

CZ - SPS	<p>On 1/10/2006 entered into force in the Czech Republic the Act Nr.136/2006- "Public Procurement". This Act has fully respected (and contains) all corresponding regulations and directives of the EU which are cited in the opening part of the Act/Codex. In other words the above mentioned act is already in accordance with them.</p> <p>On the base of this mentioned act our Association manages the process of certification of construction companies/contractors of public works.</p> <p>• Complementary comments :</p> <p>1) Central purchasing body There exist a special electronic "portal" on which all purchasers - here I mean mostly ministries and regional administrative bodies- (we call it here submission of requests) obligatory must publish the orders - so its accessible by internet. Besides it is also centrally published in a paper form of a special bulletin.</p> <p>2) Dynamic purchasing and E-auction It exists, but only if it concerns the "jobbing products" (like machines etc) - but it doesn't exist for the construction orders - (public works-investments). So, it generally exists, but not for construction contracts/order.</p>
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D - HDB	<p>a) Germany has implemented the European Directives 2004/18/EC and 2004/17/EC</p> <ul style="list-style-type: none"> - partly with effect of 8 September 2005 (competitive dialogue), and - partly with effect of 1 November 2006 (further provisions). <p>b) The German implementation was established on three different levels :</p> <p>(1) The <u>German Law against Restrictions in Competition</u> (= Gesetz gegen Wettbewerbsbeschränkungen, GWB). It contains the fundamental principles of public procurement (§§ 97 to 101), and (nearly) all the rules concerning a legal review (§§ 102 to 129).</p> <p>(2) The German Regulation on Public Procurement (Vergabeverordnung). It is based on the German Law against Restrictions in Competition, and implements the European threshold values (§ 2), most rules of competitive dialogue (§ 6a), an obligatory information of tenderers, to whom a contract shall not be awarded (§ 13), and a reference (§§ 4 to 6, §§ 7 to 12) to the rules of the three German Procurement Codes, namely</p> <p>(3.1) the German Procurement Code regarding <u>Construction</u> (= Vergabe- und Vertragsordnung für Bauleistungen, Teil A – VOB/A),</p> <p>(3.2) the German Procurement Code regarding <u>Supplies and Services</u> (= Verdingungsordnung für Leistungen, Teil A – VOL/A), and</p> <p>(3.3) the German Procurement Code regarding <u>Architects` and Engineers` Services</u> (Verdingungsordnung für freiberufliche Leistungen – VOF).</p> <p>All these German rules are available on the internet (www.bund.de/ausschreibungen/gesetze_und_verordnungen).</p> <p>Most (but not all) provisions of the European Directives 2004/18/EC and 2004/17/EC were implemented. A general simplification and modernization of German procurement rules is currently under preparation, but will require some time.</p>
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	<ul style="list-style-type: none"> • As complement to the previous HDB reply, please note that : <ul style="list-style-type: none"> (1) the European Procurement Directives 2004/18/EC and 2004/17/EC were implemented by : <ul style="list-style-type: none"> (1a) the German Law on Accelerating the Implementation of Public-Private Partnerships (ÖPP-Bescheinigungsgesetz), which was published in the Federal Legislation Journal (Bundesgesetzblatt), Part I, of 7 September 2005, pages 2676 et seq. (1b) the Third Amendment to the Federal Procurement Regulation (Dritte Änderungsverordnung zur Vergabeverordnung), which was published in the Federal Legislation Journal (Bundesgesetzblatt), Part I, of 26 October 2006, pages 2334 et seq. (1c) the German Procurement and Contract Code for Construction (Vergabe- und Vertragsordnung für Bauleistungen), Part A, which was published in the Federal Advertiser (Bundesanzeiger) Number 94a of 18 May 2006. (2) hereby introducing i.a. competitive dialogue. (3) all quoted legislative acts (except for 1c) are restricted to amendments to the existing German procurement legislation. This (amended) procurement legislation is specified in the previous HDB reply to FIEC, including the internet address, where this (amended) procurement legislation can be found.
I - ANCE	<p>The new public procurement Directives have been implemented into the Italian legislation with Decree n° 163 dated 12 April 2006, named "Public contracts Code for works, services and supply, implementing UE Directives 2004/17/EC and 2004/18/EC".</p> <p>Moreover, we would like to point out that, as regard the economic, financial and technical suitability of participants to awarding procedures, Decree n° 163/2006 contains detailed rules specifying the use of provisions that allow an economic operator to rely on the capacities of other entities, regardless of the legal nature of the links which it has with them (art. 47, par 2 and 3, and art. 48, par. 3 and 4 of Directive 2004/18/EC; art. 54, par. 5 and 6, of Directive 2004/17/EC).</p>
NL-BOUWEND	<p>Implementation in NL:</p> <ul style="list-style-type: none"> - Implementation (simple version, copy of the directive) already done in 2005 - Now working on a new set of rules, to be implemented 1/1/2008 <ul style="list-style-type: none"> o Framework, law, now in parliament o Two sector specific rules <ul style="list-style-type: none"> ▪ Special sector ▪ Normal sector <ul style="list-style-type: none"> • 3 set of provision rules, to be implemented 1/1/2008 <ul style="list-style-type: none"> o Integrity. Contractors have to have an 2-year approval of the Covog.

- Below the threshold.
 - What procedure
 - <5.200.000
 - Open procedure, dutch version
 - Open procedure with selection,, dutch version
 - Competitive dialogue, dutch version (for all type of works possible, not only for particular complex projects)
 - NEW: awarding in 'phases'. Now being developed bij Ministry Economic affairs and BNL
 - < 1.000.000
 - Also restricted procedures, with one or more contractors
 - < 50.000
 - Free of any procedure
 - Uniformity for of way a procedure is executed by the contracting authority
- Selection criteria, proportionality.
 - Normalization of criteria. Comply or explain system.
 - Technical criteria
 - Competition by reference project
 - Turnover reference 30-60% of estimated costs new project
 - Financial criteria
 - Turnover contractor: 150-200%
 - Bankgaranty only for the contractor the contract is awarded.
- Also set of 'rules' for contracting authority how they should behave:
 - Decision support system DSS for the choice of the type of contract, type of organization model, type of procurement procedure
 - Best practices
 - Tendered. E-procurement system for all public contracting authorities
- Past performance
 - How can it taken into account in EMAT?
- No extra selection
 - No selection by lottery. 'Every good contractor that wants to be un the tender, should be able to attent'.
- EMAT
 - No systems allowed that make a relative weighing. Every tenderproposal/bid have to be valued based on a scale independent from the other proposals

UK - CC	<p>The regulations implementing the new EU Procurement Directives came into force in the UK on 31st January 2006.</p> <p>The "Public Contracts Regulations 2006" and the "Utilities Contracts Regulations 2006", cover England, Wales and Northern Ireland (Statutory Instruments numbers 5 and 6 respectively), whilst in Scotland the implementing measures are detailed in the Public Contracts (Scotland) Regulations 2006 (Scottish Statutory Instrument 2006/1) and the Utilities Contracts (Scotland) Regulations 2006 (S.S.I. 2006/2).</p>
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F – FFB/FNTP	<p>The following implementation measures of directives 2004/17 and 2004/18 are currently in force in France. The main European provisions are embodied in the new general legislation on public procurements ("code des marchés publics") which came into force on 1.09.2006, with 7 months of delay after the official implementation deadline.</p> <ul style="list-style-type: none"> - Ordonnance n° 2005-649 of 6 June 2005 concerning public contracts awarded by some public or private authorities addressed by the directives but which do not fall under the scope of the "Code des marchés publics" (OJ 7 June 2005). In 2 Decrees of application the distinction is made between "awarding entities" (« entités adjudicatrices ») and "awarding authorities" (« pouvoirs adjudicateurs »); - Decree n° 2005-1308 of 20 October 2005 covers the contracts awarded by the "awarding entities" mentioned in article 4 of the "ordonnance n° 2005-649 of 6 June 2005 concerning the contracts awarded by some public or private entities which do not fall under the scope of the French general public procurement regulation "code des marchés publics" (It applies to the networks operators: water, energy, transports and postal services); - Decree n°2005-1742 of 30 December 2005 concerning the "awarding authorities" mentioned in article 3 of the Ordonnance n°2005-649. It covers amongst others the contracts awarded by the "sociétés d'économie mixte" ("mixed economy societies"). - Decree n°2006-975 embodies the new French "code des marchés publics" of 1st August 2006 which is applicable since the 1st September 2006. <p>The Decree introduces the new provisions of the directives concerning:</p> <ul style="list-style-type: none"> • the variants, which are not authorised unless otherwise specified by the contracting authority (the inverse provision is applicable to "awarding entities") • the legal framework for electronic auctions, which are forbidden for public works and public service contracts. Electronic auctions are only allowed for public supply contracts above European threshold • the organisation of the "competitive dialogue" which is now in conformity with the provisions of the 2004/18 directive
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- "framework agreements"

Specific comments on the new French « code des marchés » :

French Federations underline the positive impact of the following provisions :

- the revision of public works contracts whose execution exceeds 3 months
- the publicity given to the weighting of the award criteria in the contract notice
- the possibility to transmit a "back up" together with an electronic bid (on material support –paper or CD Roms)

However, French Federations regret the following provisions :

- the new "code des marchés" now provides the possibility of contracts or framework-contracts which **do not specify any minimum and maximum** in the effective execution of the contracts.
- the retribution of preliminary studies (made before submitting bids) is not dealt with by the French regulations on public procurement and PPPs.

LT - LSA

The regulations implementing the new EU Procurement Directives came into force in the Lithuania on 31st January 2006.

New release of the "**LAW ON PUBLIC PROCUREMENT**" covers all Public procurement activities in Lithuania.

http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=273790

Applied EU LEGAL ACTS IMPLEMENTED BY THE LAW ON PUBLIC PROCUREMENT:

1. COUNCIL DIRECTIVE of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (89/665/EEC).
2. Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors.
3. Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV) (Text with EEA relevance).
4. Commission Regulation (EC) No 2151/2003 of 16 December 2003 amending Regulation (EC) No 2195/2002 of the European Parliament and of the Council on the Common Procurement Vocabulary (CPV) (Text with EEA relevance).
5. Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.
6. Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.
7. Commission Regulation (EC) No 1874/2004 of 28 October 2004 amending Directives 2004/17/EC and 2004/18/EC of the European Parliament and of the Council in respect of their application thresholds for the procedures for the award of contracts.

	<p>8. 2005/15/EC: Commission Decision of 7 January 2005 on the detailed rules for the application of the procedure provided for in Article 30 of Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (notified under document C(2004) 5769).</p> <p>9. Commission Directive 2005/51/EC of 7 September 2005 amending Annex XX to Directive 2004/17/EC and Annex VIII to Directive 2004/18/EC of the European Parliament and the Council on public procurement.</p> <p>10. Commission Regulation (EC) No 1564/2005 of 7 September 2005 establishing standard forms for the publication of notices in the framework of public procurement procedures pursuant to Directives 2004/17/EC and 2004/18/EC of the European Parliament and of the Council.</p> <p>11. Directive 2005/75/EC of the European Parliament and of the Council of 16 November 2005 correcting Directive 2004/18/EC on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.”</p>
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PT - FEPICOP	<p>The new public procurement Directives have been implemented into the Portuguese legislation by Decree-Law n° 18/2008 dated 29 January, named “Public Contracts Code” (PCC), amended by Law No. 59/2008, of 11 September, by Decree-Law No 223/2009 of 11 September, by Decree-Law No. 278/2009, of 2 October, by Law No. 3/2010 of 27 April and by Decree-Law No. 131/2010 of 14 December.</p> <p>The “Public Contracts Code” (PCC) introduces the new provisions of the directives namely:</p> <ul style="list-style-type: none"> • competitive dialogue; • electronic auctions, which are forbidden for public works and public service contracts; • frameworks agreements <p>The Decree Law mentioned above, that came into force on 30th July 2008, has been complemented by the following legislation:</p> <ul style="list-style-type: none"> - Decree-Law n°143-A/2008, dated 25th July 2008, regarding the presentation of tenders - Ministerial Orders 701-A to 701-J/2008, dated 29th July 2008, which rule several aspects such as public tender notices, electronic procedures and the Observatory of Public Works. - Ministerial Order No. 959/2009, dated 21st August 2009, regarding the specifications for public works contracts. <p>Was recently published Decree-Law No. 104/2011, in force on 1st January 2012, which approves the legal framework of public procurement in the fields of defense and security, transposing Directive No. 2009/81/EC.</p>
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RO-ARACO	<p>Romania has implemented the European Directives 2004/18/EC and 2004/17/EC on public procurement by GEO 34/2006, approved by Law 337/2006.</p> <p>GEO 34/2006 was later complemented by subsequent acts which refer to:</p>
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	<ul style="list-style-type: none"> - Implementing rules for the application of GEO 34/2006, approved by GD 925/2006; - Changes by GD 94/2007 GEO 34/2006, 143/2008, 228/2008, 19/2009, 76/2010; - Implementation of Directive 2007/66/EC by GD 72/2009. <p>In Romania there is a central / national institution for public procurement.</p> <p>At the sectoral level (such as ministries of health or defence), there are such structures for acquisitions of products, but not for works.</p> <p>Classical procedures – competitive dialogue, framework agreements, dynamic purchasing, electronic auctions – are regulated separately by GEO 34/2006.</p>
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SK-ZSPS	<p>National Law on Public Procurement No. 25/2006 Z. z. (shortened designation ZVO) was adopted by National Parliament at 14.12.2005 and entered into force mainly at 01.01.2006. Since then it was novelized 16 times, i.e. in average 3 times yearly! Last novelization was adopted at 13.09.2011. The Law incorporates both 2004/17 and 2004/18 Directives.</p> <ul style="list-style-type: none"> • Complementary comments : <p>1) Central purchasing body is not set yet (but this idea is discussed from time to time) There exists electronic "portal" (http://www.uvo.gov.sk/vestnik/eVestnik.html), where all procurers/ public procurers are obliged (according to tender value) to publish their tenders. Publication process for users is simplified by using standardised electronic forms. Official Procurement Journal in paper form was recently abolished as obsolete.</p> <p>2) Dynamic purchasing and E-auction These procedures are more and more widely used, also for construction orders. But Explanation Campaign to eliminate them in Construction, started by our Association, is wining wide political support.</p>
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