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*Committee on the Internal Market and Consumer Protection*

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**2011/0438(COD)**

12.7.2012

# **AMENDMENTS**

## **1352 - 1593**

**Draft report**  
**Marc Tarabella**  
(PE483.468v01-00)

on the proposal for a directive of the European Parliament and of the Council  
on public procurement

Proposal for a directive  
(COM(2011)0896 – C7-0006/2012 – 2011/0438(COD))

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PE492.869v01-00

**EN**

*United in diversity*

**EN**

AM\_Com\_LegReport

**Amendment 1352**  
**Philippe Juvin**

**Proposal for a directive**  
**Article 72 – paragraph 2 – points -a and -a a (new)**

*Text proposed by the Commission*

*Amendment*

***(-a) it alters the nature of the contract;***  
***(-a a) it entails replacement of the contractual partner;***

Or. fr

*Justification*

*The provisions concerning the modification of current contracts need to be supplemented (altering the nature of the contract is always a substantial modification) and clarified (the existing paragraph 3 has been incorporated into paragraph 2 in the interests of simplification, as a substantial modification is also at issue here).*

**Amendment 1353**  
**Pablo Arias Echeverría**

**Proposal for a directive**  
**Article 72 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

(b) the modification changes the economic balance of the contract in favour of the contractor;

(b) the modification changes the economic balance of the contract in favour of the contractor, ***as defined when the contract is awarded;***

Or. es

**Amendment 1354**  
**Marc Tarabella**

**Proposal for a directive**  
**Article 72 – paragraph 2 – point c**

*Text proposed by the Commission*

(c) the modification extends the **scope** of the contract considerably to encompass supplies, services or works not initially covered.

*Amendment*

(c) the modification extends the **subject** of the contract considerably to encompass supplies, services or works not initially covered.

Or. fr

**Amendment 1355**  
**Philippe Juvin**

**Proposal for a directive**  
**Article 72 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

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

*Amendment*

**deleted**

Or. fr

*Justification*

*The paragraph should be deleted in accordance with the amendment tabled to Article 72(2) (new paragraph c b). Clarification of the original text.*

**Amendment 1356**  
**Heide Rühle**

**Proposal for a directive**  
**Article 72 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

However, the first subparagraph shall not apply in the event of universal or partial succession into the position of the initial contractor, following corporate restructuring operations or insolvency, of another economic operator that fulfils the

*Amendment*

However, the first subparagraph shall not apply in the event of universal or partial succession into the position of the initial contractor, following corporate restructuring operations or insolvency, of another economic operator that fulfils the

criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive.

criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive ***or in case of the take-over of the main contractors' signatory status by the contracting authority accordingly to the Member State provisions in line with Article 71.***

Or. en

#### *Justification*

*Paragraph 4 and 6 are not coherent in order not to create legal uncertainties. We should stick to the wording of 2004/18/EC which is similar to Paragraph 6 and delete 72 (4).*

#### **Amendment 1357 Philippe Juvin**

#### **Proposal for a directive Article 72 – paragraph 3 – subparagraph 2**

##### *Text proposed by the Commission*

***However, the first subparagraph*** shall not apply in the event of universal or partial succession into the position of the initial contractor, following corporate restructuring operations ***or*** insolvency, ***of*** another economic operator that fulfils the criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive.

##### *Amendment*

***Paragraph 2(a a)*** shall not apply in the event of universal or partial succession into the position of the initial contractor, following corporate restructuring operations, ***transfer of capital or assets between undertakings or the taking-on of a contractual partner after his*** insolvency, ***by*** another economic operator that fulfils the criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive.

Or. fr

#### **Amendment 1358 Pablo Arias Echeverría**

**Proposal for a directive**  
**Article 72 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

However, the first subparagraph shall not apply in the event of universal or partial succession into the position of the initial contractor, following corporate restructuring operations or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive.

*Amendment*

However, the first subparagraph shall not apply in the event of universal or partial succession into the position of the initial contractor, following corporate restructuring operations, ***as a result of a contract clause***, or insolvency of another economic operator that fulfils the criteria for qualitative selection initially established provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Directive.

Or. es

**Amendment 1359**  
**Anja Weisgerber, Sabine Verheyen, Birgit Collin-Langen, Hans-Peter Mayer**

**Proposal for a directive**  
**Article 72 – paragraph 3 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***Neither shall the first subparagraph apply in the event of a change of contracting authority before the end of the contract.***

Or. de

*Justification*

*There may be a need, in the case of a long-term contract, for the contracting authority – with the agreement of the contractor – to transfer the contract to, for example, another body or a subsidiary, which would become the new contracting authority. This should not constitute a substantial modification to the provisions of the contract.*

**Amendment 1360**  
**Heide Rühle**

**Proposal for a directive**  
**Article 72 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed the thresholds set out in Article 4 and where it is below 5 % of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.**

**deleted**

Or. en

*Justification*

*Paragraph 4 and 6 are not coherent in order not to create legal uncertainties we should stick to the wording of 2004/18/EC which is similar to Paragraph 6 and delete 72 (4).*

**Amendment 1361**  
**Anja Weisgerber, Sabine Verheyen, Birgit Collin-Langen**

**Proposal for a directive**  
**Article 72 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed the thresholds set out in Article 4 and where it is below 5 % of the price of

4. Where the value of a modification can be expressed in monetary terms, the modification shall not ***in every case*** be considered to be substantial within the meaning of paragraph 1, where its value does not exceed the thresholds set out in Article 4 and where it is below **10** % of the

the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

Or. de

#### *Justification*

*A 5 % modification is too little, as it would mean that almost every small modification would classify as substantial. It would cause a disproportionate amount of bureaucracy, particularly with public works projects. A value of 10 % would seem more realistic in practice.*

#### **Amendment 1362** **Frank Engel, Constance Le Grip**

#### **Proposal for a directive** **Article 72 – paragraph 4**

##### *Text proposed by the Commission*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed the thresholds set out in Article 4 and where it is below 5 % of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

##### *Amendment*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed the thresholds set out in Article 4 and where it is below 15 % of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

Or. fr

#### **Amendment 1363** **Marc Tarabella**



**Proposal for a directive**  
**Article 72 – paragraph 4**

*Text proposed by the Commission*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed the thresholds set out in Article 4 **and** where it is below **5 %** of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

*Amendment*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed the thresholds set out in Article 4 **or** where it is below **10 %** of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

Or. fr

**Amendment 1364**  
**Malcolm Harbour, Edvard Kožušník, Adam Bielan**

**Proposal for a directive**  
**Article 72 – paragraph 4**

*Text proposed by the Commission*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, **where its value does not exceed the thresholds set out in Article 4** **and** where it is below **5 %** of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

*Amendment*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1 where it is below **20 %** of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

**Amendment 1365**  
**Philippe Juvin**

**Proposal for a directive**  
**Article 72 – paragraph 4**

*Text proposed by the Commission*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed the thresholds set out in Article 4 and where it is below 5 % of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

*Amendment*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed the thresholds set out in Article 4 and where it is below 5 % of the **updated** price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

Or. fr

*Justification*

*This takes into account the updated price of the original contract, which seems a more correct point of reference.*

**Amendment 1366**  
**Pablo Arias Echeverría**

**Proposal for a directive**  
**Article 72 – paragraph 4**

*Text proposed by the Commission*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of

*Amendment*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of

paragraph 1, where its value *does not exceed the thresholds set out in Article 4 and where it* is below 5 % of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

paragraph 1, where its value is below **10 %** of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

Or. es

**Amendment 1367**  
**Lara Comi**

**Proposal for a directive**  
**Article 72 – paragraph 4**

*Text proposed by the Commission*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed *the thresholds set out in Article 4 and where it is below 5%* of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

*Amendment*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed **20%** of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

Or. it

**Amendment 1368**  
**Raffaele Baldassarre**

**Proposal for a directive**  
**Article 72 – paragraph 4**

*Text proposed by the Commission*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed **the thresholds set out in Article 4 and where it is below 5%** of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

*Amendment*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed **10%** of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

Or. it

**Amendment 1369**  
**Matteo Salvini, Francesco Enrico Speroni**

**Proposal for a directive**  
**Article 72 – paragraph 4**

*Text proposed by the Commission*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed the thresholds set out in Article 4 and where it is below **5 %** of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

*Amendment*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed the thresholds set out in Article 4 and where it is below **15 %** of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

Or. en

### *Justification*

*In 2000, the ECJ acknowledged that an increase of 10% did not require a new procurement procedure (5/10/2000, case C-337/98, Commission of the European Communities v French Republic). Setting the threshold at 5% would prevent any modification of contracts during their term. It would lead to problematic consequences in executing contracts. A 15% threshold takes up the solutions developed by national and European case law and aims at avoiding misuse in the application of the procurement rules.*

#### **Amendment 1370** **Jürgen Creutzmann**

#### **Proposal for a directive** **Article 72 – paragraph 4**

##### *Text proposed by the Commission*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed the thresholds set out in Article 4 and where it is below **5** % of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

##### *Amendment*

4. Where the value of a modification can be expressed in monetary terms, the modification shall not be considered to be substantial within the meaning of paragraph 1, where its value does not exceed the thresholds set out in Article 4 and where it is below **15** % of the price of the initial contract, provided that the modification does not alter the overall nature of the contract. Where several successive modifications are made, the value shall be assessed on the basis of the cumulative value of the successive modifications.

Or. en

### *Justification*

*The threshold should be amended to 15 % which is in line with today's case law in order to give the margins of manoeuvre to the contracting authority and the contractor allowing them to respond to changing circumstances.*

#### **Amendment 1371** **Marc Tarabella**

**Proposal for a directive**  
**Article 72 – paragraph 5**

*Text proposed by the Commission*

5. Contract modifications shall not be considered substantial within the meaning of paragraph 1 where they have been provided for in the procurement documents in clear, precise and unequivocal review clauses or options. Such clauses shall state the scope and nature of possible modifications or options as well as the conditions under which they may be used. They shall not provide for modifications or options that would alter the overall nature of the contract.

*Amendment*

5. Contract modifications shall not be considered substantial within the meaning of paragraph 1 where they have been provided for in the procurement documents in clear, precise and unequivocal review clauses or options ***or in the form of a price revision clause or clauses on the procedures for setting prices***. Such clauses shall state the scope and nature of possible modifications or options as well as the conditions under which they may be used. They shall not provide for modifications or options that would alter the overall nature of the contract.

Or. fr

**Amendment 1372**  
**Pablo Arias Echeverría**

**Proposal for a directive**  
**Article 72 – paragraph 5**

*Text proposed by the Commission*

5. Contract modifications shall not be considered substantial within the meaning of paragraph 1 where they have been provided for in the procurement documents in clear, precise and unequivocal review clauses or options. Such clauses shall state the scope and nature of possible modifications or options as well as the conditions under which they may be used. They shall not provide for modifications or options that would alter the overall nature of the contract.

*Amendment*

5. Contract modifications shall not be considered substantial within the meaning of paragraph 1 where they have been provided for in the procurement documents in clear, precise and unequivocal review clauses or options, ***or where they are a result of errors or omissions in the procurement documents provided by the contracting authorities or entities***. Such clauses shall state the scope and nature of possible modifications or options as well as the conditions under which they may be used. They shall not provide for modifications or options that would alter the overall nature of the contract.

**Amendment 1373**  
**Philippe Juvin**

**Proposal for a directive**  
**Article 72 – paragraph 6 – subparagraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

(c) any increase in price is not higher than 50 % of the value of the original contract.

(c) any increase in price is not higher than 50 % of the **updated** value of the original contract.

Or. fr

*Justification*

*This takes into account the updated price of the original contract, which seems a more correct point of reference.*

**Amendment 1374**  
**Heide Rühle**

**Proposal for a directive**  
**Article 72 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

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

7. Contracting authorities shall not have recourse to modifications of the contract where the modification would aim at compensating risks of price increases that have been hedged by the contractor.

***(a) where the modification would aim at remedying deficiencies in the performance of the contractor or the consequences, which can be remedied through the enforcement of contractual obligations;***

***(b) where the modification would aim at compensating risks of price increases that***

have been hedged by the contractor.

Or. en

*Justification*

*Concerning the deletion of point a): Problematic - no contracting authority can easily dispense with claims arising from deficiencies in the performance of the contractor in order to avoid a new procurement procedure.*

**Amendment 1375**

**Philippe Juvin**

**Proposal for a directive**

**Article 72 – paragraph 7 – introductory part**

*Text proposed by the Commission*

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

*Amendment*

7. Contracting authorities ***may not invoke the provisions of this article concerning*** modifications of the contract in the following cases:

Or. fr

*Justification*

*Clarification of the formulation in the proposal for a directive, which is ambiguous.*

**Amendment 1376**

**Andreas Schwab**

**Proposal for a directive**

**Article 72 – paragraph 7 – point a**

*Text proposed by the Commission*

***(a) where the modification would aim at remedying deficiencies in the performance of the contractor or the consequences, which can be remedied through the enforcement of contractual***

*Amendment*

***deleted***



*obligations;*

Or. de

*Justification*

*In the case of complex projects, pragmatic modifications to the contract would impede its implementation. The contracting authority would be forced to enforce the contractual obligations of the contractor by means of legal action; these may in individual cases be impractical or even technically impossible and are generally characterised as failings only by the contracting authority (and disputed by the contractor). This would lead to legal uncertainty and delays in contract execution.*

**Amendment 1377**

**Heide Rühle**

**Proposal for a directive**

**Article 73 – paragraph 1 – introductory part**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 1378**

**Sari Essayah**

**Proposal for a directive**

**Article 73 – paragraph 1 – introductory part**

*Text proposed by the Commission*

Member States shall ensure that contracting authorities **have** the possibility, under the conditions determined by the applicable national contract law, to

*Amendment*

Member States shall ensure that ***the national contract law is followed when terminating a public procurement contract. Member States may, when***

terminate a public contract during its term, **where** one of the following conditions is fulfilled:

**giving** contracting authorities the possibility under the conditions determined by the applicable national contract law to terminate a public contract during its term, **require that** one of the following conditions is fulfilled:

Or. en

**Amendment 1379**  
**Philippe Juvin**

**Proposal for a directive**  
**Article 73 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) the exceptions provided for in Article 11 cease to apply following a private participation in the legal person awarded the contract pursuant to **Article 11(4)**;

*Amendment*

(a) the exceptions provided for in Article 11 cease to apply following a private participation in the legal person awarded the contract pursuant to **Article 11**;

Or. fr

*Justification*

*It is not justified to restrict this provision concerning the termination of public contracts to agreements on horizontal cooperation (Article 11(4)). It should apply to all the cases referred to in Article 11 (in-house, joint in-house).*

**Amendment 1380**  
**Pablo Arias Echeverría**

**Proposal for a directive**  
**Article 73 – paragraph 1 – point b**

*Text proposed by the Commission*

**(b) a modification of the contract constitutes a new award within the meaning of Article 72;**

*Amendment*

**deleted**

Or. es

**Amendment 1381**  
**Heide Rühle**

**Proposal for a directive**  
**Article 73 – paragraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

***(c) the Court of Justice of the European Union finds, in a procedure pursuant to Article 258 of the Treaty, that a Member State has failed to fulfil its obligations under the Treaties due to the fact that a contracting authority belonging to that Member State has awarded the contract in question without complying with its obligations under the Treaties and this Directive.***

***deleted***

Or. en

**Amendment 1382**  
**Pablo Arias Echeverría**

**Proposal for a directive**  
**Article 73 – paragraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

***(c) the Court of Justice of the European Union finds, in a procedure pursuant to Article 258 of the Treaty, that a Member State has failed to fulfil its obligations under the Treaties due to the fact that a contracting authority belonging to that Member State has awarded the contract in question without complying with its obligations under the Treaties and this Directive.***

***deleted***

Or. es

**Amendment 1383**

**Andreas Schwab, Frank Engel, Jürgen Creutzmann**

**Proposal for a directive**

**Article 73 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) the Court of Justice of the European Union finds, in a procedure pursuant to Article 258 of the Treaty, that a Member State has failed to fulfil its obligations under the Treaties due to the fact that a contracting authority belonging to that Member State has awarded the contract in question without complying with its obligations under the Treaties and this Directive.

*Amendment*

(c) the Court of Justice of the European Union finds, in a procedure pursuant to Article 258 of the Treaty, that a Member State has failed to fulfil its obligations under the Treaties due to the fact that a contracting authority belonging to that Member State has awarded the contract in question without complying with its obligations under the Treaties and this Directive. ***A contractor which was unaware of the contracting authority having broken the law may claim compensation for damages sustained as a result of termination.***

Or. de

*Justification*

*A contractor which was unaware of a contracting authority having broken the law should be able to claim compensation for expenditure incurred on the assumption that the contract would remain in force.*

**Amendment 1384**

**Heide Rühle**

**Proposal for a directive**

**Article 73 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Where successive modifications which are beyond the control of the tenderer render the public contract impossible to perform, except for the tying-up of disproportionate investments, Member States shall ensure that tenderers can,***

*under the conditions determined by the applicable national contract law:*

*(a) ask for the compensation of any additional service necessary for the performance of the contract;*

*(b) claim for the termination of the contract.*

Or. en

**Amendment 1385**

**Sirpa Pietikäinen**

**Proposal for a directive**

**Article 73 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*1a. In the absence of fault of the contractual partner, Member States shall ensure a right to compensation, when a contracting authority decides or is required to terminate a public contract during its term.*

Or. en

**Amendment 1386**

**Evelyne Gebhardt, Birgit Sippel**

**Proposal for a directive**

**Article 73 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 73a*

*Member States have wide discretion to organise the choice of the service providers in the way they consider most appropriate; they are free to provide social services and other specific services themselves or to organise their provision in any other way that does not entail the*

*conclusion of public contracts, provided such a system ensures compliance with the basic principles of transparency and non-discrimination.*

Or. de

**Amendment 1387**  
**Sirpa Pietikäinen**

**Proposal for a directive**  
**Article 73 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 73a*

*In the case of violation of the content of the contract, and economic operator having not been able to fulfil the obligations as defined in the contract, public authorities are obliged to define and set sanctions in relation to the market value of the contract to disincentive effectively the contract impeachments.*

Or. en

**Amendment 1388**  
**Sergio Gaetano Cofferati**

**Proposal for a directive**  
**Article 73 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 73a*

*Monitoring of contract performance and register of non-compliance*

*1. Contracting authorities may monitor the performance of the contractor awarded the contract and, at appropriate stages during the contract term, carry out an assessment of performance using a*

*method that is based on objective and measurable criteria and applied in a systematic, consistent and transparent way. Any performance assessment shall be communicated to the contractor in question, which shall be given the opportunity to object to the findings within a reasonable timeframe and to obtain judicial protection.*

*2. Where an assessment is carried out in accordance with paragraph 1 and an economic operator or a subcontractor appointed for that contract by the economic operator has been found to have shown significant or persistent deficiencies in the performance of any substantive requirement under the contract and the economic operator has not objected to the findings or the economic operator's objections have not been validated through seeking judicial protection, the contracting authority shall communicate the fact and the necessary detail of the such an assessment to the supervisory and administrative authorities as referred to in Articles 84 and 88.*

*3. In that case the economic operator shall be inscribed in an official register of non-compliance, managed by the supervisory and administrative authorities as referred to in Articles 84 and 88.*

*4. Member States shall ensure that contracting authorities can easily consult the official registers of non-compliance and obtain information and assistance with regard to the application of this Article through the assistance provided by supervisory and administrative authorities as mentioned in Articles 84, 87 and 88.*

Or. en

**Amendment 1389**  
**Christel Schaldemose**

**Proposal for a directive**  
**Article 74**

*Text proposed by the Commission*

*Amendment*

*Article 74*

*deleted*

*Award of contracts for social and other specific services*

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

Or. da

**Amendment 1390**  
**Frank Engel, Andreas Schwab**

**Proposal for a directive**  
**Article 74**

*Text proposed by the Commission*

*Amendment*

*Article 74*

*deleted*

*Award of contracts for social and other specific services*

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

Or. en

*Justification*

*linked to the re-introduction of the distinction between A and B services*



**Amendment 1391**  
**Rosa Estaràs Ferragut**

**Proposal for a directive**  
**Article 74 – title**

*Text proposed by the Commission*

*Award* of contracts for social and other specific services

*Amendment*

***Participation in and award*** of contracts for social and other specific services

Or. es

**Amendment 1392**  
**Malcolm Harbour, Edvard Kožušník**

**Proposal for a directive**  
**Article 74**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

*Justification*

*To be read in conjunction with AMs proposing a compromise on Social and other Services, to avoid reinstating Part B services and deleting this section.*

**Amendment 1393**  
**Robert Rochefort**

**Proposal for a directive**  
**Article 74**

*Text proposed by the Commission*

Contracts for social and other specific

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*Amendment*

Contracts for social and other specific

PE492.869v01-00

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

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

Or. fr

**Amendment 1394**  
**Marc Tarabella**

**Proposal for a directive**  
**Article 74**

*Text proposed by the Commission*

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

*Amendment*

***Without prejudice to the freedom of Member States and/or contracting authorities to provide social services and other specific services and to organise them without recourse to a public procurement procedure***, contracts for social and other specific services listed in Annex XVI shall be awarded in accordance with this Chapter, where the value of the contracts is equal to or greater than the threshold indicated in Article 4 (d).

Or. fr

**Amendment 1395**  
**Cornelis de Jong**

**Proposal for a directive**  
**Article 74**

*Text proposed by the Commission*

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

*Amendment*

***Without prejudice to the freedom of Member States and/or public authorities to provide social services and other specific services listed in Annex XVI themselves or to organise them in a way that does not entail the conclusion of***

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

Or. en

**Amendment 1396**  
**Rosa Estaràs Ferragut**

**Proposal for a directive**  
**Article 74 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 74a**

*Member States may reserve the right to limit procurement procedures for social services to non-profit-making organisations whose main purpose is implementing programmes in the field of the social service in question, or which are specialised in protecting the rights of vulnerable groups whose protection is the subject of the procedure.*

*Non-profit-making organisations shall be defined as bodies which reinvest at least 70% of positive annual turnover in improving the activities in which they engage or the services they provide.*

Or. es

**Amendment 1397**  
**Christel Schaldemose**

**Proposal for a directive**  
**Article 75**

*Text proposed by the Commission*

*Amendment*

**Article 75**

**deleted**

**Publication of notices**

**1. Contracting authorities intending to award a public contract for the services referred to in Article 74 shall make known their intention by means of a contract notice.**

**2. Contracting authorities that have awarded a public contract for the services referred to in Article 74 shall make known the results of the procurement procedure by means of a contract award notice.**

**3.**

**The notices referred to in paragraphs 1 and 2 shall contain the information referred to in Annexes VI Part H and I, in accordance with the standard forms.**

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

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

Or. da

**Amendment 1398**

**Frank Engel, Andreas Schwab**

**Proposal for a directive**

**Article 75**

*Text proposed by the Commission*

*Amendment*

**Article 75**

**deleted**

**Publication of notices**

**1. Contracting authorities intending to**

*award a public contract for the services referred to in Article 74 shall make known their intention by means of a contract notice.*

*2. Contracting authorities that have awarded a public contract for the services referred to in Article 74 shall make known the results of the procurement procedure by means of a contract award notice.*

*3. The notices referred to in paragraphs 1 and 2 shall contain the information referred to in Annexes VI Part H and I, in accordance with the standard forms.*

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

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

Or. en

*Justification*

*linked to the re-introduction of the distinction between A and B services*

**Amendment 1399**  
**Heide Rühle**

**Proposal for a directive**  
**Article 75 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

*1. Contracting authorities intending to award a public contract for the services referred to in Article 74 shall make known their intention by means of a contract notice.*

*deleted*

Or. en

**Amendment 1400**  
**Wim van de Camp**

**Proposal for a directive**  
**Article 75 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

**1. Contracting authorities intending to award a public contract for the services referred to in Article 74 shall make known their intention by means of a contract notice.** **deleted**

Or. nl

*Justification*

*Compulsory prior notification makes current obligations more cumbersome. It causes administrative burdens, whereas transparency is achieved at present through publication requirements in connection with procurement.*

**Amendment 1401**  
**Anja Weisgerber, Sabine Verheyen, Birgit Collin-Langen**

**Proposal for a directive**  
**Article 75 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

**1. Contracting authorities intending to award a public contract for the services referred to in Article 74 shall make known their intention by means of a contract notice.** **deleted**

Or. de

*Justification*

*Social services and other special services referred to in Article 74 are purely local and cannot, in view of their nature, be offered on a cross-border basis. New provisions on ex ante notification for social and other special services give rise to increased bureaucracy which is*

*disproportionate for this category of services. Transparency can be ensured by the ex post notification currently in use.*

**Amendment 1402**

**Peter Simon**

**Proposal for a directive**

**Article 75 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

**1. Contracting authorities intending to award a public contract for the services referred to in Article 74 shall make known their intention by means of a contract notice.**

**deleted**

Or. de

**Amendment 1403**

**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**

**Article 75 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Contracting authorities intending to award a public contract for the services referred to in Article 74 shall make known their intention by means of a contract notice.

1. Contracting authorities intending to award a public contract for the services referred to in Article 74 shall make known their intention by ***any of the following*** means:

***(a) by means of a contract notice, which shall contain the information referred to in Annexes VI Part H, in accordance with the standard forms;***

***(b) by means of a prior information notice, which shall be published continuously according to Article 49 and contain the information set out in Annex VI part I. The prior information notice shall refer specifically to the services that will be the subject of the contracts to be***

***awarded. It shall indicate that the contracts will be awarded without further publication and invite interested economic operators to express their interest in writing.***

Or. en

*Justification*

*Key AM proposing a compromise on social and other services to avoid reinstating Part B Services. To be read in conjunction with the rise in threshold proposed.*

**Amendment 1404**  
**Wim van de Camp**

**Proposal for a directive**  
**Article 75 – paragraph 2**

*Text proposed by the Commission*

2. Contracting authorities that have awarded a public contract for the services referred to in Article 74 shall make known the results of the procurement procedure by means of a contract award notice.

*Amendment*

*(Does not affect English version)*

Or. nl

**Amendment 1405**  
**Malcolm Harbour, Edvard Kožušník**

**Proposal for a directive**  
**Article 75 – paragraph 2**

*Text proposed by the Commission*

2. Contracting authorities that have awarded a public contract for the services referred to in Article 74 shall make known the results of the procurement procedure by means of a contract award notice.

*Amendment*

2. Contracting authorities that have awarded a public contract for the services referred to in Article 74 shall make known the results of the procurement procedure by means of a contract award notice, ***which shall contain the information referred to***



*in Annexes VI Part J, in accordance with the standard forms.*

Or. en

*Justification*

*Part of the proposed compromise on social services to avoid having to re-instate Part B services.*

**Amendment 1406**  
**Heide Rühle**

**Proposal for a directive**  
**Article 75 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

3. The notices referred to in *paragraphs 1 and 2* shall contain the information referred to in Annexes VI Part *H and I*, *in accordance with the standard forms.*

*Amendment*

3. The notices referred to in *paragraph 2* shall contain the information referred to in Annexes VI Part I.

Or. en

**Amendment 1407**  
**Wim van de Camp**

**Proposal for a directive**  
**Article 75 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

3. The notices referred to in *paragraphs 1 and 2* shall contain the information referred to in Annexes VI Part H and I, in accordance with the standard forms.

*Amendment*

3. The notices referred to in *paragraph 1* shall contain the information referred to in Annexes VI Part I, in accordance with the standard forms.

Or. nl

**Amendment 1408**  
**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**  
**Article 75 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

3. The **notices** referred to in paragraphs 1 and 2 shall **contain** the **information** referred to in **Annexes VI Part H and I**, in **accordance with the standard forms**.

*Amendment*

3. The **Commission shall establish the standard forms** referred to in paragraphs 1 and 2. **Those implementing acts shall be adopted in accordance with the advisory procedure** referred to in **Article 91**.

Or. en

*Justification*

*Part of the proposed compromise on social and other services.*

**Amendment 1409**  
**Cornelis de Jong**

**Proposal for a directive**  
**Article 75 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

3. The **notices** referred to in **paragraphs 1 and 2** shall contain the information referred to in **Annexes VI Part H and I**, in accordance with the standard **forms**.

*Amendment*

3. The **notice** referred to in **paragraph 2** shall contain the information referred to in **Annex I**, in accordance with the standard **form**.

Or. en

**Amendment 1410**  
**Anja Weisgerber, Sabine Verheyen, Birgit Collin-Langen**

**Proposal for a directive**  
**Article 75 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

3. The notices referred to in **paragraphs 1**

*Amendment*

3. The notices referred to in **paragraph 2**

*and* 2 shall contain the information referred to in Annexes VI Part H and I, in accordance with the standard forms.

shall contain the information referred to in Annexes VI Part H and I, in accordance with the standard forms.

Or. de

*Justification*

*Consequential to the amendment by the same rapporteur to Article 75(1).*

**Amendment 1411**

**Peter Simon**

**Proposal for a directive**

**Article 75 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

3. The notices referred to in *paragraphs 1 and 2* shall contain the information referred to in Annexes VI Part H and I, in accordance with the standard forms.

*Amendment*

3. The notices referred to in *paragraph 2* shall contain the information referred to in Annexes VI Part H and I, in accordance with the standard forms.

Or. de

**Amendment 1412**

**Heide Rühle**

**Proposal for a directive**

**Article 75 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

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

*Amendment*

*deleted*

Or. en

**Amendment 1413**  
**Wim van de Camp**

**Proposal for a directive**  
**Article 75 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

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

Or. nl

**Amendment 1414**  
**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**  
**Article 75 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

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

Or. en

**Amendment 1415**  
**Anja Weisgerber, Sabine Verheyen, Birgit Collin-Langen**

**Proposal for a directive**  
**Article 75 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

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

91.

Or. de

*Justification*

*Social services and other special services are purely local and cannot, in view of their nature, be offered on a cross-border basis. Public authorities must comply with the basic EU principles of transparency and equal treatment when establishing such services in their national systems. New provisions on ex ante notification for social and other special services give rise to increased bureaucracy which is disproportionate for this category of services.*

**Amendment 1416**

**Peter Simon**

**Proposal for a directive**

**Article 75 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

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

*deleted*

Or. de

**Amendment 1417**

**Heide Rühle**

**Proposal for a directive**

**Article 75 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

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

4. The notices referred to in *paragraph 2* shall be published in accordance with Article 49.

Or. en

*Justification*

*A specific treatment of services is only justified insofar it applies to all services of the same character, legal services – underlying the same principles of confidentiality should not be discriminated.*

**Amendment 1418**  
**Wim van de Camp**

**Proposal for a directive**  
**Article 75 – paragraph 4**

*Text proposed by the Commission*

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

*Amendment*

4. The notices referred to in *paragraph 1* shall be published in accordance with Article 49.

Or. nl

**Amendment 1419**  
**Malcolm Harbour, Edvard Kožušník**

**Proposal for a directive**  
**Article 75 – paragraph 4**

*Text proposed by the Commission*

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

*Amendment*

4. The notices referred to in *this Article* shall be published in accordance with Article 49.

Or. en

*Justification*

*Part of the proposed compromise solution on social and other services, which avoids having to reintroduce Part B services.*

**Amendment 1420**  
**Cornelis de Jong**

**Proposal for a directive**  
**Article 75 – paragraph 4**

*Text proposed by the Commission*

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

*Amendment*

4. The **notice** referred to in **paragraph 2** shall be published in accordance with Article 49.

Or. en

**Amendment 1421**  
**Anja Weisgerber, Sabine Verheyen, Birgit Collin-Langen**

**Proposal for a directive**  
**Article 75 – paragraph 4**

*Text proposed by the Commission*

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

*Amendment*

4. The notices referred to in **paragraph 2** shall be published in accordance with Article 49.

Or. de

*Justification*

*Consequential to the amendment by the same rapporteur to Article 75(1).*

**Amendment 1422**  
**Peter Simon, Evelyne Gebhardt**

**Proposal for a directive**  
**Article 75 – paragraph 4**

*Text proposed by the Commission*

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

*Amendment*

4. The notices referred to in **paragraph 2** shall be published in accordance with Article 49.

Or. de

**Amendment 1423**  
**Christel Schaldemose**

**Proposal for a directive**  
**Article 76**

*Text proposed by the Commission*

*Amendment*

**Article 76**

***deleted***

***Principles of awarding contracts***

***1. Member States shall put in place appropriate procedures for the award of contracts subject to this Chapter, ensuring full compliance with the principles of transparency and equal treatment of economic operators and allowing contracting authorities to take into account the specificities of the services in question.***

***2. Member States shall ensure that contracting authorities may take into account the need to ensure quality, continuity, accessibility, availability and comprehensiveness of the services, the specific needs of different categories of users, the involvement and empowerment of users and innovation. Member States may also provide that the choice of the service provider shall not be made solely on the basis of the price for the provision of the service.***

Or. da

**Amendment 1424**  
**Wim van de Camp**

**Proposal for a directive**  
**Article 76**

*Text proposed by the Commission*

*Amendment*

**Article 76**

***deleted***



*Principles of awarding contracts*

*1. Member States shall put in place appropriate procedures for the award of contracts subject to this Chapter, ensuring full compliance with the principles of transparency and equal treatment of economic operators and allowing contracting authorities to take into account the specificities of the services in question.*

*2. Member States shall ensure that contracting authorities may take into account the need to ensure quality, continuity, accessibility, availability and comprehensiveness of the services, the specific needs of different categories of users, the involvement and empowerment of users and innovation. Member States may also provide that the choice of the service provider shall not be made solely on the basis of the price for the provision of the service.*

Or. nl

*Justification*

*In many instances, social services are provided locally and with no cross-border effects. Fresh obligations at EU and national level will result in needless administrative burdens for contracting authorities and service providers.*

**Amendment 1425**

**Anja Weisgerber, Sabine Verheyen, Birgit Collin-Langen**

**Proposal for a directive**

**Article 76**

*Text proposed by the Commission*

*Amendment*

*Article 76*

*deleted*

*Principles of awarding contracts*

*1. Member States shall put in place appropriate procedures for the award of contracts subject to this Chapter, ensuring*

*full compliance with the principles of transparency and equal treatment of economic operators and allowing contracting authorities to take into account the specificities of the services in question.*

*2. Member States shall ensure that contracting authorities may take into account the need to ensure quality, continuity, accessibility, availability and comprehensiveness of the services, the specific needs of different categories of users, the involvement and empowerment of users and innovation. Member States may also provide that the choice of the service provider shall not be made solely on the basis of the price for the provision of the service.*

Or. de

*Justification*

*Social services are purely local and cannot, in view of their nature, be offered on a cross-border basis. Simplification and flexibility should be paramount, particularly in the field of social and other special services, and new bureaucratic hurdles should be avoided. Ex post notification is suitable and sufficient to ensure compliance with the principles of transparency and equal treatment.*

**Amendment 1426**  
**Frank Engel, Andreas Schwab**

**Proposal for a directive**  
**Article 76**

*Text proposed by the Commission*

*Amendment*

*Article 76*

*deleted*

*Principles of awarding contracts*

*1. Member States shall put in place appropriate procedures for the award of contracts subject to this Chapter, ensuring full compliance with the principles of transparency and equal treatment of*

*economic operators and allowing contracting authorities to take into account the specificities of the services in question.*

*2. Member States shall ensure that contracting authorities may take into account the need to ensure quality, continuity, accessibility, availability and comprehensiveness of the services, the specific needs of different categories of users, the involvement and empowerment of users and innovation. Member States may also provide that the choice of the service provider shall not be made solely on the basis of the price for the provision of the service.*

Or. en

*Justification*

*linked to the re-introduction of the distinction between A and B services*

**Amendment 1427**

**Heide Rühle**

**Proposal for a directive  
Article 76 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

*1. Member States shall put in place appropriate procedures for the award of contracts subject to this Chapter, ensuring full compliance with the principles of transparency and equal treatment of economic operators and allowing contracting authorities to take into account the specificities of the services in question.*

*deleted*

Or. en

**Amendment 1428**  
**Peter Simon**

**Proposal for a directive**  
**Article 76 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

**1. Member States shall put in place appropriate procedures for the award of contracts subject to this Chapter, ensuring full compliance with the principles of transparency and equal treatment of economic operators and allowing contracting authorities to take into account the specificities of the services in question.**

**deleted**

Or. de

**Amendment 1429**  
**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**  
**Article 76 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Member States shall put in place **appropriate procedures** for the award of contracts subject to this Chapter, **ensuring full compliance** with the principles of transparency and equal treatment of economic operators **and allowing** contracting authorities to take into account the specificities of the services in question.

1. Member States shall put in place **national rules** for the award of contracts subject to this Chapter **in order to ensure contracting authorities comply** with the principles of transparency and equal treatment of economic operators. **Member States are free to determine the procedural rules applicable as long as such rules allow** contracting authorities to take into account the specificities of the services in question.

Or. en

*Justification*

*To be read in conjunction with the other AMs proposing a compromise solution on social and*

*other services, to avoid having to reintroduce Part B services.*

**Amendment 1430**

**Małgorzata Handzlik, Róza Gräfin von Thun und Hohenstein, Rafał Trzaskowski**

**Proposal for a directive**

**Article 76 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall put in place **appropriate procedures** for the award of contracts subject to this Chapter, **ensuring full compliance with the** principles of transparency and equal treatment of economic operators **and allowing contracting authorities to** take into **account** the specificities of the services in question.

*Amendment*

1. Member States shall put in place **rules** for the award of contracts subject to this Chapter, **taking into account** principles of transparency and equal treatment of economic operators. **The rules shall** take into **consideration** the specificities of the services in question.

Or. en

*Justification*

*The wording of Article 76 of the Proposal needed clarification.*

**Amendment 1431**

**Marc Tarabella**

**Proposal for a directive**

**Article 76 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall put in place appropriate procedures for the award of contracts subject to this Chapter, ensuring full compliance with the principles of transparency and equal treatment of economic operators and allowing contracting authorities to take into account the specificities of the services in question.

*Amendment*

1. Member States shall put in place appropriate procedures for the award of contracts subject to this Chapter, ensuring full compliance with the principles of transparency and equal treatment of economic operators and allowing contracting authorities to take into account the specificities of the services in question. **Member States may also provide that contracting authorities may opt to limit**

*participation in a public procurement procedure for the provision of social and health services to non-profit-making organisations. The contract notice shall refer to this provision.*

Or. fr

**Amendment 1432**

**Heide Rühle**

**Proposal for a directive  
Article 76 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall ensure that contracting authorities may take into account the need to ensure quality, continuity, accessibility, availability and comprehensiveness of the services, the specific needs of different categories of users, the involvement and empowerment of users and innovation. ***Member States may also provide that the choice of the service provider shall not be made solely on the basis of the price for the provision of the service.***

*Amendment*

2. Member States shall ensure that contracting authorities may take into account the need to ensure quality, continuity, accessibility, availability and comprehensiveness of the services, the specific needs of different categories of users, the involvement and empowerment of users and innovation.

Or. en

**Amendment 1433**

**Sirpa Pietikäinen**

**Proposal for a directive  
Article 76 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall ensure that contracting authorities ***may*** take into account the need to ensure quality, continuity, accessibility, availability and comprehensiveness of the services, the

*Amendment*

2. Member States shall ensure that contracting authorities take into account the need to ensure ***high*** quality, continuity, accessibility, availability and comprehensiveness of the services, the

specific needs of different categories of users, the involvement and empowerment of users and innovation. Member States **may also** provide that the choice of the service provider shall not be made solely on the basis of the price for the provision of the service.

specific needs of different categories of users, the involvement and empowerment of users and innovation. Member States **shall** provide that the choice of the service provider shall not be made solely on the basis of the price for the provision of the service, **but take into account quality and sustainability criteria for social services as set out above. Contracting authorities may also refer to the criteria set out in the voluntary European Quality Framework for Social Services. Member States may also provide that contracting authorities can choose to limit the participation in a tender procedure for the provision of social and health services to non profit organisations if the specific need of each category of users so requires.**

Or. en

**Amendment 1434**  
**Evelyne Gebhardt, Birgit Sippel**

**Proposal for a directive**  
**Article 76 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall ensure that contracting authorities **may** take into account the need to ensure quality, continuity, accessibility, availability and comprehensiveness of the services, the specific needs of different categories of users, the involvement and empowerment of users and innovation. Member States **may also provide** that the choice of the service provider **shall not be** made solely on the basis of the price for the provision of the service.

*Amendment*

2. Member States shall ensure that contracting authorities take into account the need to ensure **high** quality, continuity, accessibility, **affordability**, availability and comprehensiveness of the services, the specific needs of different categories of users, **including disadvantaged and vulnerable groups**, the involvement and empowerment of users and innovation. Member States **shall ensure** that the choice of the service provider **is** not made solely on the basis of the price for the provision of the service **but takes into account quality and sustainability criteria for social services as set out above.**

Or. de

**Amendment 1435**  
**Rosa Estaràs Ferragut**

**Proposal for a directive**  
**Article 76 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. In line with the principles of comprehensive, personalised care, personal choice and continuity and quality of care, Member States may put in place arrangements to ensure the continued provision of such services to users by organisations that were providing them prior to the publication of this Directive, and for the award of contracts for such services after its publication.***

Or. es

**Amendment 1436**  
**Evelyne Gebhardt, Birgit Sippel**

**Proposal for a directive**  
**Article 76 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Member States and/or contracting authorities shall ensure that economic operators respect obligations relating to social and employment conditions, such as health and safety at workplace, social security and working conditions as set out by EU and national laws, regulations or administrative provisions, arbitration award, collective agreement and contracts, and international labour law provisions listed in Annex XI, that apply in the place where the work, service or supply is performed; these obligations shall also apply in cross-border situations, where workers from one Member State***



*provide services in another Member State.*

Or. de

**Amendment 1437**  
**Anna Hedh**

**Proposal for a directive**  
**Article 76 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Member States are free to prescribe that social and other specific services listed in Annex XVI are to be undertaken in a specific type of economic operator.***

Or. en

*Justification*

*To prevent that social services are undertaken in a type of company that only promotes profit and does not promote care for individuals Member States should be allowed to prescribe that social services are to be undertaken in a specific form of company.*

**Amendment 1438**  
**Matteo Salvini, Francesco Enrico Speroni**

**Proposal for a directive**  
**Article 76 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Member States shall ensure that contracting authorities are fully solvent in their dealings with economic operators and that those authorities provide in advance for an appropriate means of securing an operator's credit.***

Or. it

*Justification*

*The protracted insolvency of public authorities dealing with private works contractors and service providers is a situation that can no longer be tolerated. An appropriate means has to be provided in order to secure such credit as an economic operator might possess following completion of the work and hence ensure that payment is actually made.*

**Amendment 1439**  
**Evelyne Gebhardt**

**Proposal for a directive**  
**Article 76 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

***2b. Member States shall ensure that the provisions on subcontracting, as set out in Article 71, are respected.***

Or. de

**Amendment 1440**  
**Anna Hedh**

**Proposal for a directive**  
**Article 76 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

***2b. In contracts for social and other specific services listed in Annex XVI, contracting authorities may require economic operators to re-invest in the specific operation any profit gained in the same operation or only allow non-profit entities as tenderers.***

Or. en

*Justification*

*To emphasize that contracting authorities have the right to impose demands that ensure that tax-payers money for social services is used for this purpose, also when they use public procurement and not only in in-house operations.*

**Amendment 1441**  
**Evelyne Gebhardt**

**Proposal for a directive**  
**Article 76 – paragraph 2 c (new)**

*Text proposed by the Commission*

*Amendment*

**2c. Member States shall ensure the application of the exclusion grounds as set out in Article 55.**

Or. de

**Amendment 1442**  
**Evelyne Gebhardt**

**Proposal for a directive**  
**Article 76 – paragraph 2 d (new)**

*Text proposed by the Commission*

*Amendment*

**2d. When choosing the service provider, Member States may consider using reserved contracts as set out in Article 17.**

Or. de

**Amendment 1443**  
**Evelyne Gebhardt**

**Proposal for a directive**  
**Article 76 – paragraph 2 e (new)**

*Text proposed by the Commission*

*Amendment*

**2e. Contracting authorities may reserve specific contracts for non-profit organisations which specialise in providing social services, if the basic principles of transparency and equal treatment are respected.**

**Amendment 1444**  
**Cornelis de Jong, Mikael Gustafsson**

**Proposal for a directive**  
**Article 79 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*Where the release of information on the outcome of the contest would impede law enforcement, be contrary to the public interest, **or prejudice the legitimate commercial interests of a particular enterprise, whether public or private, or might prejudice fair competition between service providers, such information may be withheld from publication.***

*Amendment*

*The information on the outcome of the contest **will be released, unless the release** would impede law enforcement **or** be contrary to the public interest.*

**Amendment 1445**  
**Andreas Schwab**

**Proposal for a directive**  
**Title 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**TITLE IIIa**  
**RULES ON PUBLIC WORKS**  
**CONCESSIONS**

*[Further specific provisions will be added by means of compromise amendments at a later date]*

*Justification*

*Further specific provisions to be added at a later stage by means of compromise amendments*

**Amendment 1446**  
**Andreas Schwab**

**Proposal for a directive**  
**Title 3 b (new)**

*Text proposed by the Commission*

*Amendment*

***TITLE IIIb***  
***RULES ON PUBLIC SERVICES***  
***CONCESSIONS***  
***Article (...)***  
***Applicable rules***  
***The rules of this Directive on public***  
***works concessions also apply to services***  
***concessions.***

Or. de

*Justification*

*At this point there needs to be a discussion on whether the rules on works and services concessions should be integrated into the Directive on the coordination of procedures for the award of public contracts in order to ensure uniformity of the legal order. A similar application of the provisions on works concessions will not always be possible; this remains to be discussed.*

*Further specific provisions to be added at a later stage by means of compromise amendments.*

**Amendment 1447**  
**Malcolm Harbour, Edvard Kožušník**

**Proposal for a directive**  
**Title 4 – title**

*Text proposed by the Commission*

*Amendment*

***GOVERNANCE***

***ENFORCEMENT, REPORTING AND***  
***ADMINISTRATIVE COOPERATION***

Or. en

*Justification*

*Alternative proposals on governance.*

**Amendment 1448**  
**Evelyne Gebhardt, Birgit Sippel**

**Proposal for a directive**  
**Article 83 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*Where an economic operator or a subcontractor appointed for a contract has been found to have shown significant or persistent deficiencies in the performance of any substantive requirement under the contract, the contracting authority shall communicate the facts and the necessary details to the supervisory and to the administrative authorities mentioned in Articles 84 and 88.*

Or. de

**Amendment 1449**  
**Evelyne Gebhardt**

**Proposal for a directive**  
**Article 83 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

*Member States shall ensure that contracting authorities can easily obtain information and assistance with regard to the application of this Article through the supervisory and administrative authorities provided for in Articles 84 and 88.*

Or. de

**Amendment 1450**  
**Wim van de Camp**

**Proposal for a directive**  
**Article 83 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

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

***deleted***

Or. nl

*Justification*

*Including a provision in a directive that the directive must be correctly applied is superfluous.*

**Amendment 1451**  
**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**  
**Article 83 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

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

***1. In order to effectively ensure correct and efficient implementation, Member States shall make sure that at least the tasks set out in this Article are performed by one or more authorities or structures. They shall indicate to the Commission all authorities or structures competent for these tasks.***

Or. en

*Justification*

*Alternative proposals on governance.*

**Amendment 1452**  
**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**  
**Article 83 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall ensure that the application of public procurement rules is monitored including the implementation of projects co-financed by the Union with a view to detecting threats to the financial interests of the Union. This monitoring shall be used to prevent, detect and adequately report possible instances of procurement fraud, corruption, conflict of interest and other serious irregularities.***

***Where monitoring authorities or structures identify specific violations or systemic problems, they shall be empowered to refer those problems to national auditing authorities, courts or tribunals or other appropriate authorities or structures, such as the ombudsman, national Parliaments or committees thereof.***

Or. en

*Justification*

*Alternative proposals on governance.*

**Amendment 1453**  
**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**  
**Article 83 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1b. The results of the monitoring activities***



*pursuant to paragraph 2 shall be made available to the public through appropriate means of information. In particular, Member States shall publish, at least biennially, an overview of the most frequent sources of wrong application or of legal uncertainty, including possible structural or recurring problems in the application of the rules, hereunder possible cases of fraud and other illegal behaviours.*

*Member States shall transmit to the Commission on a biennial basis, a general overview of their national sustainable procurement policies, describing the relevant national action plans and initiatives and, where known, their practical implementation. They shall also indicate the success rate of SMEs in public procurement; where it is lower than 50 % in terms of values of contracts awarded to SMEs, Member States shall indicate whether any initiatives are in place to increase this success rate.*

*On the basis of the data received, the Commission shall regularly issue a report on the implementation and best practices of such policies in the Internal Market.*

Or. en

*Justification*

*Alternative proposals on governance.*

**Amendment 1454**  
**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**  
**Article 83 – paragraph 1 c (new)**

*Text proposed by the Commission*

*Amendment*

***1c. Any person or body which does not***

*have access to review procedures pursuant to Council Directive 89/665/EEC shall be given the possibility to indicate possible violations of this Directive to a competent authority or structure which shall duly consider any sufficiently substantiated complaint and take appropriate measures subject to powers and competences provided for in national law.*

Or. en

*Justification*

*Alternative proposals on governance.*

**Amendment 1455**  
**Malcolm Harbour, Edvard Kožušník**

**Proposal for a directive**  
**Article 83 – paragraph 1 d (new)**

*Text proposed by the Commission*

*Amendment*

*1d. Member States shall ensure that guidance on the interpretation and application of the Union public procurement law is available free of charge to assist contracting authorities and economic operators in correctly applying the Union public procurement rules.*

Or. en

*Justification*

*Alternative proposals on governance.*

**Amendment 1456**  
**Malcolm Harbour, Edvard Kožušník**

**Proposal for a directive**  
**Article 83 – paragraph 1 e (new)**

*Text proposed by the Commission*

*Amendment*

***1e. Member States shall, without prejudice to the general procedures and working methods established by the Commission for its communications and contacts with Member States, designate a contact point for cooperation with the Commission as regards the application of Union law and the implementation of the budget from the Union on the basis of Article 17 of the Treaty on the European Union and Article 317 of the Treaty on the Functioning of the European Union.***

Or. en

*Justification*

*Alternative proposals on governance.*

**Amendment 1457**  
**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**  
**Article 83 – paragraph 1 f (new)**

*Text proposed by the Commission*

*Amendment*

***1f. Contracting authorities shall, at least for the duration of the contract, keep copies of all concluded contracts with a value equal to or greater than***

***(a) 1 000 000 EUR in the case of public supply contracts or public service contracts;***

***(b) 10 000 000 EUR in the case of public works contracts.***

***They shall grant access to these contracts in accordance with any applicable rules on access to documents and data***

*protection.*

Or. en

*Justification*

*Alternative proposals on governance.*

**Amendment 1458**  
**Cornelis de Jong, Mikael Gustafsson**

**Proposal for a directive**  
**Article 83 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 83a*

*Register of non-compliance*

*1. If an economic operator violates the conditions set out in the contract, in particular regarding social and employment protection and working conditions and subcontracting, it shall be inscribed in a register of non-compliance of public procurement rules.*

*2. The register of non-compliance shall be processed and updated regularly by the supervisory and administrative authorities mentioned in Article 84 and 88. Contracting authorities shall have the right and the obligation to consult the register before awarding a public contract.*

Or. en

**Amendment 1459**  
**Evelyne Gebhardt, Birgit Sippel**

**Proposal for a directive**  
**Article 83 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 83a***

***Register of non-compliance***

***If an economic operator violates the conditions set out in the contract, in particular regarding social and employment protection, working conditions and subcontracting, he shall be inscribed in a register of non-compliance. Appearing in a register of non-compliance shall be an exclusion ground.***

Or. de

**Amendment 1460**

**Heide Rühle**

**Proposal for a directive**

**Article 84**

*Text proposed by the Commission*

*Amendment*

***Article 84***

***deleted***

***Public oversight***

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

***All contracting authorities shall be subject to such oversight.***

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

*application of rules laid down in this Directive shall be published.*

*The annual report shall include the following:*

*(a) an indication of the success rate of small and medium-sized enterprises (SMEs) in public procurement; where the percentage is lower than 50 % in terms of values of contracts awarded to SMEs, the report shall provide an analysis of the reasons therefore;*

*(b) a global overview of the implementation of sustainable procurement policies, including on procedures taking into account considerations linked to the protection of the environment, social inclusion including accessibility for persons with disabilities, or fostering innovation;*

*(c) information on the monitoring and follow-up of breaches to procurement rules affecting the budget of the Union in accordance with paragraphs 3 to 5 of the present article;*

*(d) centralized data about reported cases of fraud, corruption, conflict of interests and other serious irregularities in the field of public procurement, including those affecting projects cofinanced by the budget of the Union.*

*3. The oversight body shall be responsible for the following tasks:*

*(a) monitoring the application of public procurement rules and the related practice by contracting authorities and in particular by central purchasing bodies;*

*(b) providing legal advice to contracting authorities on the interpretation of public procurement rules and principles and on the application of public procurement rules in specific cases;*

*(c) issuing own-initiative opinions and guidance on questions of general interest pertaining to the interpretation and*

*application of public procurement rules, on recurring questions and on systemic difficulties related to the application of public procurement rules, in the light of the provisions of this Directive and of the relevant case-law of the Court of Justice of the European Union;*

*(d) establishing and applying comprehensive, actionable 'red flag' indicator systems to prevent, detect and adequately report instances of procurement fraud, corruption, conflict of interest and other serious irregularities;*

*(e) drawing the attention of the national competent institutions, including auditing authorities, to specific violations detected and to systemic problems;*

*(f) examining complaints from citizens and businesses on the application of public procurement rules in specific cases and transmitting the analysis to the competent contracting authorities, which shall have the obligation to take it into account in their decisions or, where the analysis is not followed, to explain the reasons for disregarding it;*

*(g) monitoring the decisions taken by national courts and authorities following a ruling given by the Court of Justice of the European Union on the basis of Article 267 of the Treaty or findings of the European Court of Auditors establishing violations of Union public procurement rules related to projects cofinanced by the Union; the oversight body shall report to the European Anti-Fraud Office any infringement to Union procurement procedures where these were related to contracts directly or indirectly funded by the European Union.*

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

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

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

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

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



*be obliged to follow its instructions.*

*5. The investigation and enforcement activities carried out by the oversight body to ensure that contracting authorities' decisions comply with this Directive and the principles of the Treaty shall not replace or prejudice the institutional role of the Commission as guardian of the Treaty. When the Commission decides to refer the treatment of an individual case pursuant to paragraph 4, it shall also retain the right to intervene in accordance with the powers conferred to it by the Treaty.*

*6. Contracting authorities shall transmit to the national oversight body the full text of all concluded contracts with a value equal to or greater than*

*(a) 1 000 000 EUR in the case of public supply contracts or public service contracts;*

*(b) 10 000 000 EUR in the case of public works contracts.*

*7. Without prejudice to the national law concerning access to information, and in accordance with national and EU legislation on data protection, the oversight body shall, upon written request, give unrestricted and full direct access, free of charge, to the concluded contracts referred to in paragraph 6. Access to certain parts of the contracts may be refused where their disclosure would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.*

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

*The applicants filing a request for access to a contract shall not need to show any*

*direct or indirect interest related to that particular contract. The recipient of information should be allowed to make it public.*

*8. A summary of all the activities carried out by the oversight body in accordance with paragraphs 1 to 7 shall be included in the annual report referred to in paragraph 2.*

Or. en

*Justification*

*These articles cause unnecessary administrative burdens. It is up to the Member States to organise their interior administration. Member States can decide to create an over-sight body (article 84) without European regulation. Article 84 is contrary to the principle of subsidiarity.*

**Amendment 1461**

**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**

**Article 84**

*Text proposed by the Commission*

*Amendment*

*Article 84*

*deleted*

*Public oversight*

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

*All contracting authorities shall be subject to such oversight.*

*2. The competent authorities involved in the implementation activities shall be organised in such a manner that conflicts of interests are avoided. The system of public oversight shall be transparent. For*

*this purpose, all guidance and opinion documents and an annual report illustrating the implementation and application of rules laid down in this Directive shall be published.*

*The annual report shall include the following:*

*(a) an indication of the success rate of small and medium-sized enterprises (SMEs) in public procurement; where the percentage is lower than 50 % in terms of values of contracts awarded to SMEs, the report shall provide an analysis of the reasons therefore;*

*(b) a global overview of the implementation of sustainable procurement policies, including on procedures taking into account considerations linked to the protection of the environment, social inclusion including accessibility for persons with disabilities, or fostering innovation;*

*(c) information on the monitoring and follow-up of breaches to procurement rules affecting the budget of the Union in accordance with paragraphs 3 to 5 of the present article;*

*(d) centralized data about reported cases of fraud, corruption, conflict of interests and other serious irregularities in the field of public procurement, including those affecting projects cofinanced by the budget of the Union.*

*3. The oversight body shall be responsible for the following tasks:*

*(a) monitoring the application of public procurement rules and the related practice by contracting authorities and in particular by central purchasing bodies;*

*(b) providing legal advice to contracting authorities on the interpretation of public procurement rules and principles and on the application of public procurement rules in specific cases;*

*(c) issuing own-initiative opinions and guidance on questions of general interest pertaining to the interpretation and application of public procurement rules, on recurring questions and on systemic difficulties related to the application of public procurement rules, in the light of the provisions of this Directive and of the relevant case-law of the Court of Justice of the European Union;*

*(d) establishing and applying comprehensive, actionable 'red flag' indicator systems to prevent, detect and adequately report instances of procurement fraud, corruption, conflict of interest and other serious irregularities;*

*(e) drawing the attention of the national competent institutions, including auditing authorities, to specific violations detected and to systemic problems;*

*(f) examining complaints from citizens and businesses on the application of public procurement rules in specific cases and transmitting the analysis to the competent contracting authorities, which shall have the obligation to take it into account in their decisions or, where the analysis is not followed, to explain the reasons for disregarding it;*

*(g) monitoring the decisions taken by national courts and authorities following a ruling given by the Court of Justice of the European Union on the basis of Article 267 of the Treaty or findings of the European Court of Auditors establishing violations of Union public procurement rules related to projects cofinanced by the Union; the oversight body shall report to the European Anti-Fraud Office any infringement to Union procurement procedures where these were related to contracts directly or indirectly funded by the European Union.*

*The tasks referred to in point (e) shall be without prejudice to the exercise of rights of appeal under national law or under the*

*system established on the basis of Directive 89/665/EEC.*

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

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

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

*The Commission may require the oversight body to analyse alleged breaches to Union public procurement rules affecting projects co-financed by the budget of the Union. The Commission may entrust the oversight body to follow-up certain cases and to ensure that the appropriate consequences of breaches to*

*Union public procurement rules affecting projects co-financed are taken by the competent national authorities which will be obliged to follow its instructions.*

*5. The investigation and enforcement activities carried out by the oversight body to ensure that contracting authorities' decisions comply with this Directive and the principles of the Treaty shall not replace or prejudge the institutional role of the Commission as guardian of the Treaty. When the Commission decides to refer the treatment of an individual case pursuant to paragraph 4, it shall also retain the right to intervene in accordance with the powers conferred to it by the Treaty.*

*6. Contracting authorities shall transmit to the national oversight body the full text of all concluded contracts with a value equal to or greater than*

*(a) 1 000 000 EUR in the case of public supply contracts or public service contracts;*

*(b) 10 000 000 EUR in the case of public works contracts.*

*7. Without prejudice to the national law concerning access to information, and in accordance with national and EU legislation on data protection, the oversight body shall, upon written request, give unrestricted and full direct access, free of charge, to the concluded contracts referred to in paragraph 6. Access to certain parts of the contracts may be refused where their disclosure would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.*

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

*the request.*

*The applicants filing a request for access to a contract shall not need to show any direct or indirect interest related to that particular contract. The recipient of information should be allowed to make it public.*

*8. A summary of all the activities carried out by the oversight body in accordance with paragraphs 1 to 7 shall be included in the annual report referred to in paragraph 2.*

Or. en

#### *Justification*

*Alternative proposals on governance. This AM deletes Article 84 on Public Oversight entirely. Mandating one single national oversight body in each Member State would breach the principle of subsidiarity and would be impossible to implement for those Member States with devolved administrations or federal structures.*

**Amendment 1462**  
**Wim van de Camp**

**Proposal for a directive**  
**Article 84**

*Text proposed by the Commission*

*Amendment*

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

*deleted*

*All contracting authorities shall be subject to such oversight.*

*2. The competent authorities involved in the implementation activities shall be organised in such a manner that conflicts of interests are avoided. The system of*

*public oversight shall be transparent. For this purpose, all guidance and opinion documents and an annual report illustrating the implementation and application of rules laid down in this Directive shall be published.*

*The annual report shall include the following:*

*(a) an indication of the success rate of small and medium-sized enterprises (SMEs) in public procurement; where the percentage is lower than 50 % in terms of values of contracts awarded to SMEs, the report shall provide an analysis of the reasons therefore;*

*(b) a global overview of the implementation of sustainable procurement policies, including on procedures taking into account considerations linked to the protection of the environment, social inclusion including accessibility for persons with disabilities, or fostering innovation;*

*(c) information on the monitoring and follow-up of breaches to procurement rules affecting the budget of the Union in accordance with paragraphs 3 to 5 of the present article;*

*(d) centralized data about reported cases of fraud, corruption, conflict of interests and other serious irregularities in the field of public procurement, including those affecting projects cofinanced by the budget of the Union.*

*3. The oversight body shall be responsible for the following tasks:*

*(a) monitoring the application of public procurement rules and the related practice by contracting authorities and in particular by central purchasing bodies;*

*(b) providing legal advice to contracting*



*authorities on the interpretation of public procurement rules and principles and on the application of public procurement rules in specific cases;*

*(c) issuing own-initiative opinions and guidance on questions of general interest pertaining to the interpretation and application of public procurement rules, on recurring questions and on systemic difficulties related to the application of public procurement rules, in the light of the provisions of this Directive and of the relevant case-law of the Court of Justice of the European Union;*

*(d) establishing and applying comprehensive, actionable 'red flag' indicator systems to prevent, detect and adequately report instances of procurement fraud, corruption, conflict of interest and other serious irregularities;*

*(e) drawing the attention of the national competent institutions, including auditing authorities, to specific violations detected and to systemic problems;*

*(f) examining complaints from citizens and businesses on the application of public procurement rules in specific cases and transmitting the analysis to the competent contracting authorities, which shall have the obligation to take it into account in their decisions or, where the analysis is not followed, to explain the reasons for disregarding it;*

*(g) monitoring the decisions taken by national courts and authorities following a ruling given by the Court of Justice of the European Union on the basis of Article 267 of the Treaty or findings of the European Court of Auditors establishing violations of Union public procurement rules related to projects cofinanced by the Union; the oversight body shall report to the European Anti-Fraud Office any infringement to Union procurement procedures where these were related to*

*contracts directly or indirectly funded by the European Union.*

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

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

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

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

*The Commission may require the oversight body to analyse alleged breaches to Union public procurement rules*

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

*5. The investigation and enforcement activities carried out by the oversight body to ensure that contracting authorities' decisions comply with this Directive and the principles of the Treaty shall not replace or prejudice the institutional role of the Commission as guardian of the Treaty. When the Commission decides to refer the treatment of an individual case pursuant to paragraph 4, it shall also retain the right to intervene in accordance with the powers conferred to it by the Treaty.*

*6. Contracting authorities shall transmit to the national oversight body the full text of all concluded contracts with a value equal to or greater than*

*(a) 1 000 000 EUR in the case of public supply contracts or public service contracts;*

*(b) 10 000 000 EUR in the case of public works contracts.*

*7. Without prejudice to the national law concerning access to information, and in accordance with national and EU legislation on data protection, the oversight body shall, upon written request, give unrestricted and full direct access, free of charge, to the concluded contracts referred to in paragraph 6. Access to certain parts of the contracts may be refused where their disclosure would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition*

*between them.*

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

*The applicants filing a request for access to a contract shall not need to show any direct or indirect interest related to that particular contract. The recipient of information should be allowed to make it public.*

*8. A summary of all the activities carried out by the oversight body in accordance with paragraphs 1 to 7 shall be included in the annual report referred to in paragraph 2.*

Or. nl

*Justification*

*The requirement to set up national oversight bodies and to forward to them the full text of all contracts concluded is clearly at variance with the subsidiarity principle. There must be more confidence in democratic oversight over contracting authorities. These rules would furthermore bring about more administrative burdens for contracting authorities.*

**Amendment 1463**

**Małgorzata Handzlik, Róza Gräfin von Thun und Hohenstein, Rafał Trzaskowski**

**Proposal for a directive  
Article 84**

*Text proposed by the Commission*

*Amendment*

*Article 84*

*deleted*

**Public oversight**

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

*All contracting authorities shall be subject to such oversight.*

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

*The annual report shall include the following:*

*(a) an indication of the success rate of small and medium-sized enterprises (SMEs) in public procurement; where the percentage is lower than 50 % in terms of values of contracts awarded to SMEs, the report shall provide an analysis of the reasons therefore;*

*(b) a global overview of the implementation of sustainable procurement policies, including on procedures taking into account considerations linked to the protection of the environment, social inclusion including accessibility for persons with disabilities, or fostering innovation;*

*(c) information on the monitoring and follow-up of breaches to procurement rules affecting the budget of the Union in accordance with paragraphs 3 to 5 of the present article;*

*(d) centralized data about reported cases of fraud, corruption, conflict of interests and other serious irregularities in the field of public procurement, including those affecting projects cofinanced by the budget of the Union.*

*3. The oversight body shall be responsible for the following tasks:*

*(a) monitoring the application of public procurement rules and the related*

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

*the European Anti-Fraud Office any infringement to Union procurement procedures where these were related to contracts directly or indirectly funded by the European Union.*

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

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

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

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

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

*5. The investigation and enforcement activities carried out by the oversight body to ensure that contracting authorities' decisions comply with this Directive and the principles of the Treaty shall not replace or prejudice the institutional role of the Commission as guardian of the Treaty. When the Commission decides to refer the treatment of an individual case pursuant to paragraph 4, it shall also retain the right to intervene in accordance with the powers conferred to it by the Treaty.*

*6. Contracting authorities shall transmit to the national oversight body the full text of all concluded contracts with a value equal to or greater than*

*(a) 1 000 000 EUR in the case of public supply contracts or public service contracts;*

*(b) 10 000 000 EUR in the case of public works contracts.*

*7. Without prejudice to the national law concerning access to information, and in accordance with national and EU legislation on data protection, the oversight body shall, upon written request, give unrestricted and full direct access, free of charge, to the concluded contracts referred to in paragraph 6. Access to certain parts of the contracts may be refused where their disclosure would impede law enforcement or otherwise be contrary to the public interest, would*



*harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.*

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

*The applicants filing a request for access to a contract shall not need to show any direct or indirect interest related to that particular contract. The recipient of information should be allowed to make it public.*

*8. A summary of all the activities carried out by the oversight body in accordance with paragraphs 1 to 7 shall be included in the annual report referred to in paragraph 2.*

Or. en

#### *Justification*

*Proposed regulation will significantly raise administrative burden on the side of Member States. Moreover, it will influence internal organisation of administration in Member States. Decisions with regard of activities to be undertaken in order to ensure correct application of the directive and responsible institutions should be left to the discretion of Member States.*

**Amendment 1464**  
**Peter Simon**

**Proposal for a directive**  
**Article 84**

*Text proposed by the Commission*

*Amendment*

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

*deleted*

*All contracting authorities shall be subject to such oversight.*

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

*The annual report shall include the following:*

*(a) an indication of the success rate of small and medium-sized enterprises (SMEs) in public procurement; where the percentage is lower than 50 % in terms of values of contracts awarded to SMEs, the report shall provide an analysis of the reasons therefore;*

*(b) a global overview of the implementation of sustainable procurement policies, including on procedures taking into account considerations linked to the protection of the environment, social inclusion including accessibility for persons with disabilities, or fostering innovation;*

*(c) information on the monitoring and follow-up of breaches to procurement rules affecting the budget of the Union in accordance with paragraphs 3 to 5 of the present article;*

*(d) centralized data about reported cases of fraud, corruption, conflict of interests and other serious irregularities in the field of public procurement, including those affecting projects cofinanced by the budget of the Union.*

*3. The oversight body shall be responsible for the following tasks:*

*(a) monitoring the application of public*

*procurement rules and the related practice by contracting authorities and in particular by central purchasing bodies;*

*(b) providing legal advice to contracting authorities on the interpretation of public procurement rules and principles and on the application of public procurement rules in specific cases;*

*(c) issuing own-initiative opinions and guidance on questions of general interest pertaining to the interpretation and application of public procurement rules, on recurring questions and on systemic difficulties related to the application of public procurement rules, in the light of the provisions of this Directive and of the relevant case-law of the Court of Justice of the European Union;*

*(d) establishing and applying comprehensive, actionable 'red flag' indicator systems to prevent, detect and adequately report instances of procurement fraud, corruption, conflict of interest and other serious irregularities;*

*(e) drawing the attention of the national competent institutions, including auditing authorities, to specific violations detected and to systemic problems;*

*(f) examining complaints from citizens and businesses on the application of public procurement rules in specific cases and transmitting the analysis to the competent contracting authorities, which shall have the obligation to take it into account in their decisions or, where the analysis is not followed, to explain the reasons for disregarding it;*

*(g) monitoring the decisions taken by national courts and authorities following a ruling given by the Court of Justice of the European Union on the basis of Article 267 of the Treaty or findings of the European Court of Auditors establishing violations of Union public procurement*

*rules related to projects cofinanced by the Union; the oversight body shall report to the European Anti-Fraud Office any infringement to Union procurement procedures where these were related to contracts directly or indirectly funded by the European Union.*

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

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

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

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

*procurement rules and principles identified by the Commission.*

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

*6. The investigation and enforcement activities carried out by the oversight body to ensure that contracting authorities' decisions comply with this Directive and the principles of the Treaty shall not replace or prejudice the institutional role of the Commission as guardian of the Treaty. When the Commission decides to refer the treatment of an individual case pursuant to paragraph 4, it shall also retain the right to intervene in accordance with the powers conferred to it by the Treaty.*

*6. Contracting authorities shall transmit to the national oversight body the full text of all concluded contracts with a value equal to or greater than*

*(a) 1 000 000 EUR in the case of public supply contracts or public service contracts;*

*(b) 10 000 000 EUR in the case of public works contracts.*

*7. Without prejudice to the national law concerning access to information, and in accordance with national and EU legislation on data protection, the oversight body shall, upon written request, give unrestricted and full direct access, free of charge, to the concluded contracts referred to in paragraph 6. Access to certain parts of the contracts may be*

*refused where their disclosure would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.*

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

*The applicants filing a request for access to a contract shall not need to show any direct or indirect interest related to that particular contract. The recipient of information should be allowed to make it public.*

*8. A summary of all the activities carried out by the oversight body in accordance with paragraphs 1 to 7 shall be included in the annual report referred to in paragraph 2.*

Or. de

**Amendment 1465**  
**Jürgen Creutzmann**

**Proposal for a directive**  
**Article 84**

*Text proposed by the Commission*

*Amendment*

*Article 84*

*deleted*

*Public oversight*

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

*All contracting authorities shall be subject*

*to such oversight.*

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

***The annual report shall include the following:***

***(a) an indication of the success rate of small and medium-sized enterprises (SMEs) in public procurement; where the percentage is lower than 50 % in terms of values of contracts awarded to SMEs, the report shall provide an analysis of the reasons therefore;***

***(b) a global overview of the implementation of sustainable procurement policies, including on procedures taking into account considerations linked to the protection of the environment, social inclusion including accessibility for persons with disabilities, or fostering innovation;***

***(c) information on the monitoring and follow-up of breaches to procurement rules affecting the budget of the Union in accordance with paragraphs 3 to 5 of the present article;***

***(d) centralized data about reported cases of fraud, corruption, conflict of interests and other serious irregularities in the field of public procurement, including those affecting projects cofinanced by the budget of the Union.***

***3. The oversight body shall be responsible for the following tasks:***

***(a) monitoring the application of public procurement rules and the related practice by contracting authorities and in***

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



*infringement to Union procurement procedures where these were related to contracts directly or indirectly funded by the European Union.*

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

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

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

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

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

*5. The investigation and enforcement activities carried out by the oversight body to ensure that contracting authorities' decisions comply with this Directive and the principles of the Treaty shall not replace or prejudice the institutional role of the Commission as guardian of the Treaty. When the Commission decides to refer the treatment of an individual case pursuant to paragraph 4, it shall also retain the right to intervene in accordance with the powers conferred to it by the Treaty.*

*6. Contracting authorities shall transmit to the national oversight body the full text of all concluded contracts with a value equal to or greater than*

*(a) 1 000 000 EUR in the case of public supply contracts or public service contracts;*

*(b) 10 000 000 EUR in the case of public works contracts.*

*7. Without prejudice to the national law concerning access to information, and in accordance with national and EU legislation on data protection, the oversight body shall, upon written request, give unrestricted and full direct access, free of charge, to the concluded contracts referred to in paragraph 6. Access to certain parts of the contracts may be refused where their disclosure would impede law enforcement or otherwise be contrary to the public interest, would*

*harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.*

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

*The applicants filing a request for access to a contract shall not need to show any direct or indirect interest related to that particular contract. The recipient of information should be allowed to make it public.*

*8. A summary of all the activities carried out by the oversight body in accordance with paragraphs 1 to 7 shall be included in the annual report referred to in paragraph 2.*

Or. en

#### *Justification*

*Mandating one single national oversight body in each Member State would breach the principle of subsidiarity and would be impossible to implement for those Member States with devolved administrations or federal structures.*

#### **Amendment 1466**

**Frank Engel, Philippe Juvin, András Gyürk, Andreas Schwab, Ildikó Gáll-Pelcz, Anna Maria Corazza Bildt**

#### **Proposal for a directive**

#### **Article 84 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

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

##### *Amendment*

1. Member States shall ***ensure*** the oversight and coordination of implementation activities.

**Amendment 1467**  
**Cornelis de Jong, Mikael Gustafsson**

**Proposal for a directive**  
**Article 84 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

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

*Amendment*

1. Member States shall *ensure the correct implementation and democratic, accounting and legal oversight over the implementation of this Directive. Member States are free to decide whether they want to* appoint a single independent body for the oversight and coordination activities, *or whether they want to leave the oversight to existing oversight bodies that already exercise democratic, accounting and legal control over the contracting authorities.*

*If a Member State decides not to appoint a single independent oversight body, Member States shall ensure that:*

*(a) city councils, regional parliaments and national parliaments, are fully equipped to supervise and exercise democratic control over the contracting authorities.*

*(b) auditors, responsible for auditing local, regional and national authorities are fully equipped to supervise and audit the contracting authorities.*

*(c) the judiciary is fully equipped to exercise legal control over the contracting authorities.*

**Amendment 1468**  
**Sabine Verheyen, Birgit Collin-Langen**

**Proposal for a directive**  
**Article 84 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

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

*Amendment*

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

Or. de

**Amendment 1469**  
**Toine Manders**

**Proposal for a directive**  
**Article 84 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

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

*Amendment*

1. Member States shall appoint a single independent body responsible for the oversight and coordination of implementation activities (hereinafter 'the oversight body') **in cases in which no such independent body yet exists**. Member States shall inform the Commission of their designation.

Or. nl

**Amendment 1470**  
**Pablo Arias Echeverría**

**Proposal for a directive**  
**Article 84 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

1. Member States shall **appoint a single independent body responsible for the**

*Amendment*

1. Member States shall ensure **that mechanisms are in place to oversee** and

*oversight and coordination of* implementation activities (*hereinafter 'the oversight body'*). Member States shall *inform the Commission of their designation*.

*coordinate* implementation activities. *The governmental structure of Member States with a compound or decentralised administrative structure will, in all cases, be respected*. Member States shall *appoint the bodies that best suit their governmental structure*.

Or. es

**Amendment 1471**  
**Monica Luisa Macovei**

**Proposal for a directive**  
**Article 84 – paragraph 2 – subparagraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

*(ca) statistics and overview on the use of negotiated procedure without prior publication stipulated in Article 30, including list of economic operators who were granted public contracts following this procedure and the grounds on which the procedure was used;*

Or. en

**Amendment 1472**  
**Monica Luisa Macovei**

**Proposal for a directive**  
**Article 84 – paragraph 2 – subparagraph 2 – point d**

*Text proposed by the Commission*

*Amendment*

(d) centralized data about reported cases of fraud, corruption, conflict of interests and other serious irregularities in the field of public procurement, including those affecting projects cofinanced by the budget of the Union.

(d) centralized data about reported cases of fraud, corruption, conflict of interests and other serious irregularities in the field of public procurement, including those affecting projects cofinanced by the budget of the Union, *as well as, when possible, on outcome of referral to competent administrative, law enforcement or*

*judicial authorities.*

Or. en

**Amendment 1473**  
**Phil Prendergast**

**Proposal for a directive**  
**Article 84 – paragraph 2 – subparagraph 2 – point d**

*Text proposed by the Commission*

(d) centralized data about reported cases of fraud, corruption, conflict of interests and other serious irregularities in the field of public procurement, including those affecting projects cofinanced by the budget of the Union.

*Amendment*

(d) centralized data about reported cases of fraud, corruption, conflict of interests and other serious irregularities in the field of public procurement, including those affecting projects cofinanced by the budget of the Union. ***These data shall be collated according to a common set of variables and methodology, so as to enable unified procurement databases and statistics at EU level, thus allowing for scientific comparisons between public procurement practices between different Union Member States.***

Or. en

**Amendment 1474**  
**Frank Engel, Philippe Juvin, András Gyürk, Andreas Schwab, Ildikó Gáll-Pelcz, Anna Maria Corazza Bildt**

**Proposal for a directive**  
**Article 84 – paragraph 3 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

3. The ***oversight body*** shall be responsible for the following tasks:

*Amendment*

3. The ***competent authorities*** shall be responsible for the following tasks:

Or. fr

**Amendment 1475**  
**Pablo Arias Echeverría**

**Proposal for a directive**  
**Article 84 – paragraph 3 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

3. The oversight ***body shall be responsible for*** the following tasks:

3. The oversight ***mechanisms must ensure that*** the following tasks ***are carried out***:

Or. es

**Amendment 1476**  
**Evelyne Gebhardt, Birgit Sippel**

**Proposal for a directive**  
**Article 84 – paragraph 3 – subparagraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) monitoring the application of public procurement rules and the related practice by contracting authorities and in particular by central purchasing bodies;

(a) monitoring the application of public procurement rules and ***of the rules on social and employment protection and working conditions by the economic operator awarded the contract and by his subcontractors including*** the related practice by contracting authorities and in particular by central purchasing bodies;

Or. de

**Amendment 1477**  
**Monica Luisa Macovei**

**Proposal for a directive**  
**Article 84 – paragraph 3 – subparagraph 1 – point d**

*Text proposed by the Commission*

*Amendment*

(d) establishing and applying comprehensive, actionable ‘red flag’ indicator systems to prevent, detect and adequately report instances of procurement

(d) establishing and applying, ***in cooperation with law enforcement bodies,*** comprehensive, actionable ‘red flag’ indicator systems to prevent, detect and



fraud, corruption, conflict of interest and other serious irregularities;

adequately report instances of procurement fraud, corruption, conflict of interest and other serious irregularities. ***This shall also include a mapping of risks that identifies vulnerable positions in contracting authorities, as well as internal and external control bodies, activities in the public procurement procedures where risks where identified and vulnerable sectors and/or projects. The red flag indicators and the mapping of risks shall be updated on regular basis;***

Or. en

**Amendment 1478**  
**Monica Luisa Macovei**

**Proposal for a directive**  
**Article 84 – paragraph 3 – subparagraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(da) establishing procedures for reporting serious irregularities that also ensure protection of anonymity of the informant;***

Or. en

**Amendment 1479**  
**Sirpa Pietikäinen**

**Proposal for a directive**  
**Article 84 – paragraph 3 – subparagraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(da) establishing and applying comprehensive, actionable 'red flag' indicator systems to:***

***(i) detect and prevent contracts with a risk of advancing monopolistic and oligopolistic structures and markets;***

*(ii) prevent factually and effectively procurement contracts and processes that undermine SMEs' and local businesses' possibilities to participate and win the contracts;*

*(iii) prevent the exclusion of the end users' right to have a choice and to be heard;*

Or. en

**Amendment 1480**  
**Monica Luisa Macovei**

**Proposal for a directive**  
**Article 84 – paragraph 3 – subparagraph 1 – point d b (new)**

*Text proposed by the Commission*

*Amendment*

*(db) centralizing data on reported cases of fraud, corruption, conflict of interests and other serious irregularities, as well as, when possible, on their follow-up by the competent administrative, law enforcement or judicial authorities;*

Or. en

**Amendment 1481**  
**Monica Luisa Macovei**

**Proposal for a directive**  
**Article 84 – paragraph 3 – subparagraph 1 – point d c (new)**

*Text proposed by the Commission*

*Amendment*

*(dc) ensuring, in cooperation with law enforcement bodies, specialized training of contracting authorities and officials of the internal control bodies on detection of fraud, corruption, conflict of interests and other serious irregularities,*

**Amendment 1482**  
**Monica Luisa Macovei**

**Proposal for a directive**  
**Article 84 – paragraph 3 – subparagraph 1 – point d d (new)**

*Text proposed by the Commission*

*Amendment*

*(dd) ensuring publication of regularly updated lists of economic operators excluded from participation in a public contract on the grounds stipulated in Article 55 (1), (2) and (3);*

Or. en

**Amendment 1483**  
**Sirpa Pietikäinen**

**Proposal for a directive**  
**Article 84 – paragraph 3 – subparagraph 1 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

*(ea) granting a right for civil society organisations to supervise and report on behalf of people with limited legal or other capacity, that the quality of the services and the goods provided to the people with limited legal or other capacity is in accordance with the EU fundamental rights and the technical specifications and award criteria as defined in the contract and according to requirements relating to meeting the specific need of each category of user.*

Or. en

**Amendment 1484**  
**Sergio Gaetano Cofferati**

**Proposal for a directive**  
**Article 84 – paragraph 3 – subparagraph 1 – point f a (new)**

*Text proposed by the Commission*

*Amendment*

*(fa) examining reports sent to it by contracting entities intending to follow a negotiated procedure without publication;*

Or. it

**Amendment 1485**  
**Sergio Gaetano Cofferati**

**Proposal for a directive**  
**Article 84 – paragraph 3 – subparagraph 1 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

*(ga) management of the official register of non-compliance as laid down in Article 73a.*

Or. en

**Amendment 1486**  
**Phil Prendergast**

**Proposal for a directive**  
**Article 84 – paragraph 3 – subparagraph 1 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

*(ga) assist procurement agencies and authorities to have in place internal whistleblowing procedures for staff to ensure that:*

*- any staff member (including temporary and contract workers, interns and consultants) who makes a good-faith disclosure regarding any type of material*

*wrongdoing is protected from any and all forms of retaliation, harassment or deleterious actions*

*- the confidentiality of whistleblowers is maintained unless explicitly waived by them*

*- adequate mechanisms are made available for disclosures to be made, such as helplines and online forms*

*- a whistleblower who has been retaliated against has the right to a fair hearing before an impartial forum and shall be fully compensated; those who commit retaliation shall be duly sanctioned*

*- disclosures are properly investigated and corrective action taken (if appropriate), and that whistleblowers have the option to participate in these procedures*

*- managers must prove that any actions taken against a whistleblower were motivated by reasons other than the whistleblowing*

*- inaccurate disclosures, if made in good faith, are protected; disclosures shown to be made in bad faith are not protected*

*- management and staff should be adequately trained in whistleblower rights, policies and procedures*

*- whistleblower policies should be monitored and evaluated at regular intervals by independent bodies*

*- external whistleblowing to elected officials, NGOs, the media and other appropriate parties is protected if internal channels do not function or do not exist*

Or. en

**Amendment 1487**  
**Sergio Gaetano Cofferati**

**Proposal for a directive**  
**Article 84 – paragraph 3 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

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

***deleted***

Or. it

**Amendment 1488**

**Frank Engel, Philippe Juvin, András Gyürk, Andreas Schwab, Ildikó Gáll-Pelcz, Anna Maria Corazza Bildt**

**Proposal for a directive**  
**Article 84 – paragraph 3 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

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

***The competent authorities may seek from the court which has jurisdiction according to national law a review of contracting authorities' decisions where they have detected a violation in the course of their monitoring and legal advising activity.***

Or. fr

**Amendment 1489**

**Pablo Arias Echeverría**

**Proposal for a directive**  
**Article 84 – paragraph 3 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

Member States shall empower the oversight ***body*** to seize the jurisdiction

Member States shall empower the oversight ***bodies*** to seize the jurisdiction

competent according to national law for the review of contracting authorities' decisions where it has detected a violation in the course of its monitoring and legal advising activity.

competent according to national law for the review of contracting authorities' decisions where it has detected a violation in the course of its monitoring and legal advising activity.

Or. es

#### **Amendment 1490**

**Frank Engel, Philippe Juvin, András Gyürk, Andreas Schwab, Ildikó Gáll-Pelcz, Anna Maria Corazza Bildt**

#### **Proposal for a directive**

#### **Article 84 – paragraph 4 – subparagraph 1**

##### *Text proposed by the Commission*

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

##### *Amendment*

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

Or. fr

#### **Amendment 1491**

**Frank Engel, Philippe Juvin, András Gyürk, Andreas Schwab, Ildikó Gáll-Pelcz**

#### **Proposal for a directive**

#### **Article 84 – paragraph 4 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

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

*deleted*

Or. fr

**Amendment 1492**

**Frank Engel, Philippe Juvin, András Gyürk, Andreas Schwab, Ildikó Gáll-Pelcz**

**Proposal for a directive**

**Article 84 – paragraph 4 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

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

*deleted*

Or. fr

**Amendment 1493**

**Frank Engel, Philippe Juvin, András Gyürk, Andreas Schwab, Ildikó Gáll-Pelcz, Anna Maria Corazza Bildt**



**Proposal for a directive**  
**Article 84 – paragraph 5**

*Text proposed by the Commission*

5. The investigation and enforcement activities carried out by the **oversight body** to ensure that contracting authorities' decisions comply with this Directive and the principles of the Treaty shall not replace or prejudice the institutional role of the Commission as guardian of the Treaty. When the Commission decides to refer the treatment of an individual case pursuant to paragraph 4, it shall also retain the right to intervene in accordance with the powers conferred to it by the Treaty.

*Amendment*

5. The investigation and enforcement activities carried out by the **competent authorities** to ensure that contracting authorities' decisions comply with this Directive and the principles of the Treaty shall not replace or prejudice the institutional role of the Commission as guardian of the Treaty. When the Commission decides to refer the treatment of an individual case pursuant to paragraph 4, it shall also retain the right to intervene in accordance with the powers conferred to it by the Treaty.

Or. fr

**Amendment 1494**  
**Andreas Schwab, Frank Engel**

**Proposal for a directive**  
**Article 84 – paragraph 6**

*Text proposed by the Commission*

**6. Contracting authorities shall transmit to the national oversight body the full text of all concluded contracts with a value equal to or greater than**

**(a) 1 000 000 EUR in the case of public supply contracts or public service contracts;**

**(b) 10 000 000 EUR in the case of public works contracts.**

*Amendment*

**deleted**

Or. de

### *Justification*

*An across-the-board publication requirement would mean some contracts being published down to the smallest details of business, so that the know-how (business secrets) which they contain would be at the disposal of third parties, which may not respect the provisions on confidentiality. This would, however, not be in the interest of transparency, as the award procedure is finished when the contract is awarded.*

#### **Amendment 1495**

**Frank Engel, Philippe Juvin, András Gyürk, Ildikó Gáll-Pelcz**

#### **Proposal for a directive**

#### **Article 84 – paragraph 6 – introductory part**

##### *Text proposed by the Commission*

6. Contracting authorities shall transmit to the ***national oversight body*** the full text of all concluded contracts with a *a* value equal to or greater than

##### *Amendment*

6. Contracting authorities shall transmit to the ***competent authorities*** the full text of all concluded contracts with a value equal to or greater than

Or. fr

#### **Amendment 1496**

**Monica Luisa Macovei**

#### **Proposal for a directive**

#### **Article 84 – paragraph 6 – point a**

##### *Text proposed by the Commission*

(a) ***1 000 000*** EUR in the case of public supply contracts or public service contracts;

##### *Amendment*

(a) ***800 000*** EUR in the case of public supply contracts or public service contracts;

Or. en

#### **Amendment 1497**

**Phil Prendergast**

#### **Proposal for a directive**

#### **Article 84 – paragraph 6 – point a**

*Text proposed by the Commission*

(a) **1 000 000** EUR in the case of public supply contracts or public service contracts;

*Amendment*

(a) **250 000** EUR in the case of public supply contracts or public service contracts;

Or. en

**Amendment 1498**  
**Monica Luisa Macovei**

**Proposal for a directive**  
**Article 84 – paragraph 6 – point b**

*Text proposed by the Commission*

(b) **10 000 000** EUR in the case of public works contracts.

*Amendment*

(b) **5 000 000** EUR in the case of public works contracts.

Or. en

**Amendment 1499**  
**Phil Prendergast**

**Proposal for a directive**  
**Article 84 – paragraph 6 – point b**

*Text proposed by the Commission*

(b) **10 000 000** EUR in the case of public works contracts.

*Amendment*

(b) **1 000 000** EUR in the case of public works contracts.

Or. en

**Amendment 1500**  
**Andreas Schwab, Frank Engel**

**Proposal for a directive**  
**Article 84 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

**7. Without prejudice to the national law concerning access to information, and in accordance with national and EU legislation on data protection, the oversight body shall, upon written request, give unrestricted and full direct access, free of charge, to the concluded contracts referred to in paragraph 6. Access to certain parts of the contracts may be refused where their disclosure would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.**

*deleted*

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

*The applicants filing a request for access to a contract shall not need to show any direct or indirect interest related to that particular contract. The recipient of information should be allowed to make it public.*

Or. de

*Justification*

*The current right to view files in award dispute procedures and additional requirements under the already extensive freedom of information legislation are perfectly adequate.*

**Amendment 1501  
Monica Luisa Macovei**

**Proposal for a directive  
Article 84 – paragraph 7 – subparagraph 1**

*Text proposed by the Commission*

7. Without prejudice to the national law concerning access to information, and in accordance with national and EU legislation on data protection, the oversight body shall, upon **written** request, give unrestricted and full direct access, free of charge, to the concluded contracts referred to in paragraph 6. Access to certain parts of the contracts may be refused **where** their disclosure would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.

*Amendment*

7. Without prejudice to the national law concerning access to information, and in accordance with national and EU legislation on data protection, the oversight body shall, upon request, give unrestricted and full direct access, free of charge, to the concluded contracts referred to in paragraph 6. Access to certain parts of the contracts may be refused **only when** their disclosure would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them. ***Decisions to deny access to certain parts of the public contracts on these grounds should be duly motivated and published.***

Or. en

**Amendment 1502**

**Frank Engel, Philippe Juvin, András Gyürk, Ildikó Gáll-Pelcz**

**Proposal for a directive**

**Article 84 – paragraph 7 – subparagraph 1**

*Text proposed by the Commission*

7. Without prejudice to the national law concerning access to information, and in accordance with national and EU legislation on data protection, the **oversight body** shall, upon written request, give unrestricted and full direct access, free of charge, to the concluded contracts referred to in paragraph 6. Access to certain parts of the contracts may be refused where their disclosure would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might

*Amendment*

7. Without prejudice to the national law concerning access to information, and in accordance with national and EU legislation on data protection, the **competent authorities** shall, upon written request, give unrestricted and full direct access, free of charge, to the concluded contracts referred to in paragraph 6. Access to certain parts of the contracts may be refused where their disclosure would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or

prejudice fair competition between them.

might prejudice fair competition between them.

Or. fr

### **Amendment 1503**

**Phil Prendergast**

#### **Proposal for a directive**

#### **Article 84 – paragraph 7 – subparagraph 1**

##### *Text proposed by the Commission*

7. Without prejudice to the national law concerning access to information, and in accordance with national and EU legislation on data protection, the oversight body shall, ***upon written request, give*** unrestricted and full direct access, free of charge, to ***the*** concluded contracts ***referred to in paragraph 6***. Access to certain parts of ***the contracts*** may be ***refused*** where their disclosure would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.

##### *Amendment*

7. Without prejudice to the national law concerning access to information, and in accordance with national and EU legislation on data protection, the oversight body shall ***collect and publicly provide*** unrestricted and full direct access, free of charge, to ***all documentation pertaining to any tendering processes. Specific procedural documents such as contracts, contract amendments and audits pertaining to all*** concluded contracts ***shall also be made public***. Access to certain parts of ***such information*** may be ***withheld*** where their disclosure would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.

Or. en

### **Amendment 1504**

**Frank Engel, Philippe Juvin, András Gyürk, Andreas Schwab, Ildikó Gáll-Pelcz**

#### **Proposal for a directive**

#### **Article 84 – paragraph 8**

*Text proposed by the Commission*

8. A summary of all the activities carried out by the **oversight body** in accordance with paragraphs 1 to 7 shall be included in the annual report referred to in paragraph 2.

*Amendment*

8. A summary of all the activities carried out by the **competent authorities** in accordance with paragraphs 1 to 7 shall be included in the annual report referred to in paragraph 2.

Or. fr

**Amendment 1505**

**Malcolm Harbour, Edvard Kožušník**

**Proposal for a directive**

**Article 85 – title**

*Text proposed by the Commission*

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

*Amendment*

Individual **Reporting**

Or. en

*Justification*

*Alternative proposals on governance (reporting).*

**Amendment 1506**

**Heide Rühle**

**Proposal for a directive**

**Article 85 – paragraph 1 – introductory part**

*Text proposed by the Commission*

For every contract or framework agreement, **and** every time a dynamic purchasing system is established, contracting authorities shall draw up a written report which shall include at least the following:

*Amendment*

For every **above threshold procurement be it a** contract or framework agreement **or** every time a dynamic purchasing system is established, contracting authorities shall draw up a written report which shall include at least the following:

**Amendment 1507**  
**Malcolm Harbour, Edvard Kožušník**

**Proposal for a directive**  
**Article 85 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) the names of the *successful* candidates or tenderers and the reasons for their selection;

*Amendment*

(b) *where applicable, the results of the qualitative selection and/or reduction of numbers pursuant to Article 64 and 65, namely:*

*(i) the names of the selected candidates or tenderers and the reasons for their selection;*

*(ii) the names of the candidates or tenderers rejected and the reasons for their rejection;*

Or. en

*Justification*

*Alternative proposals on governance (reporting).*

**Amendment 1508**  
**Malcolm Harbour, Edvard Kožušník**

**Proposal for a directive**  
**Article 85 – paragraph 1 – point c**

*Text proposed by the Commission*

*(c) the names of the candidates or tenderers rejected and the reasons for their rejection;*

*Amendment*

*deleted*

Or. en



*Justification*

*Alternative proposals on governance (reporting). The text of this sub-paragraph has been moved to sub-paragraph (b).*

**Amendment 1509**

**Malcolm Harbour, Edvard Kožušník**

**Proposal for a directive**

**Article 85 – paragraph 1 – point e**

*Text proposed by the Commission*

(e) the name of the successful tenderer and the reasons why its tender was selected **and, where known, the share of the contract or framework agreement which the successful tenderer intends to subcontract to third parties;**

*Amendment*

(e) the name of the successful tenderer and the reasons why its tender was selected;

Or. en

*Justification*

*Alternative proposals on governance (reporting). The requirement proposed by the Commission in original subparagraph (d) regarding information on the percentage value of subcontracting would add unnecessary administrative burdens, and would be often difficult to know for the main supplier/tenderer up front (and therefore difficult to share with the contracting authority).*

**Amendment 1510**

**Evelyne Gebhardt, Birgit Sippel**

**Proposal for a directive**

**Article 85 – paragraph 1 – point e**

*Text proposed by the Commission*

(e) the name of the successful tenderer and the reasons why its tender was selected and, where known, the share of the contract or framework agreement which the successful tenderer intends to subcontract

*Amendment*

(e) the name of the successful tenderer and the reasons why its tender was selected and, where known, the share of the contract or framework agreement which the successful tenderer intends to subcontract to third parties **and information on their**

to third parties;

*subcontractors including their names,  
contact details and legal representatives;*

Or. de

**Amendment 1511**  
**Heide Rühle**

**Proposal for a directive**  
**Article 85 – paragraph 1 – point f a (new)**

*Text proposed by the Commission*

*Amendment*

*(fa) as far as the competitive dialogue is  
concerned, the circumstances as laid  
down in Article XX justifying the use of  
this procedure;*

Or. en

**Amendment 1512**  
**Malgorzata Handzlik, Róza Gräfin von Thun und Hohenstein, Rafal Trzaskowski**

**Proposal for a directive**  
**Article 85 – paragraph 1 – point h**

*Text proposed by the Commission*

*Amendment*

*(h) where applicable, conflicts of interests  
detected and subsequent measures taken.*      *deleted*

Or. en

**Amendment 1513**  
**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**  
**Article 85 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*To the extent that the contract award*

*notice drawn up pursuant to Article 48 contains the information required in this paragraph, contracting authorities may refer to that notice.*

Or. en

*Justification*

*Alternative proposals on governance (reporting).*

**Amendment 1514**  
**Heide Rühle**

**Proposal for a directive**  
**Article 85 – paragraph 2**

*Text proposed by the Commission*

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

*Amendment*

The contracting authorities shall ***take appropriate steps to*** document the progress of ***award*** procedures conducted by electronic means.

Or. en

**Amendment 1515**  
**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**  
**Article 85 – paragraph 2**

*Text proposed by the Commission*

The contracting authorities shall document the progress of all procurement procedures, whether or not those are conducted by

*Amendment*

The contracting authorities shall document the progress of all procurement procedures, whether or not those are conducted by

electronic means. To that end, they shall **document** all stages *in* the procurement procedure, **including all** communications with economic operators and internal deliberations, preparation of the tenders, dialogue or negotiation if any, selection and award of the contract.

electronic means. To that end, they shall **ensure that they dispose of sufficient documentation to justify decisions taken** *in* all stages *of* the procurement procedure, **such as documentation on** communications with economic operators and internal deliberations, preparation of the tenders, dialogue or negotiation if any, selection and award of the contract.

Or. en

*Justification*

*Alternative proposals on governance (reporting).*

**Amendment 1516**  
**Wim van de Camp**

**Proposal for a directive**  
**Article 85 – paragraph 2**

*Text proposed by the Commission*

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

*Amendment*

Contracting authorities shall **take appropriate steps to** document the progress of procurement procedures conducted by electronic means.

Or. nl

*Justification*

*Preference should go to the reports system laid down in Article 43 of Directive 1004/18/EC rather than to the arrangements proposed. The new provisions would furthermore result in increased administrative burdens.*

**Amendment 1517**

**Małgorzata Handzlik, Róza Gräfin von Thun und Hohenstein, Rafal Trzaskowski**

**Proposal for a directive**

**Article 85 – paragraph 2**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 1518**

**Jürgen Creutzmann**

**Proposal for a directive**

**Article 85 – paragraph 2**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 1519**

**Heide Rühle**

**Proposal for a directive**  
**Article 85 – paragraph 3**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 1520**  
**Malcolm Harbour, Edvard Kožušník**

**Proposal for a directive**  
**Article 85 – paragraph 3**

*Text proposed by the Commission*

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

*Amendment*

The report, or its main elements, shall be communicated to the Commission or the national **authorities or structures referred to in Article 83** where they so request.

Or. en

*Justification*

*Alternative proposals on governance (reporting).*

**Amendment 1521**  
**Małgorzata Handzlik, Róza Gräfin von Thun und Hohenstein, Rafał Trzaskowski**

**Proposal for a directive**  
**Article 85 – paragraph 3**

*Text proposed by the Commission*

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

*Amendment*

The report, or its main elements, shall be communicated to the Commission or to the **competent** national body where they so

request.

request.

Or. en

**Amendment 1522**  
**Jürgen Creutzmann**

**Proposal for a directive**  
**Article 85 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

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

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

Or. en

**Amendment 1523**  
**Heide Rühle**

**Proposal for a directive**  
**Article 86**

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

Or. en

**Amendment 1524**  
**Andreas Schwab, Frank Engel, Birgit Collin-Langen, Sabine Verheyen, Jürgen Creutzmann**

**Proposal for a directive**  
**Article 86**

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

*Justification*

*Gathering statistical data through reports by Member States is unreliable and leads to bureaucracy and costs. The objective of Article 86 is to cross-check the data gathered through the TED database on the basis of Article 48 of the proposal. Both TED data and national reporting data are however very often incomplete. Instead of cross-checking, the TED pillar of statistical data gathering should be further strengthened, the national reporting pillar should be completely abandoned.*

**Amendment 1525**  
**Wim van de Camp**

**Proposal for a directive**  
**Article 86**

*Text proposed by the Commission*

*Amendment*

*[...]*

*deleted*

Or. nl

*Justification*

*The proposed provision should be deleted. It would needlessly increase administrative burdens.*

**Amendment 1526**  
**Sabine Verheyen**

**Proposal for a directive**  
**Article 86**

*Text proposed by the Commission*

*Amendment*

*[...]*

*deleted*

Or. de



**Amendment 1527**  
**Cornelis de Jong, Mikael Gustafsson**

**Proposal for a directive**  
**Article 86**

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

Or. en

**Amendment 1528**  
**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**  
**Article 86 – title**

*Text proposed by the Commission*

*Amendment*

National reporting *and lists of contracting authorities*

National reporting

Or. en

*Justification*

*Alternative proposals on governance (reporting).*

**Amendment 1529**  
**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**  
**Article 86 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. *The bodies established or appointed in accordance with Article 84* shall forward to the Commission *an implementation and* statistical report on each year, based on a standard form, not later than 31 October of the following year.

1. *Member States* shall forward to the Commission *a* statistical report on each year, based on a standard form, not later than 31 October of the following year.

*Justification**Alternative proposals on governance (reporting).***Amendment 1530****Małgorzata Handzlik, Róza Gräfin von Thun und Hohenstein, Rafał Trzaskowski****Proposal for a directive  
Article 86 – paragraph 1***Text proposed by the Commission*

1. The bodies *established or appointed in accordance with Article 84* shall forward to the Commission an implementation and statistical report on each year, based on a standard form, not later than 31 October of the following year.

*Amendment*

1. The *competent* bodies in *Member States* shall forward to the Commission an implementation and statistical report on each year, based on a standard form, not later than 31 October of the following year.

Or. en

*Justification*

*The proposal imposes excessive obligations on the Member States. In particular providing the Commission with complete list of all contracting authorities in the Member State will not be possible. In practice the number of contracting authorities is significant (in some countries it can be thousands) and changes each year, depending on the structural changes in administration.*

**Amendment 1531****Małgorzata Handzlik, Róza Gräfin von Thun und Hohenstein, Rafał Trzaskowski****Proposal for a directive  
Article 86 – paragraph 2 – point a***Text proposed by the Commission*

*(a) a complete and up-to-date list of all central government authorities, sub-central contracting authorities and bodies governed by public law, including sub-*

*Amendment**deleted*

*central authorities and associations of contracting authorities awarding public contracts or framework agreements, indicating for each authority the unique identification number where such number is provided for in national legislation; this list shall be grouped by type of authority;*

Or. en

*Justification*

*The proposal imposes excessive obligations on the Member States. In particular providing the Commission with complete list of all contracting authorities in the Member State will not be possible. In practice the number of contracting authorities is significant (in some countries it can be thousands) and changes each year, depending on the structural changes in administration.*

**Amendment 1532**

**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**

**Article 86 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) a ***complete and up-to-date*** list of all central government authorities, sub-central contracting authorities and bodies governed by public law, ***including sub-central authorities and associations of contracting authorities awarding*** public contracts or framework agreements, indicating for each authority the unique identification number where such number is provided for in national legislation; this list shall be grouped by type of authority;

*Amendment*

(a) a list of all central government authorities, sub-central contracting authorities and bodies governed by public law, ***which have awarded*** public contracts or ***concluded*** framework agreements ***during the year concerned***, indicating for each authority the unique identification number where such number is provided for in national legislation; this list shall be grouped by type of authority;

Or. en

*Justification*

*Alternative proposals on governance (reporting).*

**Amendment 1533**

**Małgorzata Handzlik, Róza Gräfin von Thun und Hohenstein, Rafal Trzaskowski**

**Proposal for a directive**

**Article 86 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

**(b) a complete and up-to-date list of all central purchasing bodies;** **deleted**

Or. en

*Justification*

*The proposal imposes excessive obligations on the Member States. In particular providing the Commission with complete list of all contracting authorities in the Member State will not be possible. In practice the number of contracting authorities is significant (in some countries it can be thousands) and changes each year, depending on the structural changes in administration.*

**Amendment 1534**

**Malcolm Harbour, Edvard Kožušník**

**Proposal for a directive**

**Article 86 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

**(b) a complete and up-to-date list of all central purchasing bodies;**

**(b) a list of all central purchasing bodies which have awarded public contracts or concluded framework agreements during the year concerned;**

Or. en

*Justification*

*Alternative proposals on governance (reporting).*

**Amendment 1535**

**Malcolm Harbour, Edvard Kožušník**

**Proposal for a directive**  
**Article 86 – paragraph 2 – point c – introductory part**

*Text proposed by the Commission*

*Amendment*

(c) for all contracts above the thresholds laid down in Article 4 of this Directive:

(c) for all contracts above the thresholds laid down in Article 4 of this Directive, ***the estimated number and value of contracts awarded during the year concerned, broken down for each type of authority by procedure and by works, supplies and services.***

Or. en

*Justification*

*Alternative proposals on governance (reporting).*

**Amendment 1536**  
**Malcolm Harbour, Edvard Kožušník**

**Proposal for a directive**  
**Article 86 – paragraph 2 – point c – point i**

*Text proposed by the Commission*

*Amendment*

***(i) the number and value of contracts awarded broken down for each type of authority by procedure and by works, supplies and services identified by division of the CPV nomenclature;***

***deleted***

Or. en

*Justification*

*Alternative proposals on governance (reporting).*

**Amendment 1537**  
**Malcolm Harbour, Edvard Kožušník**

**Proposal for a directive**  
**Article 86 – paragraph 2 – point c – point ii**

*Text proposed by the Commission*

*Amendment*

*(ii) where the contracts have been concluded under the negotiated procedure without prior publication, the data referred to in point (i) shall also be broken down according to the circumstances referred to in Article 30 and shall specify the number and value of contracts awarded, by Member State and third country of the successful contractor;*

*deleted*

Or. en

*Justification*

*Alternative proposals on governance (reporting).*

**Amendment 1538**  
**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**  
**Article 86 – paragraph 2 – point d**

*Text proposed by the Commission*

*Amendment*

(d) for ***all contracts which fall*** below the thresholds laid down in Article 4 of this Directive, but would be covered by this Directive if ***their*** value exceeded the threshold, the ***number and*** value of ***contracts awarded broken down by each type of authority.***

(d) for ***procurement*** below the thresholds laid down in Article 4 of this Directive, but ***which*** would be covered by this Directive if ***its*** value exceeded the threshold, ***an estimation of the aggregated total*** value of ***the procurement during the year concerned. This estimation may in particular be based on data available under national publication requirements.***

Or. en

*Justification*

*Alternative proposals on governance (reporting).*

**Amendment 1539**  
**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**  
**Article 86 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. Member States shall make available to the Commission information on their institutional organisation related to the implementation, monitoring and enforcement of this Directive, as well as on national initiatives taken to provide guidance on or assist in implementation of Union rules on public procurement, or to respond to challenges confronting the implementation of those rules.** *deleted*

Or. en

*Justification*

*Alternative proposals on governance (reporting).*

**Amendment 1540**  
**Małgorzata Handzlik, Róza Gräfin von Thun und Hohenstein, Rafał Trzaskowski**

**Proposal for a directive**  
**Article 86 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. Member States shall make available to the Commission information on their institutional organisation related to the implementation, monitoring and enforcement of this Directive, as well as on national initiatives taken to provide guidance on or assist in implementation of Union rules on public procurement, or to respond to challenges confronting the implementation of those rules.** *deleted*

*Justification*

*Paragraph 4 seems not to be necessary.*

**Amendment 1541**  
**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**  
**Article 86 – paragraph 5**

*Text proposed by the Commission*

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

*Amendment*

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

*Justification*

*Alternative proposals on governance (reporting).*

**Amendment 1542**  
**Heide Rühle**

**Proposal for a directive**  
**Article 86 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 86 a**

***Statistical obligations and Content of statistical report***

***1. Member States shall make available to the Commission information on their institutional organisation related to the***



*implementation, monitoring and enforcement of this Directive, as well as on national initiatives taken to provide guidance on or assist in implementation of Union rules on public procurement, or to respond to challenges confronting the implementation of those rules.*

*2. The report referred to in paragraph 1 shall contain at least the following information for all contracts above the thresholds laid down in Article 4 of this Directive:*

*(i) the number and value of contracts awarded broken down for each type of authority by procedure and by works, supplies and services identified by division of the CPV nomenclature;*

*(ii) where the contracts have been concluded under the negotiated procedure without prior publication, the data referred to in point (i) shall also be broken down according to the circumstances referred to in Article 30 and shall specify the number and value of contracts awarded, by Member State and third country of the successful contractor;*

*As far as possible, the data referred to in point (a) of the first subparagraph shall be broken down by:*

*(a) the contract award procedures used; and*

*(b) for each of these procedures, works as given in Annex II and products and services as given in Annex XVI identified by category of the CPV nomenclature;*

*(c) the nationality of the economic operator to which the contract was awarded.*

*Where the contracts have been concluded according to the negotiated procedure, the data referred to in point (a) of the first subparagraph shall also be broken down according to the circumstances referred to in Articles 27 and 30 and shall specify the*

*number and value of contracts awarded, by Member State and third country of the successful contractor.*

*3. For each category of contracting authority which is not given in Annex I, the statistical report shall detail at least:*

*(a) the number and value of the contracts awarded, broken down in accordance with the second subparagraph of paragraph 1;*

*(b) the total value of contracts awarded pursuant to derogations to the Agreement.*

*4. The statistical report shall set out any other statistical information which is required under the Agreement. The information referred to in the first subparagraph shall be determined pursuant to the procedure under Article 91(2).*

Or. en

**Amendment 1543**  
**Monica Luisa Macovei**

**Proposal for a directive**  
**Article 86 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 86 a*

*Redress and sanctions*

*Member States shall put in place mechanisms for effective and timely redress, and effective, dissuasive and proportionate sanctions in case of fraud, corruption, conflict of interests or other serious irregularities. Redress and sanctions applied in these cases shall include annulment of the respective public contracts and liability for damages.*

Or. en

**Amendment 1544**  
**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**  
**Article 87**

*Text proposed by the Commission*

*Amendment*

**Article 87**

*deleted*

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

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

***2. With a view to improving access to public procurement for economic operators, in particular SMEs, and in order to facilitate correct understanding of the provisions of this Directive, Member States shall ensure that appropriate assistance can be obtained, including by electronic means or using existing networks dedicated to business assistance.***

***3. Specific administrative assistance shall be available to economic operators intending to participate in a procurement procedure in another Member State. Such assistance shall at least cover administrative requirements in the Member State concerned, as well as possible obligations related to electronic procurement.***

***Member States shall ensure that interested economic operators have easy access to appropriate information on the obligations relating to taxes, environmental protection, and to social***

*and labour law obligations, which are in force in the Member State, in the region or locality where the works are to be carried out or the services are to be provided and which will be applicable to the works carried out on site or to the services provided during the performance of the contract.*

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

Or. en

*Justification*

*Alternative proposals on governance (assistance to contracting authorities and businesses), proposing to delete Article 87. The Commission's proposals would need to be supported by a clear case demonstrating cost-effectiveness, and these detailed proposals would also breach principles of subsidiarity and proportionality. However, there is a clear need for Member States to take ownership of SME/Think Small First principles in public procurement. This is proposed in a Recital.*

**Amendment 1545**  
**Wim van de Camp**

**Proposal for a directive**  
**Article 87**

*Text proposed by the Commission*

*Amendment*

*[...]*

*deleted*

Or. nl

*Justification*

*Organising assistance for contracting authorities at national level is a matter for Member States themselves. If the provisions were more straightforward, there would probably be less need for clarification of procurement rules.*

**Amendment 1546**

**Małgorzata Handzlik, Róża Gräfin von Thun und Hohenstein, Rafał Trzaskowski**

**Proposal for a directive**

**Article 87**

*Text proposed by the Commission*

*Amendment*

*Article 87*

*deleted*

*Assistance to contracting authorities and businesses*

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

*2. With a view to improving access to public procurement for economic operators, in particular SMEs, and in order to facilitate correct understanding of the provisions of this Directive, Member States shall ensure that appropriate assistance can be obtained, including by electronic means or using existing networks dedicated to business assistance.*

*3. Specific administrative assistance shall be available to economic operators intending to participate in a procurement procedure in another Member State. Such assistance shall at least cover administrative requirements in the Member State concerned, as well as possible obligations related to electronic procurement.*

*Member States shall ensure that interested economic operators have easy access to appropriate information on the obligations relating to taxes, environmental protection, and to social*

*and labour law obligations, which are in force in the Member State, in the region or locality where the works are to be carried out or the services are to be provided and which will be applicable to the works carried out on site or to the services provided during the performance of the contract.*

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

Or. en

**Amendment 1547**  
**Heide Rühle**

**Proposal for a directive**  
**Article 87 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

*Justification*

*Clarification, the wording could be interpreted as legal advice but it's not up the Member States to provide legal advice on European regulations.*

**Amendment 1548**  
**Phil Prendergast**

**Proposal for a directive**  
**Article 87 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

1. Member States shall make available support structures in order to provide legal and economic advice, guidance and assistance to contracting authorities in preparing and carrying out procurement procedures. Member States shall also ensure that each contracting authority can obtain competent assistance and advice on individual questions. **Member States may also use external consultancy services to complement their programme and project management skills and competences.**

Or. en

**Amendment 1549**  
**Heide Rühle**

**Proposal for a directive**  
**Article 87 – paragraph 4**

*Text proposed by the Commission*

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

*Amendment*

**deleted**

Or. en

*Justification*

*This article cause unnecessary administrative burdens. It is up to the Member States to organise their interior administration. Member States can decide to create an over-sight body (article 84) without European regulation. Article 84 is contrary to the principle of*

*subsidiarity.*

**Amendment 1550**  
**Sergio Gaetano Cofferati**

**Proposal for a directive**  
**Article 88 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall provide mutual assistance to each other, and shall put in place measures for effective cooperation with one another, in order to ensure exchange of information on issues referred to in Articles 40, 41, 42, 55, 57, 59, 60, 61, 63 and **69**. They shall ensure the confidentiality of the information which they exchange.

*Amendment*

1. Member States shall provide mutual assistance to each other, and shall put in place measures for effective cooperation with one another, in order to ensure exchange of information on issues referred to in Articles 40, 41, 42, 55, 57, 59, 60, 61, 63, **69** and **73a**. They shall ensure the confidentiality of the information which they exchange.

Or. en

**Amendment 1551**  
**Heide Rühle**

**Proposal for a directive**  
**Article 88 – paragraph 3**

*Text proposed by the Commission*

***3. For the purposes of this Article, Member States shall designate one or more liaison points, the contact details of which shall be communicated to the other Member States, the oversight bodies and the Commission. Member States shall publish and regularly update the list of liaison points. The oversight body shall be in charge of the coordination of such liaison points.***

*Amendment*

*deleted*

Or. en



*Justification*

*This article causes unnecessary administrative burdens. It is up to the Member States to organise their interior administration. Member States can decide to create an over-sight body (article 84) without European regulation. Article 84 is contrary to the principle of subsidiarity*

**Amendment 1552**

**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive  
Article 88 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

***3. For the purposes of this Article, Member States shall designate one or more liaison points, the contact details of which shall be communicated to the other Member States, the oversight bodies and the Commission. Member States shall publish and regularly update the list of liaison points. The oversight body shall be in charge of the coordination of such liaison points.***

***deleted***

Or. en

*Justification*

*Alternative proposals on governance (administrative cooperation).*

**Amendment 1553**

**Małgorzata Handzlik, Róza Gräfin von Thun und Hohenstein, Rafał Trzaskowski**

**Proposal for a directive  
Article 88 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

***3. For the purposes of this Article, Member States shall designate one or more liaison points, the contact details of which shall be communicated to the other***

***deleted***

***Member States, the oversight bodies and the Commission. Member States shall publish and regularly update the list of liaison points. The oversight body shall be in charge of the coordination of such liaison points.***

Or. en

*Justification*

*It is not a proportional measure to impose on Member States obligation to create additional bodies. Moreover, various competences assigned to such a body, as for example oversight, coordination, reporting may create conflict of interests.*

**Amendment 1554  
Jürgen Creutzmann**

**Proposal for a directive  
Article 88 – paragraph 3**

*Text proposed by the Commission*

3. For the purposes of this Article, Member States shall designate one or more liaison points, the contact details of which shall be communicated to the other Member States, ***the oversight bodies*** and the Commission. Member States shall publish and regularly update the list ***of liaison points. The oversight body shall be in charge of the coordination*** of ***such*** liaison points.

*Amendment*

3. For the purposes of this Article, Member States shall designate one or more liaison points, the contact details of which shall be communicated to the other Member States and the Commission. Member States shall publish and regularly update the list of liaison points.

Or. en

*(See deletion of Article 86)*

**Amendment 1555  
Małgorzata Handzlik, Róza Gräfin von Thun und Hohenstein, Rafał Trzaskowski**

**Proposal for a directive  
Article 88 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. The exchange of information shall take place via the Internal Market Information system established pursuant to Regulation (EU) N° XXX/XXXX of the European Parliament and Council<sup>44</sup> [proposal for a Regulation of the European Parliament and Council on the administrative cooperation through the Internal Market Information System ('the IMI Regulation') COM(2011) 522]. Member States shall supply information requested by other Member States within the shortest possible period of time.**

*deleted*

Or. en

*Justification*

*It is not a proportional measure to impose on Member States obligation to create additional bodies. Moreover, various competences assigned to such a body, as for example oversight, coordination, reporting may create conflict of interests.*

**Amendment 1556**  
**Heide Rühle**

**Proposal for a directive**  
**Article 89 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. The delegation of power referred to in Articles 6, 13, 19, 20, 23, **54, 59, 67 and 86** may be revoked at any time by the European Parliament or by the Council. A revocation decision shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

3. The delegation of power referred to in Articles 6, 13, 19, 20, 23 **and** 59 may be revoked at any time by the European Parliament or by the Council. A revocation decision shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

**Amendment 1557**  
**Malcolm Harbour**

**Proposal for a directive**  
**Article 91 – paragraph 1**

*Text proposed by the Commission*

1. The Commission shall be assisted by the Advisory Committee for Public Contracts established by Council Decision 71/306/EEC<sup>45</sup>. ***That committee*** shall be a ***committee*** within the meaning of Regulation (EU) No 182/2011.

*Amendment*

1. The Commission shall be assisted by the Advisory Committee for Public Contracts established by Council Decision 71/306/EEC<sup>45</sup> ***and by the Committee set up by Article 7 of Council Regulation (EC) No 3286/94 (Trade Barriers Regulation)***<sup>46</sup>. ***These committees*** shall be ***committees*** within the meaning of ***Article 3 of*** Regulation (EU) No 182/2011.

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<sup>46</sup> *1 OJ L 349, 31.12.1994, p. 71*

**Amendment 1558**  
**Malcolm Harbour**

**Proposal for a directive**  
**Article 91 – paragraph 2**

*Text proposed by the Commission*

2. Where reference is made to this ***Article***, Article 4 of Regulation (EU) No 182/2011 shall apply.

*Amendment*

2. Where reference is made to this ***article***, Article 4 of Regulation (EU) No 182/2011 shall apply ***and the competent committee shall be the Committee established by Council Decision 71/306/EEC.***

**Amendment 1559**  
**Malcolm Harbour**

**Proposal for a directive**  
**Article 91 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2 a. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply and the competent committee shall be the Committee set up by the Trade Barriers regulation.***

Or. en

**Amendment 1560**  
**Heide Rühle**

**Proposal for a directive**  
**Annex 6 – part H**

*Text proposed by the Commission*

*Amendment*

***Part H***

***deleted***

***INFORMATION TO BE INCLUDED IN CONTRACT NOTICES CONCERNING CONTRACTS FOR SOCIAL AND OTHER SPECIFIC SERVICES***

***(as referred to in Article 75(1))***

***1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.***

***2. Where appropriate, email or internet address at which the specifications and any supporting documents will be available.***

***3. Type of contracting authority and main***

*activity exercised.*

*4. Where appropriate, indication whether the contracting authority is a central purchasing body or that any other form of joint procurement is involved.*

*5. CPV Nomenclature reference No(s); where the contract is divided into lots, this information shall be provided for each lot.*

*6. NUTS code for the main location of works in case of works or NUTS code for the main place of delivery or performance in case of supplies and services*

*7. Description of the services and where applicable, incidental works and supplies to be procured*

*8. Estimated total value of contract(s); where the contract is divided into lots, this information shall be provided for each lot.*

*9. Conditions for participation, including*

*a) where appropriate, indication whether the contract is restricted to sheltered workshops, or whether its execution is restricted to the framework of protected job programmes,*

*b) where appropriate, indication whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession.*

*10. Time limit(s) for contacting the contracting authority in view of participation.*

*11. Brief description of the main features of the award procedure to be applied.*

*12. Any other relevant information.*

Or. en

**Amendment 1561**  
**Frank Engel, Andreas Schwab**

**Proposal for a directive**  
**Annex 6 – section 8**

*Text proposed by the Commission*

*Amendment*

**Part H**

*deleted*

**INFORMATION TO BE INCLUDED IN  
CONTRACT NOTICES CONCERNING  
CONTRACTS FOR SOCIAL AND  
OTHER SPECIFIC SERVICES**

*(as referred to in Article 75(1))*

- 1. Name, identification number (where provided for in national legislation), address including NUTS code, telephone, fax number, email and internet address of the contracting authority and, where different, of the service from which additional information may be obtained.*
- 2. Where appropriate, email or internet address at which the specifications and any supporting documents will be available.*
- 3. Type of contracting authority and main activity exercised.*
- 4. Where appropriate, indication whether the contracting authority is a central purchasing body or that any other form of joint procurement is involved.*
- 5. CPV Nomenclature reference No(s); where the contract is divided into lots, this information shall be provided for each lot.*
- 6. NUTS code for the main location of works in case of works or NUTS code for the main place of delivery or performance in case of supplies and services*
- 7. Description of the services and where applicable, incidental works and supplies to be procured*
- 8. Estimated total value of contract(s); where the contract is divided into lots, this*

*information shall be provided for each lot.*

**9. Conditions for participation, including**

*a) where appropriate, indication whether the contract is restricted to sheltered workshops, or whether its execution is restricted to the framework of protected job programmes,*

*b) where appropriate, indication whether the execution of the service is reserved by law, regulation or administrative provision to a particular profession.*

**10. Time limit(s) for contacting the contracting authority in view of participation.**

**11. Brief description of the main features of the award procedure to be applied.**

**12. Any other relevant information.**

Or. en

*Justification*

*linked to the re-introduction of the distinction between A and B services*

**Amendment 1562**

**Alexander Alvaro, Jürgen Creutzmann**

**Proposal for a directive**

**Annex 8 – paragraph 1 – point 1 – point a**

*Text proposed by the Commission*

(a) in the case of public works contracts the totality of the technical prescriptions contained in particular in the procurement documents, defining the characteristics required of a material, product or supply, so that it fulfils the use for which it is intended by the contracting authority; those characteristics include levels of

*Amendment*

(a) in the case of public works contracts the totality of the technical prescriptions contained in particular in the procurement documents, defining the characteristics required of a material, product or supply, so that it fulfils the use for which it is intended by the contracting authority; those characteristics include levels of



environmental and climate performance, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, safety or dimensions, including the procedures concerning quality assurance, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions and production processes and methods at any stage of the life cycle of the works; those characteristics also include rules relating to design and costing, the test, inspection and acceptance conditions for works and methods or techniques of construction and all other technical conditions which the contracting authority is in a position to prescribe, under general or specific regulations, in relation to the finished works and to the materials or parts which they involve;

environmental and climate performance, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, safety or dimensions, including the procedures concerning quality assurance, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions and production processes and methods at any stage of the life cycle of the works; those characteristics also include rules relating to design (***including data protection by design***) and costing, the test, inspection and acceptance conditions for works and methods or techniques of construction and all other technical conditions which the contracting authority is in a position to prescribe, under general or specific regulations, in relation to the finished works and to the materials or parts which they involve;

Or. en

### **Amendment 1563**

**Matteo Salvini, Francesco Enrico Speroni**

#### **Proposal for a directive**

#### **Annex 8 – paragraph 1 – point 1 – point a**

##### *Text proposed by the Commission*

(a) in the case of public works contracts the totality of the technical prescriptions contained in particular in the procurement documents, defining the characteristics required of a material, product or supply, so that it fulfils the use for which it is intended by the contracting authority; those characteristics include levels of environmental and climate performance, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, safety or dimensions, including the

##### *Amendment*

(a) in the case of public works contracts the totality of the technical prescriptions contained in particular in the procurement documents, defining the characteristics required of a material, product or supply, so that it fulfils the use for which it is intended by the contracting authority; those characteristics include levels of environmental and climate performance, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, safety or dimensions, including the

procedures concerning quality assurance, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions **and** production processes and methods at any stage of the life cycle of the works; those characteristics also include rules relating to design and costing, the test, inspection and acceptance conditions for works and methods or techniques of construction and all other technical conditions which the contracting authority is in a position to prescribe, under general or specific regulations, in relation to the finished works and to the materials or parts which they involve;

procedures concerning quality assurance, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions, production processes and methods **and working conditions** at any stage of the life cycle of the works; those characteristics also include rules relating to design and costing, the test, inspection and acceptance conditions for works and methods or techniques of construction and all other technical conditions which the contracting authority is in a position to prescribe, under general or specific regulations, in relation to the finished works and to the materials or parts which they involve;

Or. en

#### **Amendment 1564**

**Alexander Alvaro, Jürgen Creutzmann**

#### **Proposal for a directive**

#### **Annex 8 – paragraph 1 – point 1 – point b**

##### *Text proposed by the Commission*

(b) in the case of public supply or service contracts a specification in a document defining the required characteristics of a product or a service, such as quality levels, environmental and climate performance levels, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, use of the product, safety or dimensions, including requirements relevant to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions, production processes and methods at any stage of the life cycle of the supply or service and conformity assessment procedures;

##### *Amendment*

(b) in the case of public supply or service contracts a specification in a document defining the required characteristics of a product or a service, such as quality levels, environmental and climate performance levels, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, use of the product, safety or dimensions, including requirements relevant to the product as regards the name under which the product is sold, terminology, **rules relating to design (including data protection by design)**, symbols, testing and test methods, packaging, marking and labelling, user instructions, production processes and methods at any stage of the life cycle of the supply or service and conformity

assessment procedures;

Or. en

**Amendment 1565**

**Matteo Salvini, Francesco Enrico Speroni**

**Proposal for a directive**

**Annex 8 – paragraph 1 – point 1 – point b**

*Text proposed by the Commission*

(b) in the case of public supply or service contracts a specification in a document defining the required characteristics of a product or a service, such as quality levels, environmental and climate performance levels, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, use of the product, safety or dimensions, including requirements relevant to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions, production processes and methods at any stage of the life cycle of the supply or service and conformity assessment procedures;

*Amendment*

(b) in the case of public supply or service contracts a specification in a document defining the required characteristics of a product or a service, such as quality levels, environmental and climate performance levels, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, use of the product, safety or dimensions, including requirements relevant to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions, production processes and methods **and working conditions** at any stage of the life cycle of the supply or service and conformity assessment procedures;

Or. en

**Amendment 1566**

**Heide Rühle**

**Proposal for a directive**

**Annex 8 – paragraph 1 – point 2 – introductory part**

*Text proposed by the Commission*

(2) 'standard' means a technical specification approved by a recognised

*Amendment*

(2) "standard" means a technical specification **established by consensus and**

*standardising body* for repeated or continuous *application, compliance* with which is not compulsory and which falls into one of the following categories:

approved by a recognised *standardisation organisation* for repeated or continuous *use*, with which *compliance* is not compulsory and which falls into one of the following categories:

Or. en

**Amendment 1567**  
**Heide Rühle**

**Proposal for a directive**  
**Annex 8 – paragraph 1 – point 4**

*Text proposed by the Commission*

(4) ‘Common technical specification’ means a technical specification laid down in accordance with a procedure recognised by the Member States or in accordance with Articles 9 and 10 of Parliament and Council Regulation [XXX] on European standardisation [and amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/105/EC and 2009/23/EC of the European Parliament and the Council] which has been published in the Official Journal of the European Union;

*Amendment*

(4) ‘Common technical specification’ means a technical specification laid down in accordance with a procedure recognised by the Member States or, *in the field of information and communication technologies, in* accordance with Articles 9 and 10 of Parliament and Council Regulation [XXX] on European standardisation [and amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/105/EC and 2009/23/EC of the European Parliament and the Council] which has been published in the Official Journal of the European Union;

Or. en

*Justification*

*CEN/CENELEC proposal – bringing in line with the definitions of the Directive 98/34/EC*

**Amendment 1568**  
**Sari Essayah**

**Proposal for a directive**  
**Annex 8 – paragraph 1 – point 4**

*Text proposed by the Commission*

(4) ‘Common technical specification’ means a technical specification laid down in accordance with a procedure recognised by the Member States or in accordance with Articles 9 and 10 of Parliament and Council Regulation [XXX] on European standardisation [and amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/105/EC and 2009/23/EC of the European Parliament and the Council] which has been published in the Official Journal of the European Union;

*Amendment*

(4) ‘Common technical specification’ means a technical specification laid down in accordance with a procedure recognised by the Member States or, ***in the field of information and communication technologies, in*** accordance with Articles 9 and 10 of Parliament and Council Regulation [XXX] on European standardisation [and amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/105/EC and 2009/23/EC of the European Parliament and the Council] which has been published in the Official Journal of the European Union;

Or. en

**Amendment 1569**  
**Matteo Salvini, Francesco Enrico Speroni**

**Proposal for a directive**  
**Annex 11 – indent 8 a (new)**

*Text proposed by the Commission*

*Amendment*

***- Convention 155 on Occupational Safety and Health***

Or. en

**Amendment 1570**  
**Matteo Salvini, Francesco Enrico Speroni**

**Proposal for a directive**  
**Annex 11 – indent 8 b (new)**

*Text proposed by the Commission*

*Amendment*

**- Convention 1 on Hours of Work  
(Industry)**

Or. en

**Amendment 1571**  
**Matteo Salvini, Francesco Enrico Speroni**

**Proposal for a directive**  
**Annex 11 – indent 8 c (new)**

*Text proposed by the Commission*

*Amendment*

**- Convention 131 on Minimum Wage  
Fixing**

Or. en

**Amendment 1572**  
**Matteo Salvini, Francesco Enrico Speroni**

**Proposal for a directive**  
**Annex 11 – indent 8 d (new)**

*Text proposed by the Commission*

*Amendment*

**- Convention 102 on Social Security  
(Minimum Standard)**

Or. en

**Amendment 1573**  
**Andreas Schwab, Frank Engel, Birgit Collin-Langen, Sabine Verheyen, Konstantinos  
Poupakis, Jürgen Creutzmann**

**Proposal for a directive**  
**Annex 13 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) Identification of the economic operator;

(a) Identification of the economic operator;  
***company registration number, name,  
address, bank;***

Or. en

**Amendment 1574**

**Andreas Schwab, Frank Engel, Sirpa Pietikäinen, Jürgen Creutzmann**

**Proposal for a directive**

**Annex 13 – paragraph 1 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

***(aa) Description of the company, in  
particular year of establishment,  
corporate form, owner(s) of the company,  
members of the board, industry code,  
short description of the main services  
and/or production of the company;***

Or. en

**Amendment 1575**

**Andreas Schwab, Frank Engel, Konstantinos Poupakis, Sirpa Pietikäinen, Jürgen  
Creutzmann**

**Proposal for a directive**

**Annex 13 – paragraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) Certification that the economic  
operator has fulfilled its obligations in  
relation to payment of taxes or social  
security systems according to individual  
Member States laws;***

Or. en

**Amendment 1576**

**Andreas Schwab, Frank Engel, Sirpa Pietikäinen, Jürgen Creutzmann**

**Proposal for a directive**

**Annex 13 – paragraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

*(da) Key economic indicators of the economic operator for the last three accounting years: gross sales, EBIT and solvency ratio; compliance to da) for start-up companies is when information from start-up until the present date is adopted into their Public Procurement Passport;*

Or. en

**Amendment 1577**

**Andreas Schwab, Frank Engel, Sirpa Pietikäinen, Jürgen Creutzmann**

**Proposal for a directive**

**Annex 13 – paragraph 1 – point d b (new)**

*Text proposed by the Commission*

*Amendment*

*(db) Key organisational indicators of the economic operator: average number of employees during the last three years and number of employees by the end of the last year; compliance to db) for start-up companies is when information from start-up until the present date is adopted into their Public Procurement Passport;*

Or. en

**Amendment 1578**

**Andreas Schwab, Frank Engel, Jürgen Creutzmann**

**Proposal for a directive**

**Annex 13 – paragraph 1 – point f**



*Text proposed by the Commission*

*Amendment*

(f) Indication of the period of validity of the Passport, which shall be not less than **6 months**.

(f) Indication of the period of validity of the Passport, which shall be not less than **one year**.

Or. en

**Amendment 1579**

**Morten Løkkegaard, Jürgen Creutzmann, Jens Rohde**

**Proposal for a directive**

**Annex 13 – paragraph 1 – point f**

*Text proposed by the Commission*

*Amendment*

(f) Indication of the period of validity of the Passport, which shall be not less than **6 months**.

(f) Indication of the period of validity of the Passport, which shall be not less than **12 months**.

Or. en

**Amendment 1580**

**Marian Harkin**

**Proposal for a directive**

**Annex 14 – part 2 – paragraph 1 – point a – point ii**

*Text proposed by the Commission*

*Amendment*

(ii) a list of the principal deliveries effected or the main services provided over at the most the past three years, with the sums, dates and recipients, whether public or private, involved. Where necessary in order to ensure an adequate level of competition, contracting authorities may indicate that evidence of relevant supplies or services delivered or performed more than **three** years before will be taken into account;

(ii) a list of the principal deliveries effected or the main services provided over at the most the past three years, with the sums, dates and recipients, whether public or private, involved. Where necessary in order to ensure an adequate level of competition, contracting authorities may indicate that evidence of relevant supplies or services delivered or performed more than **five** years before will be taken into account;

Or. en

*Justification*

*Engineering consultancy competences are the sum of methodology, skills and resources that are not necessarily reflected/demonstrated in the past three years in a specialised field.*

**Amendment 1581**  
**Phil Prendergast**

**Proposal for a directive**  
**Annex 14 – part 2 – paragraph 1 – point a – point ii**

*Text proposed by the Commission*

(ii) a list of the principal deliveries effected or the main services provided over at the most the past **three** years, with the sums, dates and recipients, whether public or private, involved. Where necessary in order to ensure an adequate level of competition, contracting authorities may indicate that evidence of relevant supplies or services delivered or performed more than **three** years before will be taken into account;

*Amendment*

(ii) a list of the principal deliveries effected or the main services provided over at the most the past **five** years, with the sums, dates and recipients, whether public or private, involved. Where necessary in order to ensure an adequate level of competition, contracting authorities may indicate that evidence of relevant supplies or services delivered or performed more than **five** years before will be taken into account;

Or. en

**Amendment 1582**  
**Sirpa Pietikäinen**

**Proposal for a directive**  
**Annex 14 – part 2 – paragraph 1 – point f**

*Text proposed by the Commission*

(f) an indication of the environmental management measures that the economic operator will be able to apply when performing the contract;

*Amendment*

(f) an indication of the environmental **and social** management measures that the economic operator will be able to apply when performing the contract;

Or. en

**Amendment 1583**  
**Ivo Belet**

**Proposal for a directive**  
**Annex 14 – part 2 – paragraph 1 – point f**

*Text proposed by the Commission*

(f) an indication of the *environmental* management measures that the economic operator will be able to apply when performing the contract;

*Amendment*

(f) an indication of the *sustainable development* management measures that the economic operator will be able to apply when performing the contract;

Or. en

**Amendment 1584**  
**Frank Engel, Andreas Schwab**

**Proposal for a directive**  
**Annex 16**

*Text proposed by the Commission*

*Annexe XVI*

*Amendment*

*This annex is deleted*

Or. en

*Justification*

*This Annex has been replaced by Annex 16A and 16B.*

**Amendment 1585**  
**Robert Rochefort**

**Proposal for a directive**  
**Annex 16**

*Text proposed by the Commission*

*Annex XVI*

*Amendment*

*This annex is deleted.*

Or. fr

*Justification*

*This annex is replaced by Annexes XVIA and XVIB.*

**Amendment 1586**

**Malcolm Harbour, Edvard Kožušnik**

**Proposal for a directive**

**Annex 16**

*Text proposed by the Commission*

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

*Amendment*

CPV Code	Description
79611000-0; <b>75200000-8; 75231200-6;</b> <b>75231240-8;</b>	Health, social <b>and related</b> services

from 85000000-9 to 85323000-9 (except 85321000-5 and 85322000-2); <b>98133100-5 and 98200000-5</b>	Administrative educational, healthcare and cultural services
75121000-0, 75122000-7, 75124000-1; from 79995000-5 to 79995200-7; from 80100000-5 to 80660000-8 (except 80533000-9, 80533100-0, 80533200-1); from 92000000-1 to 92700000-8 (except 92230000-2, 92231000-9, 92232000-6) 75300000-9	Compulsory social security services Benefit services
75310000-2, 75311000-9, 75312000-6, 75313000-3, 75313100-4, 75314000-0, 75320000-5, 75330000-8, 75340000-1 98000000-3; <b>55521100-9</b>	Other community, social and personal services
98120000-0	Services furnished by trade unions
98131000-0	Religious services
<b>from 61000000-5 to 61530000-9; from 63370000-3 to 63372000-7</b>	<b>Transport by water</b>
<b>62400000-6, 62440000-8, 62441000-5, 62450000-1; from 63000000-9 to 63600000-5 (except 63370000-3, 63371000-0, 63372000-7); 74322000-2, 93610000-7</b>	<b>Supporting and auxiliary transport services</b>
<b>from 74500000-4 to 74540000-6 (except 74511000-4); from 95000000-2 to 95140000-5</b>	<b>Personnel placement and supply services</b>
<b>from 74600000-5 to 74620000-1</b>	<b>Investigation and security services, other than armoured car services</b>
<b>from 74875000-3 to 74875200-5, and from 92000000-1 to 92622000-7 (except 92230000-2)</b>	<b>Recreational, cultural and sporting services</b>

*Justification*

*As a Single Online Point of contact on business and citizens rights, the Your Europe Portal needs to significantly increase its visibility among consumers.*

**Amendment 1587**

**Jens Rohde, Morten Løkkegaard**

**Proposal for a directive**

**Annex 16 - column 1 - row 1**

*Text proposed by the Commission*

*Amendment*

79611000-0 and  
from 85000000-9 to 85323000-9  
(except 85321000-5 **and** 85322000-2)

79611000-0 and  
from 85000000-9 to 85323000-9  
(except 85321000-5, 85322000-2 **and**  
**85143000-3**)

*Justification*

*Albeit there is a rationale in having a special regime for certain social services, the new regime should not limit the scope for public procurement in sectors where this has already been successfully done for years. This is especially the case for emergency ambulance services where European standards for building and furnishing of emergency ambulances and patient transport vehicles have existed for a number of years, hereby facilitating and encouraging cross border competition within these services to the benefit of contracting authorities, patients' satisfaction as well as economic operators.*

*The list of CPV codes under 'Health and social services' should be amended to include the CPV code 85143000-3 in the exceptions in the brackets so it would read '(except 85321000-5, 85322000-2 and 85143000-3)*

**Amendment 1588**

**Anna Hedh**

**Proposal for a directive**

**Annex 16 - row 6**

*Text proposed by the Commission*

*Amendment*

**98120000-0 / Services furnished by trade unions**      **deleted**

Or. en

*Justification*

*Trade unions are autonomous private entities which should not be covered by public procurement. It is not clear what the effect is if trade unions are included, and it should be deleted if no reasonable argument for inclusion can be presented.*

**Amendment 1589**

**Matteo Salvini**

**Proposal for a directive  
Annex 16 - row 7 a (new)**

*Text proposed by the Commission*

*Amendment*

**From 79100000-5 to 79140000-7 / Legal services**

Or. en

*Justification*

*Legal services having a nature of personal choice are not eligible to be assigned on the basis of the full application of the procurement regime. In addition, they are provided in a legal environment that varies considerably from one Member State to another so that the demand of such services is inevitably limited to operators having specific competences in the relevant national law.*

**Amendment 1590**

**Heide Rühle**

**Proposal for a directive  
Annex 16 – rows 7 a to 7 l (new)**

*Text proposed by the Commission*

*Amendment*

**79112000-2 Legal representation services**

**79100000-5 Legal services**

**79110000-8 Legal advisory and representation services**

**79111000-5 Legal advisory services**

**79112100-3 Stakeholders representation services**

**79120000-1 Patent and copyright consultancy services**

**79121000-8 Copyright consultancy services**

**79121100-90 Software copyright consultancy services**

**79130000-4 Legal documentation and certification services**

**79131000-1 Documentation services**

**79132000-8 Certification services**

**79140000-7 Legal advisory and information services**

Or. en

*Justification*

*A specific treatment of services is only justified insofar it applies to all services of the same character, legal services – underlying the same principles of confidentiality should not be discriminated.*

**Amendment 1591**

**Anja Weisgerber, Sabine Verheyen, Birgit Collin-Langen**

**Proposal for a directive**

**Annex 16 - column 2**

*Text proposed by the Commission*

*Amendment*

Health and social services

Health, **veterinary** and social services



Administrative educational, healthcare and cultural services  
Compulsory social security services  
Benefit services  
Other community, social and personal services  
Services furnished by trade unions  
Religious services

Administrative educational, healthcare and cultural services  
Compulsory social security services  
Benefit services  
Other community, social and personal services  
Services furnished by trade unions  
Religious services

***Hotel and restaurant services***

***Rail transport services***

***Shipping***

***Supporting and auxiliary transport services***

***Personnel placement and supply services, apart from employment contracts***

***Investigation and security services, except armoured car services***

***Education and vocational education services***

***Recreation, culture and sport, except contracts for the acquisition, development, production or co-production of programmes by broadcasting organisations and contracts for broadcasting time***

***Other services apart from employment contracts and contracts for the acquisition, development, production or co-production of programmes by broadcasting organisations and contracts for broadcasting time***

Or. de

#### *Justification*

*The current distinction between A and B services should in principle be maintained, as B services have little or no relevance for the internal market. The omission of services in the field of culture, sport and recreation would be particularly hard to understand and would in practice lead to considerable problems and increased bureaucracy. The meaning of the term*

*'administrative services' here is not sufficiently clear and is too limited.*

**Amendment 1592**  
**Robert Rochefort**

**Proposal for a directive**  
**Annex 16 a (new)**

*Text proposed by the Commission*

*Amendment*

*Annex XVIa*

*Annex XVIa - Part A*

*Services referred to in Article 1*

<i>Categories</i>	<i>Subject</i>	<i>CPC reference No [1]</i>	<i>CPV Reference No</i>
<i>1</i>	<i>Maintenance and repair services</i>	<i>6112, 6122, 633, 886</i>	<i>From 50100000-6 to 50884000-5 (except for 50310000-1 to 50324200-4 and 50116510-9, 50190000-3, 502290006, 50243000-0), and from 51000000-9 to 51900000-1</i>
<i>2</i>	<i>Land transport services, including armoured car services, and courier services, except transport of mail</i>	<i>712 (except for 71235), 7512, 87304</i>	<i>From 60100000-9 to 60183000-4 (except for 60160000-7, 60161000-4, 60220000-6), and from 64120000-3 to 64121200-2</i>
<i>3</i>	<i>Air transport services of passengers and freight, except transport of mail</i>	<i>73 (except for 7321)</i>	<i>From 60410000-5 to 60424120-3 (except for 60411000-2, 60421000-5), and 60500000-3 From 60440000-4 to 60445000-9</i>
<i>4</i>	<i>Transport of mail by land [2] and by air</i>	<i>71235, 7321</i>	<i>60160000-7, 60161000-4 60411000-2, 60421000-5</i>
<i>5</i>	<i>Telecommunications services</i>	<i>752</i>	<i>From 64200000-8 to 64228200-2 72318000-7, and from 72700000-7 to 72720000-3</i>
<i>6</i>	<i>Financial services:</i> <i>a) Insurance services</i>  <i>b) Banking and investment services [3]</i>	<i>ex 81, 812, 814</i>	<i>From 66100000-1 to 66720000-3</i>

7	<i>Computer and related services</i>	84	<i>From 50310000-1 to 50324200-4 From 72000000-5 to 72920000-5 (except for 72318000-7 and from 72700000-7 to 72720000-3), 9342410-4</i>
8	<i>R&amp;D services [4]</i>	85	<i>From 73000000-2 to 73436000-7 (except for 73200000-4, 73210000-7, 73220000-0</i>
9	<i>Accounting, auditing and bookkeeping services</i>	862	<i>From 79210000-9 to 79223000-3</i>
10	<i>Market research and public opinion polling services</i>	864	<i>From 79300000-7 to 79330000-6, and 79342310-9, 79342311-6</i>
11	<i>Management consulting services [5] and related services</i>	865, 866	<i>From 73200000-4 to 73220000-0 From 79400000-8 to 79421200-3 and 79342000-3, 79342100-4 79342300-6, 79342320-2 79342321-9, 79910000-6, 79991000-7 98362000-8</i>
12	<i>Architectural services; engineering services and integrated engineering services; urban planning and landscape engineering services; related scientific and technical consulting services; technical testing and analysis services</i>	867	<i>From 71000000-8 to 71900000-7 (except for 71550000-8) and 79994000-8</i>
13	<i>Advertising services</i>	871	<i>From 79341000-6 to 79342200-5 (except for 79342000-3 and 79342100-4)</i>
14	<i>Building-cleaning services and property management services</i>	874, 82201 à 82206	<i>From 70300000-4 to 70340000-6, and from 90900000-6 to 90924000-0</i>
15	<i>Publishing and printing services on a fee or contract basis</i>	88442	<i>From 79800000-2 to 79824000-6 From 79970000-6 to 79980000-7</i>
16	<i>Sewage and refuse disposal services; sanitation and similar services</i>	94	<i>From 90400000-1 to 90743200-9 (except for 90712200-3 From 90910000-9 to 90920000-2 and 50190000-3, 50229000-6 50243000-0</i>

(1) CPC Nomenclature (provisional version ), used to define the scope of Directive 92/50/EEC.

(2) Except for rail transport services covered by category 18.

(3) Except financial services relating to the issue, sale, purchase or transfer of securities and other financial instruments and services provided by central banks. Also excluded: services involving the acquisition or rental, by whatever financial procedures, of land,

*existing buildings, or other immovable property or concerning rights thereon; nevertheless, financial services supplied at the same time as, before or after the contract of acquisition or rental, in whatever form, shall be subject to this Directive.*

*(4) Except research and development services other than those where the benefits accrue exclusively to the contracting authority and/or contracting entity for its use in the conduct of its own affairs on condition that the service provided is wholly remunerated by the contracting authority.*

*(5) Except arbitration and conciliation services.*

**Annex XVIa - Part B**

**Services referred to in Articles 4(d) and 74**

<b>Categories</b>	<b>Subject</b>	<b>CPC reference No [1]</b>	<b>CPV Reference No</b>
17	<i>Hotel and restaurant services</i>	64	<i>From 55100000-1 to 55524000-9, and from 98340000-8 to 98341100-6</i>
18	<i>Rail transport services</i>	711	<i>From 60200000-0 to 60220000-6</i>
19	<i>Water transport services</i>	72	<i>From 60600000-4 to 60653000-0, and from 63727000-1 to 63727200-3</i>
20	<i>Supporting and auxiliary transport services</i>	74	<i>From 63000000-9 to 63734000-3 (except for 63711200-8, 63712700-0, 63712710-3, and from 63727000-1, to 63727200-3), and 98361000-1</i>
21	<i>Legal services</i>	861	<i>From 79100000-5 to 79140000-7</i>
22	<i>Personnel placement and supply services [2]</i>	872	<i>From 79600000-0 to 79635000-4 (except for 79611000-0, 79632000-3, 79633000-0), and from 98500000-8 to 98514000-9)</i>
23	<i>Investigation and security services, except armoured car services</i>	873 (except for 87304)	<i>From 80100000-5 to 80660000-8 (except for 80533000-9, 80533100-0, 80533200-1)</i>
24	<i>Education and vocational education services</i>	92	<i>From 80100000-5 to 80660000-8 (except for 80533000-9, 80533100-0, 80533200-1)</i>
25	<i>Health and social services</i>	93	<i>79611000-0, and from 85000000-9 to 85323000-9 (except for 85321000-5 and 85322000-2)</i>
26	<i>Recreational, cultural</i>	96	<i>From 79995000-5 to 79995200-7, and</i>

	<i>and sporting services [3]</i>		<i>from 92000000-1 to 92700000-8 (except for 92230000-2, 92231000-9, 92232000-6)</i>
27	<i>Other services</i>		

*(1) CPC Nomenclature (provisional version), used to define the scope of Directive 92/50/EEC.*

*(2) Except employment contracts.*

*(3) Except contracts for the acquisition, development, production or co-production of programmes by broadcasting organisations and contracts for broadcasting time.*

Or. fr

**Amendment 1593**  
**Frank Engel, Andreas Schwab**

**Proposal for a regulation**  
**Annex 16 a (new)**

*Text proposed by the Commission*

*Amendment*

*Annex XVIa*

*Annex XVIa - Part A*

*Services referred to in Article 6a*

<i>Category N°</i>	<i>Subject</i>	<i>CPC Reference No (1)</i>	<i>CPV Reference N°</i>
<i>1</i>	<i>Maintenance and repair services</i>	<i>6112, 6122, 633, 886</i>	<i>From 50100000-6 to 50884000-5 (except for 50310000-1 to 50324200-4 and 50116510-9, 50190000- 3, 50229000-6, 50243000-0), and from 51000000-9 to 51900000-1</i>
<i>2</i>	<i>Land transport services (2), including armoured car services, and courier services, except transport of mail</i>	<i>712 (except 71235), 7512, 87304</i>	<i>From 60100000-9 to 60183000-4 (except 60160000- 7, 60161000- 4, 60220000-6), and from 64120000-3 to 64121200-2</i>

3	<i>Air transport services of passengers and freight, except transport of mail</i>	73 (except 7321)	<i>From 60410000-5 to 60424120-3 (except 60411000-2, 60421000-5), and 60500000-3, and from 60440000-4 to 60445000-9</i>
4	<i>Transport of mail by land (3) and by air</i>	71235, 7321	<i>60160000-7, 60161000-4 60411000-2, 60421000-5</i>
5	<i>Telecommunications services</i>	752	<i>From 64200000-8 to 64228200-2 72318000-7, and from 72700000-7 to 72720000-3</i>
6	<i>Financial services: (a) Insurance services (b) Banking and investment services (4)</i>	<i>ex 81, 812, 814</i>	<i>From 66100000-1 to 66720000-3 (4)</i>
7	<i>Computer and related services</i>	84	<i>From 50310000-1 to 50324200-4 from 72000000-5 to 72920000-5 (except 72318000-7 and from 72700000-7 to 72720000-3), 79342410-4</i>
8	<i>Research and development services (5)</i>	85	<i>From 73000000-2 to 73436000-7 (except 73200000-4, 73210000-7, 73220000-0 )</i>
9	<i>Accounting, auditing and bookkeeping services</i>	862	<i>From 79210000-9 to 79223000-3</i>
10	<i>Market research and public opinion polling services</i>	864	<i>From 79300000-7 to 79330000-6, and 79342310-9, 79342311-6</i>
11	<i>Management consulting services (6) and related services</i>	865, 866	<i>From 73200000-4 to 73220000-0 from 79400000-8 to 79421200-3 and 79342000-3, 79342100-4 79342300-6, 79342320-2 79342321-9, 79910000-6, 79991000-7 98362000-8</i>

12	<i>Architectural services; engineering services and integrated engineering services; urban planning and landscape engineering services; related scientific and technical consulting services; technical testing and analysis services</i>	867	<i>From 71000000-8 to 71900000-7 (except 71550000- 8) and 79994000-8</i>
13	<i>Advertising services</i>	871	<i>From 79341000-6 to 79342200-5 (except 79342000-3 and 79342100-4)</i>
14	<i>Building-cleaning services and property management services</i>	874, 82201 to 82206	<i>From 70300000-4 to 70340000-6, and from 90900000-6 to 90924000-0</i>
15	<i>Publishing and printing services on a fee or contract basis</i>	88442	<i>From 79800000-2 to 79824000-6, and from 79970000-6 to 79980000-7</i>
16	<i>Sewage and refuse disposal services; sanitation and similar services</i>	94	<i>From 90400000-1 to 90743200-9 (except 90712200- 3), from 90910000-9 to 90920000-2 and 50190000-3, 50229000-6 50243000-0</i>

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*(1) Except employment contracts.*

*(2) Except contracts for the acquisition, development, production or co-production of programmes by broadcasting organisations and contracts for broadcasting time.*

*(3) Except for rail transport services covered by category 18.*

*(4) Except financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments, and central bank services.*

*Also excluded: services involving the acquisition or rental, by whatever financial procedures, of land, existing buildings, or other immovable property or concerning rights thereon; nevertheless, financial services supplied at the same time as, before or after the contract of acquisition or rental, in whatever form, shall be subject to this Directive.*

*(5) Except research and development services other than those where the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs on condition that the service provided is wholly remunerated by the contracting authority.*

*(6) Except arbitration and conciliation services*

**Annex XVIa - Part B**

**Services referred to in Article 6a**

<b>Category N°</b>	<b>Subject</b>	<b>CPC Reference No (1)</b>	<b>CPV Reference N°</b>
17	<i>Hotel and restaurant services</i>	64	<i>From 55100000-1 to 55524000-9, and from 98340000-8 to 98341100-6</i>
18	<i>Rail transport services</i>	711	<i>From 60200000-0 to 60220000-6</i>
19	<i>Water transport services</i>	72	<i>From 60600000-4 to 60653000-0, and from 63727000-1 to 63727200-3</i>
20	<i>Supporting and auxiliary transport services</i>	74	<i>From 63000000-9 to 63734000-3 (except 63711200-8, 63712700-0, 63712710-3, and from 63727000-1, to 63727200-3), and 98361000-1</i>
21	<i>Legal services</i>	861	<i>From 79100000-5 to 79140000-7</i>
22	<i>Personnel placement and supply services (1)</i>	872	<i>From 79600000-0 to 79635000-4 (except 79611000-0, 79632000-3, 79633000-0), and from 98500000-8 to 98514000-9</i>
23	<i>Investigation and security services, except armoured car services</i>	873 (except 87304)	<i>From 79700000-1 to 79723000-8</i>
24	<i>Education and vocational education services</i>	92	<i>From 80100000-5 to 80660000-8 (except 80533000- 9, 80533100-0, 80533200-1)</i>
25	<i>Health and social services</i>	93	<i>79611000-0, and from 85000000-9 to 85323000-9 (except 85321000-5 and 85322000-2)</i>
26	<i>Recreational, cultural and sporting services</i>	96	<i>From 79995000-5 to 79995200-7, and from 92000000-1 to 92700000-8 (except 92230000-2, 92231000-</i>



27            **Other services (2)**

**(1) Except employment contracts.**

**(2) Except contracts for the acquisition, development, production or co-production of programmes by broadcasting organisations and contracts for broadcasting time.**

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