

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)

TITLE I

**SUBJECT-MATTER, SCOPE, PRINCIPLES AND DEFINITIONS**

*CHAPTER I*

*Scope, general principles and definitions*

*Section II*

***Exclusions***

*Article 13*

**Concessions awarded to an affiliated undertaking**

1 For the purposes of this Article, ‘affiliated undertaking’ means any undertaking the annual accounts of which are consolidated with those of the contracting entity in accordance with the requirements of the Directive 2013/34/EU.

2 In the case of entities, which are not subject to Directive 2013/34/EU, ‘affiliated undertaking’ shall mean any undertaking that:

- a may be, directly or indirectly, subject to a dominant influence by the contracting entity;
- b may exercise a dominant influence over the contracting entity; or
- c in common with the contracting entity, is subject to the dominant influence of another undertaking by virtue of ownership, financial participation, or the rules which govern it.

For the purposes of this paragraph, ‘dominant influence’ shall have the same meaning as in the second subparagraph of Article 7(4).

3 Notwithstanding Article 17 and provided that the conditions in paragraph 4 of this Article are met, this Directive shall not apply to concessions awarded:

- a by a contracting entity to an affiliated undertaking; or
- b by a joint venture, formed exclusively by a number of contracting entities for the purpose of carrying out activities referred to in Annex II, to an undertaking which is affiliated with one of those contracting entities.

4 Paragraph 3 shall apply to:

- a service concessions provided that at least 80 % of the average total turnover of the affiliated undertaking over the preceding three years, taking into account all services provided by that undertaking, derives from the provision of services to the contracting entity or other undertakings with which it is affiliated;
- b works concessions provided that at least 80 % of the average total turnover of the affiliated undertaking over the preceding three years taking into account all works

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provided by that undertaking, derives from the provision of works to the contracting entity or other undertakings with which it is affiliated.

5 Where, because of the date on which an affiliated undertaking was created or commenced activities, the turnover is not available for the preceding three years, it shall be sufficient for that undertaking to show that the turnover referred to in points (a) or (b) of paragraph 4 is credible, in particular by means of business projections.

6 Where more than one undertaking affiliated with the contracting entity with which they form an economic group provides the same or similar services or works, the percentages referred to in paragraph 4 shall be calculated taking into account the total turnover deriving respectively from the provision of services or works by those affiliated undertakings.