request clarifications of the tender documents from CA, which should respond to any request for clarification of the tender documents by any economic operator, provided that is the request is received no later than 5 days prior the deadline for the submission of bids. The CA should respond within 3 days of the submission of the request so as to enable economic operators to timely submit their bids, and it should communicate, without identifying the source of the request, the relevant clarification to all economic operators, which CA have obtained the tender documents<sup>93 94</sup>.

2. At any time prior to the deadline for submission of bids, the CA may, for any reason, whether on its own initiative or as a result of a request for clarification by an economic operator, modify the tender document by drafting an addendum. All addendums should be immediately communicated to all economic operators, which have obtained the tender documents and it shall become binding on those economic operators. The addendum shall be made available also by electronic means.

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2/1 In any case, when tender documents are modified, contracting authorities shall extend the deadline for the submission of bids, by 5 days, whereas for procurements above the high monetary thresholds by 10 days.<sup>95</sup>

3. When meeting with the economic operators, the CA should take down the minutes of the meeting containing also the requests submitted at the meeting for clarification of the tender documents, as well as their responses to those requests, without identifying the sources of the requests. These minutes shall be immediately made available to all economic operators, which have obtained the tender documents, so as to enable them to get guidance in terms of preparing their bids.

### **Article 43**

#### **Deadlines of submitting the requests to participate and the bids**

1. When fixing the deadlines for the submission of bids and requests to participate, the CA should take into account, in particular, the complexity of the contract and the time required for preparing the bids, without affecting the minimum deadlines set by this Article and in accordance with the proportionality principle, Unless otherwise specified, deadlines set in this law shall be set in calendar days.

2. In case of open procedure with a value higher than the high threshold, the minimum deadline for the submission of bids shall be not less than 52 days from the date, when the contract notice *has been published on the Public Procurement Agency website*.<sup>96</sup>

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3. In case of restricted procedure, in the negotiated procedure with publication of a contract notice, in the consultancy procedure and in the design contest procedure with a value above the high monetary threshold:<sup>98</sup>

a) The minimum deadline for submitting the requests for participation shall be 20 days of the date, when the contract notice *has been published on the Public Procurement Agency website*;<sup>99</sup>

b) In case of restricted procedures, the minimum deadline for submitting the bid shall be 20 days from the date, when the invitation to tender was sent to the candidates.

4. If, for whatever reason, tender documents and supporting documents or additional information, although requested in due time, are not submitted within the deadlines specified in the contract notice, or if bids may be prepared only after an on-site visit or after on-the-spot inspection of the documents supporting the tender documents, the deadlines for the submission of bids shall be extended by 10 days so that all economic operators receive all the information needed to prepare the bids.

5. In case of open procedure with a value between the high and the low value threshold, the minimum deadline for the submission of bids shall be 30 days from the date when the contract notice *has been published on the Public Procurement Agency website*<sup>100</sup>.

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6. In case of restricted procedure or negotiated procedure with publication of a contract notice with a value between the high and the low value threshold:

a) The minimum deadline for the submission of requests to participate shall be 15 days from the date, when *the contract notice has been published on the Public Procurement Agency website*;<sup>101</sup>

b) In case of restricted procedures, the minimum deadline for the submission of bids shall be 15 days from the date, in which *the invitation to tender was sent to the candidates*<sup>102</sup>.

6/1.<sup>103</sup> In consultancy service procedure and in the design contest procedure with the value below the high monetary threshold:

a) The minimum deadline for submitting the applications to participate shall be 15 days from the date, on which the contract notice is published on the website of the Public Procurement Agency.

b) The minimum deadline for submission of the bid shall be 15 days from the date, on which the call for bids has been sent to the candidates.

7. In case of awarding procedures below the low value threshold, the minimum deadline for the submission of bids shall be 10 days from the date, in which *the contract notice has been published on the PPA website*.<sup>104</sup>

8. *When notices are prepared and published by electronic means, in compliance with the format and procedure for the transmission that are provided in the public procurement rules, the deadlines for the submission of bids, as set in para 2 and 5 of this Article, may be reduced by seven days for the open procedure, whereas the deadlines for the submission of requests for participation, as provided in Paragraph, Subparagraphs “a”, and “b” and Paragraph 6, Subparagraphs “a” and “b” and Paragraph 6/1<sup>105</sup> of this Article, may be reduced by 5 days, for the restricted procedures, consultancy service procedures, design contest procedures<sup>106</sup> and negotiated procedures.*<sup>107</sup>

## **Article 44**

### **Economic operators**

1. Candidates or bidders, which provide the relevant services, should not be rejected solely on the ground that they are required to be either natural or legal persons.

In case of public service and public works contracts, as well as public supply contracts for additional services and/or sitting and installation operations, the CA may ask the legal persons to

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indicate, in the bid or in the request to participate, the names and relevant professional qualifications of the staff to be responsible for the performance of the contract in question.

2. Groups of economic operators may submit bids or present themselves as a single candidate. In order to submit a bid or a request to participate, they should be required by the CA to assume specific legal form, as provided for in the public procurement rules.

#### **Article 45**

##### **Exclusion criteria of candidates or bidders**

1. The Contracting authority shall exclude from participation in the procurement procedure any candidate or bidder, where there is evidence that they are or have been convicted by final court for any of the following offences:

- a) participation in a criminal organization;
- b) corruption;
- c) fraud;
- ç) money laundering
- d) *Forgery*.<sup>108</sup>

CA may ask bidders to present the documents referred to in Paragraph 3 of this Article and, where it has doubts, it may also apply to the competent authorities to obtain any information it considers necessary for the integrity and the personal situation of the bidders concerned. When the information concerns a bidder that is a resident in a foreign country, the contracting authority may seek the cooperation of the competent authorities.

2. Any candidate or bidder shall be excluded from participating in a procurement procedure in the following cases when:

- a) He has gone bankrupt and his capital is in an execution process by the bailiffs;<sup>109</sup>
- b) He is the subject of the procedures for the declaration of bankruptcy and there is an order for compulsory winding up or administration by the court or there is an arrangement with the creditors or any other similar procedure;
- c) He has been convicted by a final court decision for offences related to his professional activity;
- ç)<sup>110</sup>
- d) He has not fulfilled his obligations to pay social security contributions under the Albanian legislation or the applicable provisions in the country of origin;
- dh) He has not fulfilled his obligations relating to the payment of taxes in accordance with Albanian law or the applicable provisions in the country of origin;
- e) He is guilty of supplying false information when it was required under this Article or has refused to provide such information and documentation or a part of them.
- ë)<sup>111</sup> He is excluded from participation in procurement procedures upon the decision of the Public Procurement Agency under paragraph 3 of Article 13 of this Law.

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3. The CA shall accept as sufficient evidence, which avoid exclusion of candidates or bidders for the cases specified in the above paragraphs, the following documents:

a) A certificate from court files, or if this can't be provided, an equivalent document, which is issued by a competent judicial or administrative authority, which certifies that the issues referred to in Paragraphs 1 and 2, Subparagraphs "a", "b" and "c" don't exist;

b) A certificate issued by the competent authority, certifying that there the issues referred to in Paragraph 2, Subparagraphs "d" and "dh" don't exist..

## **Article 46**

### **Qualification of bidders**

1. In order to participate in procurement procedures, economic operators have to qualify after meeting all the following criteria, which the CA considers appropriate, insofar as they are proportionate to the nature and size of the contract to be awarded and are not discriminatory:

a) Professional qualification: professional, industrial or commercial licenses issued by the competent state authorities for required activities and, for which contracts will be concluded, are required to be provided by the economic operators;

b) Technical capacity: economic operators prove that they possess the necessary technical and professional qualifications, organizational capacity, machineries, equipment and other physical assets, organizational skills, reputation and credibility, the necessary experience and personnel necessary to execute the contract, as described by the contracting authority in the notice about the object of the contract;

c) Economic and financial standing: economic operators prove that they have the economic and financial capacities to execute the contract by means of bank statements or, where appropriate, through the certificate of relevant professional risk indemnity insurance, the presentation of financial balance-sheets or extracts from the balance-sheets, a statement of the undertaking's overall turnover and, where appropriate, the turnover accomplished by activities similar to the object of the contract, which will be procured for a period of up to the 3 last financial years, when this information is available;

ç) Legal capacity: economic operators prove that they have the legal capacity to enter into procurement contracts, or in the case of groups of undertakings, they prove that they have such capacity, when they enter into such contract.

2. The contracting authority may require also certificates issued by independent bodies, which confirm the compliance of the candidate or bidder with the required quality standards, including also environmental management standards.

3. The qualification requirements should be drawn up in a manner that encourages the participation of small and medium businesses *and in all cases they have to be compatible with the public procurement rules.*<sup>112</sup>

## **Article 47**

### **Disqualification of bidders**

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CA shall disqualify the candidate, or bidder, who submits false information<sup>113</sup> for purposes of qualification at any time, up to the contract award. The CA shall report for each disqualification to the PPA for the purposes set out in Paragraph 3 of Article 13 of this law.

#### **Article 48** **Submission and receipt of Tenders**

1. CA shall fix the place, date and time for the submission of bids.

2. *When the contracting authority provides clarification or makes changes to the tender documents, it shall act under Article 42 of this Law.*<sup>114</sup>

3. The decision for the extension of the deadline shall be immediately notified to all economic operators, which have obtained the tender documents.

4. *Submission of bids shall be carried out as follows:*

a) *Bids shall be submitted in writing, in person or by mail, signed and sealed in an envelope, with the exception of the cases as described in Subparagraph "b" of this Paragraph, when the contracting authority shall, upon request, provide the bidder with a certificate, stating the date and time of receipt of the bid;*

b) *Bids shall be submitted electronically, as specified in the bylaws.*

5. *Bids, which are received after the expiry of deadline for their submission, shall be returned unopened to the bidders, who have submitted them.*<sup>115</sup>

#### **Article 49** **Tender security**

1. In procurement procedures with a higher value than the high monetary limit, the Contracting Authority may require bidders to submit the bid security under the public procurement rules.<sup>116</sup>

a) The amount of the security shall be proportionate to the *estimated*<sup>117</sup> value of the procurement contract;

b) The CA should specify in the tender documents all the requirements with respect to the nature, form, amount and other essential conditions of the bid security. These requirements should not be directly or indirectly linked to the conduct of the bidder that submits the bid, except for the following cases:

(i) Withdrawal or modification of the bid after the deadline for the submission of bids, or before the deadline, if so stated in the tender documents;

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(ii) Refusal to sign the procurement contract, if required by the CA do to so;

(iii) Failure to provide the performance bond, when the contract has been awarded, or failure to comply with any other condition prior to signing the contract specified in the tender documents.

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2. If the has required the tender security, under Paragraph 1 of this Article, it shall not claim the security amount, if:<sup>119</sup>

- a) The deadline of the bid security has expired;
- b) Contract has been signed and performance bond has been presented, when such a thing is required by the tender documents;
- c) Tender procedures are cancelled without any award.

### **Article 50** **Validity, modification and withdrawal of bids**

1. Bids shall be valid during the time specified in the tender documents.

2. Prior to the expiry of the period of validity of bids, the CA may request bidders to extend this period for a defined period of time. In this case:

a) The bidder may refuse, without forfeiting the bid security if so required<sup>120</sup> while the validity of its bid will end upon the expiry of the initial period of validity;

b) When the bidder agrees to extend the validity period, the bid security shall be also extended if such a security is required<sup>121</sup> or a new bid security, which covers the extended period of validity, shall be provided. The bidder, which doesn't extend the bid security or, which doesn't provide a new bid security, shall be deemed to have refused the request to extend the period of the bid validity.

### **Article 51** **Prohibition of bids modification**

1. After the submission of the bid, no negotiation shall take place between contracting authority and the bidder about the bid, under Paragraph 1 of Article 53 of this law.

2. It shouldn't be required from bidders as condition for award to undertake responsibilities not stated in the tender documents, to change the value of its bid or to modify the bid in any manner.

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3. The provisions of this Article shall not prejudice the application of Articles 32 and 33 of this law.

## **Article 52**

### **Opening of bids**

1. All the bids shall be opened by the CA at the date, place and time as specified in the tender documents after the expiry of the deadline for the submission of bids, or after the expiry of the deadline specified in any extension of this deadline, in accordance with the procedures specified in the tender documents.

2. All bidders or their authorized representatives, which have submitted bids, shall be invited by CA to be present at the opening of their bids.

3. The name and address of the bidder, whose tender is opened, the legal documentation and any other document required by the CA, as well as the price of each bid, shall be read in a loud voice to those persons present at the opening of bids, and be recorded in the procedure records, under Article 12 this law.

4. The record shall be made available immediately, upon request, to any bidder, whereas it should be sent for information the bidder, who has submitted the tender, but who is neither present, nor represented in the opening of the bids.

5. The record of the opening<sup>122</sup> of bids shall be published on the website and made available together with the tender documentation.

6. In cases of procurement by electronic means, the opening of bids shall be done as follows:

a) The contracting authority shall open the bids at the date, time and place specified in the tender documents after the expiry of the deadline for the submission of bids, or after the expiry of the deadline specified in any extension of the deadline, in accordance with the procedures specified in the tender documents, in compliance with the electronic public procurement rules.

b) Given that the documentation submitted by the bidders is automatically recorded in the system, Paragraphs 2, 3, 4 and 5 shall not be applied in the case of procurement with electronic means.<sup>123</sup>

## **Article 53**

### **Examination of bids**

1. When deemed as appropriate, CA asks the bidders to clarify their bids in order to make the fairest examination, evaluation and comparison of these bids. Without prejudice to the provisions set forth in Articles 32 and 33 this law, no change should not be requested, offered or permitted to the content of the bid, including changes of price and changes aimed at turning an invalid bid into a valid one.

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2. Despite the description of Paragraph 1 of this Article, the CA should correct only arithmetical errors, which are discovered during the examination of bids, provided there is no evidence of an attempt to fraud. The CA shall immediately inform the bidder who has submitted the bid about these corrections.

3. Under Paragraph 4 of this Article, the CA shall consider a bid as valid only if it is in conformity to all requirements and specifications set forth in the contract notice and in the tender documents, without prejudice to the provisions of Article 54 this law.

4. The CA shall consider a bid as valid even if it contains minor and justified deviations, which don't substantially change the characteristics, conditions and other requirements set forth in the tender documents, as well as spelling mistakes that may be corrected without changing its substance.<sup>124</sup>

5. CA shall not accept a bid:

- a) When the bidder is not qualified;
- b) When the bidder doesn't accept the correction of an arithmetical error that has been made under Paragraph 2 of this Article;
- c) When the bid fails to comply with the specifications set out in tender documents, except for cases set out in Article 54 this law;
- ç) In cases provided for in Article 26 of this law.

#### **Article 54 Variants**

1. When the awarding criterion is of the most economically advantageous tender, the CA may authorize bidders to submit variants.

2. CA shall indicate in the contract notice whether it authorizes variants or not, otherwise they shall not be allowed.

3. When authorizing variants, the CA shall state in the tender documents the minimum requirements for each variant and any other requirement regarding their submission.

4. Only variant meeting the minimum requirements laid down by CA shall be taken into consideration.

#### **Article 55 Contract award criteria**

*1. The winning bid should be:*

*a) the bid, which, under the requirements and criteria as set forth in the tender documents, meets the requirements of the procurement subject matter with the lowest price; or*

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*b) the most economically advantageous tender based on various criteria related to the subject matter of the contract to be procured, such as: quality, price, technical characteristics, aesthetic, functional and environmental features, operating costs, the economic efficiency, after-sales maintenance, delivery or execution deadline, provided that the following criteria be objective and non-discriminatory.*<sup>125</sup>

q2. The CA shall evaluate and compare the valid bids in order to select the successful bid, in accordance with the procedures and criteria set forth in the tender documents. No criterion, which is not set forth in the tender documents, should be used.

3. Bids shall be evaluated on economic and technical grounds.

4. The CA should draft a brief description of the evaluation process, which should be reflected in the records kept under Article 12 this law. *In the case of procurement by electronic means, the system shall automatically manage the data, the evaluations and comments on them, thus electronically notifying the bidders.*<sup>126</sup>

5. After comparing and evaluating bids, the CA shall determine the best bid.

#### **Article 56** **Abnormally low bid**

*1. When the contracting authority finds that one or more bids for contracts of goods, works or services, are abnormally low, it shall ask the relevant economic operator before it continues with the binds evaluation process to submit in writing and within 3 work days explanations for specific elements of the bid, for:*<sup>127</sup>

a) The economics of the construction method, the manufacturing process or the services provided;

b) The technical solutions chosen and/or any exceptionally favourable conditions available to the bidder for the execution of the work, for the supply of the goods or services;

c) The authenticity of works, supplies or services proposed by the bidder;

ç) Fulfillment of the obligations relating to protection at work and working conditions at the place where the work will be carried out, where the service will be performed or where the supply will be delivered.

2. The CA shall verify these elements by consulting the bidder and based on the submitted information. If, even after examining the information provided by the bidder, the CA is not convinced that the bid is not regular in all its aspects, the CA may reject it.

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**Article 57**  
**Administration of the information in the process**

1. After the opening of bids, without prejudice of the obligations offset forth in Article 21 of this law, the information relating to the examination, clarification, and evaluation of bids shall not be disclosed to bidders or other persons, who are not officially involved in this process, until the contract is signed.

2. Following the opening of bids, and until the award of the contract is announced, no bidder should make any unjustified communication with the CA or try to influence in any manner the examination and evaluation of bids.

**Article 58**  
**Award notice and signing of contract**

1. Award notice shall be given promptly to the bidder, who has submitted the best bid under Article 55 of this law.

2. *Within 5 days of notification of award, the Contracting Authority shall send a notice to the Public Procurement Agency for publication in the Public Procurement Bulletin.*

*In the case of procedures, which are conducted by electronic means, the notice of award shall be sent to the electronic procurement platform the next working day of the receipt of the decision. The notification shall contain at least the following information:*

- a) The names of participating bidders;*
- b) The values of the bids;*
- c) The names of disqualified bidders and reasons for disqualification;*
- ç) The name of the successful bidder and value offered by him;*
- d) Appeals, if there have been any or not.<sup>128</sup>*

3. *The contracting authority and the winning bidder shall sign the contract according to the deadlines set out in the public procurement rules. In any case, this deadline should not exceed the period of bid validity as specified in the contract notice or in the tender documents.<sup>129</sup>*

4. The contract shall enter into force upon its signing by the successful bidder and the CA.

5. When the successful bidder fails to provide the performance bond or fails to sign the contract, the contracting authority shall forfeit the bid security, if required. When the "lowest price" is used as a criterion to determine the winning bid and the successful bidder fails to provide the performance bond or fails to sign the contract, the contracting authority shall select the bidder ranked second in the list of the remaining selected bids only if the difference between the bid ranked in the first place and the bid ranked in second place will not be greater than 2 percent of the limit fund.<sup>130</sup> *This shall not affect the right of the Contracting Authority, under Article 24 of this Law, to reject all remaining bids, and to cancel the procurement procedure. The notice, under*

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*Paragraph 1 of this Article, shall be sent to the bidder, whose bid is selected under this Paragraph.*<sup>131</sup>

6. Signing of the contract before the end of the deadline of the classification notice or before termination of the administrative review, the contract is considered null and void under Chapter VII of this law,.

**CHAPTER V/1<sup>132</sup>**  
**ORGANIZATION OF PROCEDURES FOR SECTORAL CONTRACTS**

**Article 58/1**  
**Sectoral Contracts**

1. This Chapter contains special provisions, which are applied by the contracting authorities operating in the water, energy, transport and postal services sectors when awarding sectoral contracts. For the purpose of this Chapter, sectoral contracts are public contracts awarded by the contracting authorities referred to in Article 3 paragraph 14/1, if the contract is awarded for the purposes of performing any of the following activities:

a) The provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of electricity, gas or heat or supply of electricity, gas or heat of such networks;

b) Exploitation of geographical area for the purpose of exploring with the prospect of extracting oil, gas, coal or other solid fuels, the provision of airports and maritime or inland ports or terminal facilities to air, sea or inland waterway carriers;

c) The provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of drinking water or supply of drinking water to such networks or management of such networks;

ç) The provision or operation of fixed networks intended to provide a service to the public in the field of transport by railway, automatic systems, tramway, trolley bus, or cable;

d) The provision or operation of fixed networks intended to provide a service to the public in the field of transport by bus;

dh) The provision of postal services.

2. The contracting authorities awarding sectoral contracts shall apply the clauses of other headings of this law, unless otherwise stated in this Chapter.

3. Contracting authorities shall apply the provisions of this Chapter also to the award of contracts referred to in Subparagraph “c” of Paragraph 1 and which:

a) Are connected with hydraulic engineering projects, irrigation or land drainage, provided that the volume of water to be used for the supply of drinking water represents no more than 20 % of the total volume of water made available by such projects or irrigation or drainage installations; or

b) Are connected with the disposal or treatment of sewage, related to sewage systems and waste water treatment, and to the activities related to obtaining drinking water.

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4. As regards transport services referred to in Subparagraphs “ç” and “d” of Paragraph 1, a network is considered to exist where the service is provided under operating conditions laid down by a competent authority, such as conditions on the routes to be served, the capacity to be made available or the frequency of the service.

5. The contracting authorities awarding the contracts referred to in Subparagraph “dh” of Paragraph 1 shall apply the provisions of this Chapter also to contracts related to the provision of the following services: mail service management services both preceding and subsequent to dispatch, transmission of coded documents using electronic means of communication, management of address databases, transmission of registered electronic mail, financial, philatelic and logistical services, particularly the transportation of commodity shipments and their confectioning and storage.

#### **Article 58/2**

##### ***Procurements, which include several activities***

1. A contract, which is intended to cover several activities, shall be subject to the rules applicable to the principally intended activity.

However, the choice between awarding a single contract and awarding a number of separate contracts may not be made with the objective of excluding it from the scope of this Chapter or, where applicable, other provisions of this Law.

2. If one of the activities, for which the contract is intended, is subject to this Chapter and the other activity is subject two Chapter I and V of this Law and if it is objectively impossible to determine which principal activity the contract covers, the contract shall be awarded under Chapters I and V.

3. If one of the activities, for which the contract is intended, is subject to this Chapter and the other is not subject to either this Chapter or Chapters I and V, and if it is objectively impossible to determine which activity the contract covers, the contract shall be awarded under this Chapter.

#### **Article 58/3**

##### **Contracts awarded for purposes of resale or lease to third parties**

This Chapter shall not apply to sectoral contracts awarded by the contracting authorities for the purposes of resale or lease of the object of the contract to third parties, provided that the contracting authority does not have a special or exclusive right to sell or lease the object of contract, and that other entities may sell or lease it without restrictions and on the same conditions as the contracting authority.

#### **Article 58/4**

##### **Contracts awarded to affiliated undertakings, to a joint venture or to a contracting entity forming part of a joint venture**

1. This Chapter shall not apply to sectoral contracts awarded by the contracting authority to an affiliated undertaking or to a joint venture, formed exclusively by a number of contracting authorities for the purpose of carrying out activities within the meaning of Article 58/1, to an

undertaking which is affiliated with one of these contracting entities, provided that conditions referred to in paragraph 3 of this Article are fulfilled.

2. For the purpose of this Article “affiliated undertaking” means any undertaking:

a) The annual accounts of which are consolidated with those of the contracting authority in accordance with accounting regulations, or

b) Over which the contracting authority may exercise, directly or indirectly, dominant influence within the meaning of Paragraph 14/1, Subparagraph “b” of Article 3 or, which may exercise a dominant influence over the contracting authority or which, together with the contracting authority is subject the dominant influence of another undertaking, by virtue of ownership, financial participation, or the rules which govern it.

3. Paragraph 1 of this Article applies if at least 80% of the average turnover of the affiliated undertaking in the previous 3 years derives from providing such services, supplies or works to undertakings with which it is affiliated. Where, because of the date on which and affiliated undertaking was created or commenced its activities, the turnover is not available for the preceding 3 years, it is sufficient for that undertaking to show that the turnover referred to above is credible, particularly by means of business projections. Where more than one undertaking affiliated with the contracting entity provides the same or similar services, supplies or works, the above percentages shall be calculated taking into account the total turnover deriving respectively from the provision of services, supplies or works by those affiliated undertakings.

4. This Chapter shall not apply also to contracts awarded:

a) By a joint venture, formed exclusively by a number of contracting entities for the purpose of carrying out activities within the meaning of Article 58/1 of this law, to one of these contracting entities;

b) By a contracting entity to such a joint venture of which it forms part, provided that the joint venture has been set up in order to carry out the activity concerned over a period of at least three years and that the instrument setting up the joint venture stipulates that the contracting authorities, which form it, will be part thereof for at least the same period.

#### **Article 58/5**

#### ***Exemptions specific for energy and water sector***

1. This Chapter shall not apply to sectoral contracts awarded by contracting authorities referred to in Paragraph 14/1, Subparagraph “b” and “c” of Article 3, for the purposes of performing an activity consisting in providing gas or heat to the networks referred to in Paragraph 1, Subparagraph “a” of Article 58/1, if:

a) The production of gas or heat is a necessary consequence of conducting an activity other than that described in Article 58/1 of this law; and

b) The purpose of the provision of gas or heat is only to utilize the production for economic purposes, and it does not exceed 20% of the economic operator’s average turnover over the period of the previous three years, including the year in which the contract is awarded.

2. This law shall not apply to sectoral contracts awarded by contracting authorities referred to in Paragraph 14/1, Subparagraph “b” and “c” of Article 3, for the purposes of performing an



activity consisting in providing electricity to the networks referred to in Paragraph 1, Subparagraph “a” of Article 58/1, if:

a) The production of electricity is necessary to conduct an activity other than that defined in Article 58/1 of this law; and

b) The provision of electricity is dependent solely on own consumption, and it does not exceed 30% of the total production over the period of the previous three years, including the year in which the contract is awarded.

3. This Chapter shall not apply to sectoral contracts awarded by the contracting authorities referred to in Paragraph 14/1, Subparagraph “b” and “c” of Article 3, for the purposes of performing an activity consisting in providing drinking water to the networks referred to in Article 58/1, Paragraph 1, Subparagraph “c” of this law, if:

a) Production of drinking water is necessary to conduct an activity other than that defined in Article 58/1 of this law; and

b) The provision of drinking water is solely dependent on own consumption, and does not exceed 30% of the total production over the period of the previous three years, including the year in which the contract is awarded.

#### **Article 58/6**

#### **Exemption of purchase of energy, fuels and water**

1. Contracting authorities conducting the activity referred to in Paragraph 1, Subparagraph “a” of Article 58/1, shall not apply provisions of this Chapter to award sectoral contracts for supplies of electricity, heat or fuels used for the production of energy. This activity will be regulated by other laws or bylaws.

2. The contracting authorities conducting the activity referred to Article 58/1, Paragraph 1, and Subparagraph “c” of this law shall not apply provisions of this Chapter to award contracts for supplies of water.

#### **Article 58/7**

#### ***Exemption of bus transport services***

The contracting authority conducting the activity referred to in Paragraph 1, Subparagraph “dh” of Article 58/1, on the basis of special rights shall not apply provisions of this Chapter if regular transportation services may be also provided by other carriers in the same area and on the same conditions.

#### **Article 58/8**

#### ***Procedures of awarding sectoral contracts***

1. To award all sectoral contracts, contracting authorities may always use open, restricted or negotiated procedure with publication of notice.

2. Contracting authorities may award sectoral contracts through a negotiated procedure without publication of notice:

a) When no bid has been submitted at all or when no suitable bids or applications have been submitted in response to an open, restricted or negotiated procedure with publication, provided there is no substantial alteration to the initial conditions of the contract;

b) When for technical or artistic reasons or for reasons connected with exclusive rights or intellectual property rights, the contract may be executed only by a particular economic operator;

c) Insofar as it is strictly necessary when, for reasons of urgency brought about by causes unforeseeable by the contracting authority, the time limits referred to in Article 43 of this law, for the publication of contract in open, restricted or negotiated procedures with publication of notice can't be complied with. The circumstances invoked to justify urgency must not in any event be caused by the actions or omissions of the contracting authority. The conditions and circumstances for the use of this procedure are determined in the procurement regulations;

ç) Where a contract based on the framework agreement is awarded, provided that requirements of Article 58/9 are complied with.

3. Negotiated procedures without prior publication of a contract notice may be used for sectoral contracts, the object of which includes the following:

a) When the goods involved is manufactured purely for the purpose of research, experimentation, study or development. This provision shall not apply to quantity production to establish commercial viability or to cover research and development costs;

b) For additional deliveries by the original supplier, intended either as partial replacement of normal supplies or installations or as the extension of existing supplies or installations where a change of supplier would oblige the contracting authority to acquire materials having different technical characteristics, which would result in incompatibility or disproportionate technical difficulties in operation and maintenance. In this case, the additional contract shall be signed within a time limit of 3 months of the end of the original contract and shall not exceed 20% of the total value of the initial contract;

c) For supplies quoted and purchased on commodity market;

ç) For bargain purchases, where it is possible to procure supplies by taking advantage of a particularly advantageous opportunity available for a very short time at a price considerably lower than normal market prices;

d) For purchases of supplies under particularly advantageous conditions from either a supplier definitively winding up his business activities or the receivers or liquidators of a bankruptcy, an arrangement with creditors or a similar procedure under national laws or regulations in force;

4. Negotiated procedures without prior publication of a contract notice may be used for sectoral contracts, the object of which includes the following:

a) for additional works or services which were not included in the initial contract, but which have, through unforeseen circumstances, become necessary for the performance of the works or services described therein, on condition that the award is made to the economic operator performing such works or services; as long as the aggregate value of contracts awarded for additional works and services does not exceed 20 % of the total value of the initial contract:

i) When such additional works or services cannot be technically or economically separated from the original contract without major inconvenience to the contracting authority;

ii) When such works or services, although separable from the performance of the original contract, are strictly necessary for its completion.

b) For new works consisting in the repetition of similar works entrusted to the economic operator to whom the same contracting authorities awarded the original contract, provided that such works or services are in conformity with a basic project for which the initial contract was awarded on the basis of a procurement procedure. As soon as the first project is up for tender, the possible use of this procedure shall be disclosed in the contract notice for the initial contract, and

the total estimated cost of subsequent works or services shall be taken into consideration by the contracting authority. The procedure set out by this sub-paragraph may be used only during 3 years following the conclusion of the original contract. In no case the additional contract shall exceed the value of 20 % of the total value of the original contract.

### **Article 58/9 Call for competition**

1. The contracting authority is obliged to inform about its intention of awarding a sectoral contract by means of call for competition which may take a form of:

- a) A contract notice as referred to in Article 38 of the law;
- b) A notice on the existence of a qualification system as referred to in Article 58/10 of this law.

### **Article 58/10 Qualification systems**

1. Contracting authorities, which so wish, may establish and operate a qualification system for the qualification of economic operators. Contracting authorities, which establish or operate a system of qualification, shall ensure that economic operators are at all times able to request qualification.

2. Where contracting authorities choose to establish a qualification system, the system shall be subject to a publication of notice indicating the purpose for its establishment and the way, in which the rules for participation in it are applied. If the duration of the functioning of the system is more than three years, the notice shall be published each year, whereas if duration of the functioning the system is shorter, an initial publication of notice is sufficient.

3. The qualification system may involve different qualification stages. The criteria and rules for qualification shall be established by the contracting authority on the basis of objective criteria and, when required, the criteria and rules may be changed. The criteria and rules shall be made available to economic operators on request. The updating of these criteria and rules shall be communicated to all interested economic operators.

4. The qualification criteria and rules set out in paragraph 3 may include the exemption criteria listed in Article 45 and 46 of the law, on the terms and conditions set out therein. Where the contracting authority is a contracting authority within the meaning of paragraph 14 of Article 3 of the law, these criteria and rules shall include the exclusion criteria listed in paragraph 1 of Article 45.

5. Where the criteria and rules for qualification referred to in paragraph 3 of this Article include requirements relating to the economic and financial capacity of the economic operator, the latter may where necessary rely on the capacity of other operators, whatever the legal nature of the link between itself and those operators. In this case the economic operator must prove to the contracting authority that these resources will be available to it throughout the period of the functioning of the qualification system, for example, by producing an undertaking declaration that it will obtain those means from other economic operators to that effect.

Under the same conditions, a group of economic operators as referred to in paragraph 2 of Article 44 may rely on the capacity of participants in the group or of other entities.

6. Where the criteria and rules for qualification referred to in paragraph 3 of this Article include requirements relating to the technical and/or professional abilities of the economic operator, the latter may rely, where necessary, on the capacity of other entities, whatever the legal nature of the link between itself and those entities. In this case the economic operator has to prove to the contracting authority that those resources will be available to it throughout the period of the validity of the qualification system, for example by producing an undertaking declaration by those entities to make the necessary resources available to the economic operator. Under the same conditions, a group of economic operators referred to in paragraph 2, Article 44 may rely on the abilities of participants in the group or of other entities.

7. A written document of the economic operators should be kept and it may be divided into categories according to the type of contract, for which the qualification is valid.

8. When a call for competition is made by means of a notice on the existence of a qualification system, bidders in a restricted procedure or participants in a negotiated procedure shall be selected from the qualified candidates in accordance with such a system.

9. Contracting authorities, which establish and operate a qualification system, shall inform the candidates on their decision regarding qualification within a period of six months. If making the decision will take longer than four months from the moment when an application is submitted, the contracting authority shall inform the candidates, within the first two months from the submission of the application, on the reasons justifying the longer period for decision and on the date when the application shall be accepted or rejected.

10. Candidates which fail to qualify, shall be notified on this decision and the reasons for their rejection, as soon as possible and under no circumstance later than 15 days since the day when the decision is made. The reasons shall be provided on the basis of the qualification criteria set out in paragraph 3 of this Article.

11. The contracting authorities, which establish and operate a qualification system, may reject the qualification of an economic operator only on the basis of the qualification criteria referred to in paragraph 3 of this Article. Every notice for the rejection of an application shall be notified in written to the economic operator, at least 15 days prior to the estimated completion date of the qualification, including the reasons justifying the proposed action.

## **CHAPTER VI PERFORMANCE OF CONTRACTS**

### **Article 59 Conditions for the performance of contracts**

1. CA may lay down special conditions relating to the performance of a contract, provided these are lawful and indicated in the contract notice or in the tender documents.

2. The conditions governing the performance of a contract must have a non-discriminatory nature or effect and be proportionate to the scope of the contract.

### **Article 60** **Rules applicable to contracts**

1. The terms of the contract awarded pursuant to this law shall not differ from the prescriptions established in the tender documents and in the successful bid.

2. All terms of the contract awarded pursuant to this law shall be performed in good faith by both parties.

3. Without prejudice of the provisions of this law and any other legislative provisions applicable to contracting authorities, contracts awarded pursuant to the this law shall be subject to the provisions of the Civil Law.

### **Article 61** **Sub-contracting**

1. CA shall ask bidders in the contract notice or in the tender documents to indicate in their bids the percentage of the contract they may wish to subcontract to third parties and any proposed sub-contractors.

2. This percentage, which is bound to be sub-contracted, shall be proportionate to the value of the contract and it should not exceed 40 % of the overall contract value.

3. Without prejudice to the principles stated in Paragraph 4 of this Article, the prospective subcontractors must be approved by CA before concluding the sub-contract with the economic operator, who has been awarded the public contract under the provisions of the this law.

4. The provisions of this Article shall not affect the principal responsibilities of the economic operator, to which the subcontractors remain third parties vis-à-vis the contractual relationship between the economic operator and his/her sub-contractors and which hold the principal economic operator responsible for the entire performance of the contract, regardless of any part of it being performed by sub-contractors.

### **Article 62** **Obligations during the performance of the contract**

1. The CA shall state in the tender documents the body or bodies, from which a candidate or bidder may obtain appropriate information on the obligations relating to taxes, environmental protection, employment protection provisions and working conditions in force in Albania, or in the region or local government unit, where the contract is to be performed.

2. The bidders or candidates may be asked to indicate that they have taken into account, when preparing their tender, the obligations attached to the performance of the contract as indicated by the competent bodies pursuant to Paragraph 1 of this Article.

3. The obligations referred to in Paragraph 1 of this Article and in Article 46 this law shall be valid throughout the performance of the contract. Any failure to comply with such obligations and conditions shall lead to termination of the contract.

## **CHAPTER VII ADMINISTRATIVE REVIEW PROCEDURES**

### **Article 63 Rights of interested persons**

1. Any person having or having had an interest in a procurement procedure and who has been or risks being harmed by a decision made by a CA, which infringes this law, may challenge such decision.

*1.1 In the case of appeals against the tender documents, the economic operators may file a appeal with the contracting authority within 7 days of publication of the contract notice on the website of the Public Procurement Agency.*

*Upon receipt of a written appeal, the contracting authority shall suspend the continuation of the procurement procedure until the appeal has been fully examined, including making of a decision within 3 days from the filing of the appeal. Under Paragraph 6 et sequens of this Article, the contracting authority's final decision may be appealed to the Public Procurement Commission.<sup>133</sup>*

2. Appeals against the decisions of the contracting authority<sup>134</sup> shall be filed first, in writing, with the concerned CA in writing within 7 days<sup>135</sup> from the next working day<sup>136</sup> when the complainant is informed or should have been informed of the alleged breach under this law.

3. Upon receiving the appeal in writing, the CA shall suspend the continuation of the procurement procedure until the appeal is fully reviewed including making of a decision before the expiry of the deadline stated in Paragraphs 5 and 6<sup>137</sup> of this Article.

4. The CA shall extend, if needed, the deadline of the contract award procedure for the period of suspension referred to in Paragraph 3 of this Article. In case the deadlines of the contract award procedure notified to the bidders are changed due to the review of the appeals, the CA should notify all the bidders about the reasons for the extension of the deadline.

5. The CA shall review the appeal and take a justified decision within 7<sup>138</sup> days after the receipt of the appeal and should inform the complainant of the decision, which is made, and the justification thereof not later than on the next working day.

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6. If the CA fails to examine the appeal within the deadline specified in Paragraph 5 of this Article, or rejects the appeal, the complainant may file a written appeal with the PPC<sup>139</sup> *within 10 days*<sup>140</sup> from the first working day after the expiry of the deadline specified in Paragraph 5 of this Article, or, in case the appeal is rejected by the CA, from the day the complainant was informed thereof by the CA. A written copy of the appeal should be *necessarily*<sup>141</sup> be sent also to the CA.

7. The appeal to the PPC<sup>142</sup> should be filed using the respective form by writing down the name and address of the complainant, the reference to the concrete procedure, the legal ground and a description of the violation, *the claim of the complainant against the final decision, the appeal instances accompanied by the respective documentation and the decision of the contracting authority.*<sup>143</sup> The above elements are essential to the examination of appeals. The PPC<sup>144</sup> shall examine the appeal, under this law, the Code of Administrative Procedures and the public procurement rules. Failure to follow all complaining instances makes the appeal invalid.

8. Upon receiving the complainant's written appeal to the PPC, the CA shall keep the procurement procedure suspended, except for cases when the PPC decides otherwise in writing under Paragraph 2 of Article 64 of this law. The contracting authority shall send all the information, which it has available about the procurement procedure, immediately, but not later than 5 days, to the Public Procurement Commission.<sup>145</sup>

9. Upon receiving the complainant's written appeal, the PPC<sup>146</sup> shall respond in writing within *7*<sup>147</sup> days. When the CA requires information for the review of the appeal, the *Commission*<sup>148</sup> shall respond in writing, in accordance with the provision of the *Decision of the Council of Ministers*<sup>149</sup>, but not later than *10*<sup>150</sup> days *after having received the information.*<sup>151</sup>

10. *All complaint filed with the Public Procurement Commission shall be made against payment. Payment rules and fees shall set upon a Decision of the Council of Ministers.*<sup>152</sup>

11. *In the case of procurement procedures, for which no public notice is made, under Article 38 of this Law, the provisions related to administrative*<sup>153</sup> *appeal*<sup>154</sup> *procedures shall not be applied.*

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**Article 64**  
**The rights of the PPC<sup>155</sup>**

1. Upon receiving the appeal in writing, the PPC<sup>156</sup> should make sure that the CA has suspended the procurement procedure. Upon a preliminary examination of the appeal, the PPC<sup>157</sup> shall make a decision whether or not to issue an interim order under Paragraph 2 of this Article, and inform the CA thereof.

2. At any time following the receipt of the appeal and before the conclusion of the contract, the PPC<sup>158</sup> may, *when it does not decide for a suspension*,<sup>159</sup> allow the CA to continue the procurement procedure by an interim order up to making its final decision when:

- a) It has information that the complainant will not succeed with the appeal;
- b) The suspension indirectly harms the public interest, the CA or the bidders.

3. Prior to the conclusion of a contract, the PPC<sup>160</sup> when it finds that that a decision or action of the CA has violated any of the provisions of this law, shall have the right to:

a) Issue an interpretation of the rules or legal principles, which should be applied to the object of the appeal;

b) Partially or fully cancel an action or decision of the CA inconsistent with the law. This includes also the power to remove all the technical or other types of specifications, which fail to comply with the this law;

c) Instruct the CA to correct any breaches and then to proceed with the contract award procedure;

ç) Order the termination of the contract award procedure.

4. Following the conclusion of the public procurement contract, the PPC<sup>161</sup> when it finds that that a decision or action of the CA has violated any of the provisions of this law shall have the right to:

a) Issue an interpretation of the rules or legal principles, which should be applied to the object of the appeal;

b) Make a declaratory decision, based on which the Court may compensate the complainant, who suffered loss or damage, as a result of a breach of this law.

c).<sup>162</sup>

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5. Where the *PPC*<sup>163</sup> finds that an official of the CA has committed a deliberate and intentional breach of the this law with the effect of jeopardizing its purpose as set in Article 1, it may, in addition to the remedial powers referred to in Paragraphs 1 to 4 of this Article, report the offence to the competent authorities.

**Article 64/1**<sup>164</sup>  
**Administrative review procedure**

1. The Public Procurement Commission may start an administrative review procedure, upon receipt of an appeal by persons that have an interest in public procurement procedures.

2. In the course of an administrative review, the Public Procurement Commission is entitled:

- a) To request documentation or information from all parties in order to support their claims.
- b) To request information and explanations from all central or local administrative bodies, and to take possession of all files and documents related to the administrative investigation case;
- c) To interrogate any person, who it deems to be connected to the case, under review;
- ç) To request relevant expertise from third party licensed experts.

3. The Public Procurement Commission reserves the right to set a deadline for a response to its requests regarding information and submission of relevant documents, under the legislation that regulates administrative procedures.

**Article 64/2**<sup>165</sup>  
**Decisions of Public Procurement Commission**

1. Upon completion of the administrative review, the Public Procurement Commission may make the following decisions:

- a) To dismiss the judgment, given that the actions, or omissions, of the contracting authority, which has conducted the procurement procedure, don't constitute a violation of this law, or of any other administrative or criminal provisions. In this case, the Public Procurement Commission shall provide explanation in writing to the complainant about the reasons for dismissing the review;
- b) To issue to the concerned contracting authority a written decision instructing it to stop acting against the law, within a given deadline.

2. Contracting authorities should implement the decision or request an the review of the decision of the Public Procurement Commission within 10 days of receiving notification about the decision.

3. In case the Public Procurement finds that an official of the CA has committed a malicious violation of this law, it shall report the violations to the competent authority.

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**Article 64/3<sup>166</sup>**  
**Appeal before the Court**

1. *The parties shall have the right to file an appeal against the decision of the Public Procurement Commission to review the administrative dispute with Tirana Administrative Court of First Instance<sup>167 168</sup>.*

2. The examination of this appeal by the Court shall not suspend the procurement procedures, the procedures of the conclusion of public contracts for goods, services or works by contracting authorities, or execution of obligations, under the procurement contract between the respective parties.

**CHAPTER VIII**  
**ADMINISTRATIVE INVESTIGATION**

**Article 65<sup>169</sup>**  
**Administrative Investigation Procedure**

1. Public Procurement Agency shall verify the implementation of public procurement procedures after the stage of the signing of the procurement contract, but in any case not later than two years of its signing.<sup>170</sup>

2. *In the course of an investigation, the PPA is entitled:*

*a) To make on-site investigations, including also entering into any offices of public institutions and to perform an on the-site check of all acts and documents related to the said investigation procedure;*

*b) To request information and explanations from all central or local administrative bodies, and to obtain all files and documents related to the administrative investigation;*

*c) To interrogate any person, who is deemed to be connected to the case, and to summon for a hearing all persons without immunity;*

*d) To request relevant expertise from third party experts.*

3. *To carry out these functions,, the PPA, shall have the right to have access to all offices of the public administration institutions, which are recognized as CA within the meaning of the this law.*

4. *The PPA shall have the right to set a deadline for the response to its requests for information and submission of relevant documents.*

5. <sup>171</sup>The Contracting Authority shall have the obligation to inform the responsible persons involved in the administrative inquiry as initiated by the Public Procurement Agency and to document the notification.

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**Article 66<sup>172</sup>**

***Actions following the conclusion of administrative investigation***

1. Upon completion of the administrative investigation, the Public Procurement Agency may make the following decisions:

a) To dismiss the investigation, if the acts or omissions of the contracting authority under investigation do not constitute a violation of this law;

b) To propose disciplinary action or impose a fine under Article 72 of this Law, for violations found.

2. In any case, the parties shall be notified in writing of the decision. The contracting authority shall have the obligation to notify the responsible persons involved in the administrative inquiry about the decision, which the Public Procurement Agency has made and, to document the notification.<sup>173</sup>

**Article 67<sup>174</sup>**

**Article 68<sup>175</sup>**

**CHAPTER IX**

**THE ACTIVITY OF THE PROCUREMENT ADVOCATE**

**Article 69<sup>176</sup>**

**Article 70<sup>177</sup>**

**Article 71<sup>178</sup>**

**Article 71/1<sup>179</sup>**

**Article 72<sup>180</sup>**

**Administrative Offences**

1.<sup>181</sup> Failure to comply with the procurement rules, under the provisions of this law, when it constitutes an administrative offense, shall be punishable by a fine as follows:

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- a) Failure to fulfill the obligation set forth in Article 4 of this law shall be punishable by a fine of 20, 000 up to 1, 000, 000 Albanian Leks;
- b) Failure to fulfill the obligation set forth in paragraph 2 of Article 12 of this law shall be punishable by a fine of 15, 000 up to 30, 000 Albanian Leks;
- c) Failure to fulfill the obligation regarding the form of communication, exchange and saving of information, as defined in Article 21 of this law, shall be punishable by a fine of 30, 000 to 100, 000 Albanian Leks;
- ç) Failure to fulfill the obligation provided for in Article 23 of this law shall be punishable by a fine of 50, 000 up to 200, 000 Albanian Leks;
- d) Failure to fulfill the obligation set forth in Article 25 of this law shall punishable by a fine of 50, 000 up to 100, 000 Albanian Leks;
- dh) Failure to fulfill the obligation set forth in Article 28 of this law shall punishable by a fine of 20, 000 to 1, 000, 000 Albanian Leks;
- e) Failure to fulfill the obligation set forth in Article 33 of this law shall be punishable by a fine of 100, 000 to 1, 000, 000 Albanian Leks;
- ë) Failure to fulfill the obligation set forth in Article 38 of this law shall be punishable by a fine of 50, 000 to 1, 000, 000 Albanian Leks.
- f) Failure to fulfill any of the obligations set out in Articles 39, 40, 41 and 42 of this law shall punishable by a fine of 50, 000 to 300, 000 Albanian Leks;
- g) Failure to fulfill the obligations laid down in Article 43 of this law shall be punishable by a fine of 50, 000 to 500, 000 Albanian Leks;
- gj) Failure to fulfill the obligation set forth in Article 45, except for the Subparagraph "h" of Paragraph 2 of this Article and in Article 46 of this law shall be punishable by a fine of 30,000 to 500,000 Albanian Leks;
- h) Failure to fulfill the obligation set forth in Paragraph 2, Subparagraph "ë" of Article 45 of this law shall be punishable by a fine of 100,000 to 1,000,000 Albanian Leks;
- i) Failure to fulfill the obligation set forth in Article 53 of this law shall be punishable by a fine of 50,000 to 1,000,000 Albanian Leks;
- j) Failure to fulfill the obligation set forth in Article 56 of this law shall be punishable by a fine of 50,000 to 100,000 Albanian Leks;
- k) Failure to fulfill the obligation set forth in Article 63 of this law shall be punishable by a fine of 50,000 to 1,000,000 Albanian Leks;
- l) Persons who attempt to influence the decision of the Public Procurement Commission, contrary to Article 19.7 of this law, shall be punishable by fine of 50 000 to 100 000 Albanian Leks.

*l/l.*<sup>182</sup> The fine shall be imposed in proportion to the estimated value of the contract and under the descriptions of the public procurement rules.

2. In all the above cases, when liable responsible are not punished with a fine, and in any other case of violation of the provisions of this law, imposing of disciplinary action against them is required.

3. Interested persons may appeal to the competent court against the decision of the Public Procurement Agency.<sup>183</sup>

4.<sup>184</sup> The contracting authority shall be responsible for the collection of fines as imposed under Paragraph 1 of this article.

#### **Article 73<sup>185</sup>**

##### ***Sanctions for lack of cooperation***

1. The head of the contracting authority shall be liable when the contracting authority refuses to cooperate with the Public Procurement Commission and Public Procurement Agency and these institutions shall impose a fine of 50, 000 to 1, 000, 000 Albanian Leks for this refusal”.

2. The fine shall be imposed in proportion to the estimated value of the contract and under the descriptions of the public procurement rules

3. Interested persons may appeal to the competent court against the penalty as imposed under Paragraph 1 of this Article.

#### **Article 74<sup>186</sup>**

### **CHAPTER X TRANSITION AND END PROVISIONS**

#### **Article 75**

##### **Procurement rules**

1. The Council of Ministers is assigned to pass the procurement rules pursuant to it within one month from the entry into force of the this law.

#### **Article 75/1**

##### **Special provision**

*1. The Procedures initiated pursuant Law No. 7971, dated 26 July 1995 “On Public Procurement”, as amended, including also the appeal, shall be addressed under Law No. 7571.*

*2. Paragraph 3, Subparagraph ç of Article 13 shall be applicable even for contracts concluded prior to the entry into force of this law.*

*3. Paragraph 2, Subparagraph “a” and Paragraph 5 of Article 33 shall be applicable even for contracts that were concluded after the termination of procurement procedures, under Law No.*

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7971, dated on 26 July 1995 “On Public Procurement”, as amended , even when this is not provided for in the initial contract.<sup>187</sup>

#### **Article 75/2<sup>188</sup>**

Awarding procedures for sectoral contracts initiated before the entry into force of this Law shall be carried out under Law No. 9643, dated 20 November 2006 “On public procurement”, as amended.

#### **Article 76 Appointment of the PP Advocate**

The Parliament is assigned to appoint within one month of the entry into force of this law the Public Procurement Advocate, and approve the organization chart and the staffing of his Office.

#### **Article 76/1<sup>189</sup> Appointment of the Public Procurement Commission members**

*The Council of Ministers shall be assigned to appoint the Chairman, the Deputy Chairman and members of the Public Procurement Commission pursuant to Paragraph 2 of Article 19/2 of this Law.*

#### **Article 76/2<sup>190</sup>**

*Examination of appeals by the Commission shall begin four months after its establishment. Until then the examination of appeals shall be carried out by the Public Procurement Agency under the rules and deadlines laid down in this law.*

#### **Article 77 Repeals**

Law No. 7971, dated 26 July 1995 “On Public Procurement”, together with all its amendments, as well as any other provision, which is against this law, shall be repealed.

#### **Article 78**

Entry into force.

This law shall enter into force on 01 January 2007.

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Promulgated by Decree No. 5157, dated 15 December 2006 of the President of the Republic of Albania, Alfred Moisiu.