

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)

[^{F1}Article 3

Corrective mechanism

[^{F21} The Commission may invoke the procedure provided for in paragraphs 2 to 5 when, prior to a contract being concluded, it considers that a serious infringement of Union law in the field of public procurement has been committed during a contract award procedure falling within the scope of Directive 2014/24/EU or Directive 2014/23/EU.]

2 The Commission shall notify the Member State concerned of the reasons which have led it to conclude that a serious infringement has been committed and request its correction by appropriate means.

3 Within 21 calendar days of receipt of the notification referred to in paragraph 2, the Member State concerned shall communicate to the Commission:

- a its confirmation that the infringement has been corrected;
- b a reasoned submission as to why no correction has been made; or
- c a notice to the effect that the contract award procedure has been suspended either by the contracting authority on its own initiative or on the basis of the powers specified in Article 2(1)(a).

4 A reasoned submission communicated pursuant to paragraph 3(b) may rely among other matters on the fact that the alleged infringement is already the subject of judicial or other review proceedings or of a review as referred to in Article 2(9). In such a case, the Member State shall inform the Commission of the result of those proceedings as soon as it becomes known.

5 Where notice has been given that a contract award procedure has been suspended in accordance with paragraph 3(c), the Member State shall notify the Commission when the suspension is lifted or another contract procedure relating in whole or in part to the same subject matter is begun. That notification shall confirm that the alleged infringement has been corrected or include a reasoned submission as to why no correction has been made.]

Textual Amendments

- F1** Substituted by [Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts \(Text with EEA relevance\)](#).
- F2** Substituted by [Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts \(Text with EEA relevance\)](#).