

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of procedures for the award of public works contracts, public supply contracts and public service contracts (repealed)

TITLE V

STATISTICAL OBLIGATIONS, EXECUTORY POWERS AND FINAL PROVISIONS

Article 75

Statistical obligations

In order to permit assessment of the results of applying this Directive, Member States shall forward to the Commission a statistical report, prepared in accordance with Article 76, separately addressing public supply, services and works contracts awarded by contracting authorities during the preceding year, by no later than 31 October of each year.

Article 76

Content of statistical report

1 For each contracting authority listed in Annex IV, the statistical report shall detail at least:

- a the number and value of awarded contracts covered by this Directive;
- b the number and total value of contracts awarded pursuant to derogations to the Agreement.

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 I and products and services as given in Annex II 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 30 and 31 and shall specify the number and value of contracts awarded, by Member State and third country of the successful contractor.

2 For each category of contracting authority which is not given in Annex IV, 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.

3 The statistical report shall set out any other statistical information which is required under the Agreement.

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The information referred to in the first subparagraph shall be determined pursuant to the procedure under Article 77(2).

[^{F1}Article 77

Committee procedure

1 The Commission shall be assisted by the Committee established by Council Decision 71/306/EEC⁽¹⁾.

2 Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

4 Where reference is made to this paragraph, Article 5a(1) to (4) and (5)(b) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof. The time-limits laid down in Article 5a(3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be set at four, two and six weeks respectively.

5 Where reference is made to this paragraph, Article 5a(1), (2), (4) and (6) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.]

Textual Amendments

- F1** Substituted by [Regulation \(EC\) No 596/2009 of the European Parliament and of the Council of 18 June 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny](#)
Adaptation to the regulatory procedure with scrutiny — Part Four.

Article 78

Revision of the thresholds

1 [^{F1}The Commission shall verify the thresholds established in Article 7 every two years from 30 April 2004 and shall, if necessary, revise them. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 77(4). On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in Article 77(5).]

The calculation of the value of these thresholds shall be based on the average daily value of the euro, expressed in SDRs, over the 24 months terminating on the last day of August preceding the revision with effect from 1 January. The value of the thresholds thus revised shall, where necessary, be rounded down to the nearest thousand euro so as to ensure that the thresholds in force provided for by the Agreement, expressed in SDRs, are observed.

- [^{F12} At the same time as the revision under paragraph 1, the Commission shall align:
- a the thresholds established in point (a) of the first paragraph of Article 8, in Article 56 and in the first subparagraph of Article 63(1) on the revised threshold applying to public works contracts;

- b the threshold established in Article 67(1)(a) on the revised threshold applying to public service contracts awarded by the contracting authorities referred to in Annex IV;
- c the thresholds established in point (b) of the first paragraph of Article 8 and in Article 67(1)(b) and (c) on the revised threshold applying to public service contracts awarded by contracting authorities other than those referred to in Annex IV.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 77(4). On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in Article 77(5).]

3 The value of the thresholds set pursuant to paragraph 1 in the national currencies of the Member States which are not participating in monetary union is normally to be adjusted every two years from 1 January 2004 onwards. The calculation of such value shall be based on the average daily values of those currencies expressed in euro over the 24 months terminating on the last day of August preceding the revision with effect from 1 January.

4 The revised thresholds referred to in paragraph 1 and their corresponding values in the national currencies referred to in paragraph 3 shall be published by the Commission in the *Official Journal of the European Union* at the beginning of the month of November following their revision.

Textual Amendments

- F1** Substituted by [Regulation \(EC\) No 596/2009 of the European Parliament and of the Council of 18 June 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny](#)
Adaptation to the regulatory procedure with scrutiny — Part Four.

[^{F1}Article 79

Amendments

1 The Commission may amend, in accordance with the advisory procedure referred to in Article 77(2):

- a the procedures for the drawing-up, transmission, receipt, translation, collection and distribution of the notices referred to in Articles 35, 58, 64 and 69 and the statistical reports provided for in the fourth subparagraph of Article 35(4) and in Articles 75 and 76;
- b the procedure for sending and publishing data referred to in Annex VIII, on grounds of technical progress or for administrative reasons.

2 The Commission may amend the following:

- a the technical procedures for the calculation methods set out in the second subparagraph of Article 78(1) and in Article 78(3);
- b the procedures for specific reference to specific positions in the CPV nomenclature in the notices;
- c the lists of bodies and categories of bodies governed by public law in Annex III, when, on the basis of the notifications from the Member States, such amendment proves necessary;
- d the lists of central government authorities in Annex IV, following the adaptations necessary to give effect to the Agreement;

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- e the reference numbers in the nomenclature set out in Annex I, in so far as this does not change the material scope of this Directive, and the procedures for reference to particular positions of that nomenclature in the notices;
- f the reference numbers in the nomenclature set out in Annex II, in so far as this does not change the material scope of this Directive, and the procedures for reference in the notices to particular positions in that nomenclature within the categories of services listed in the Annex;
- g the technical details and characteristics of the devices for electronic receipt referred to in points (a), (f) and (g) of Annex X.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 77(3). On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in Article 77(5).]

Textual Amendments

- F1** Substituted by [Regulation \(EC\) No 596/2009 of the European Parliament and of the Council of 18 June 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Four.](#)

Article 80

Implementation

1 The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 31 January 2006. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 81

Monitoring mechanisms

In conformity with Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts⁽²⁾, Member States shall ensure implementation of this Directive by effective, available and transparent mechanisms.

For this purpose they may, among other things, appoint or establish an independent body.

Article 82

Repeals

Directive 92/50/EEC, except for Article 41 thereof, and Directives 93/36/EEC and 93/37/EEC shall be repealed with effect from the date shown in Article 80, without prejudice to the obligations of the Member States concerning the deadlines for transposition and application set out in Annex XI.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex XII.

Article 83

Entry into force

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Article 84

Addressees

This Directive is addressed to the Member States.

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- (1) [^{F1}OJ L 185, 16.8.1971, p. 15.]
- (2) OJ L 395, 30.12. 1989, p. 33. Directive as amended by Directive 92/50/EEC.

Textual Amendments

- F1** Substituted by Regulation (EC) No 596/2009 of the European Parliament and of the Council of 18 June 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Four.