

Pursuant to Article IV 4 a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the 31<sup>st</sup> session of the House of Representatives, held on 27 July 2022 and at the 25<sup>th</sup> session of the House of Peoples, held on 29 August 2022, adopted the

## LAW

### ON AMENDMENTS TO THE LAW ON PUBLIC PROCUREMENT

#### Article 1

In the Law on Public Procurement (Official Gazette of BiH, 39/14), in Article 1, after paragraph (2), paragraph (3) is added as follows:

“(3) expressions which, for the sake of clarity, are given in a grammatical gender apply to both men and women without discrimination.”

#### Article 2

Article 2 item a) indents 1) and 2) are amended to read:

“1) **public supply contracts** means public contracts having as their object the purchase, lease, rental or hire-purchase, with or without an option to buy, of products. A public supply contract may include, as an incidental matter, siting and installation operations;

2) **public service contracts** means public contracts having as their object the provision of services other than those referred to in indent 3) of this item;”

New indents 4), 5) and 6) are added in item a) after indent 3) as follows:

“4) **label** means any document, certificate or attestation confirming that the works, products, services, processes or procedures in question meet certain requirements;

5) **label requirements** means the requirements to be met by the works, products, services, processes or procedures in question in order to obtain the label concerned;

6) **life cycle** means all consecutive and/or interlinked stages, including research and development to be carried out, production, trading and its conditions, transport, use and maintenance, throughout the existence of the product or the works or the provision of the service, from raw material acquisition or generation of resources to disposal, clearance and end of service or utilisation.”

Item l) is amended to read:

“l) tender means a document submitted by a tenderer offering delivery of supplies, provision of services or execution of works, under the conditions determined by the contracting authority in the tender documentation. A tender can be:

- 1) acceptable – submitted by a tenderer that has not been excluded pursuant to Article 45 of this Law and that meets the selection criteria and whose tender meets the technical specifications without being irregular or unacceptable;

2) unacceptable – the price of which exceeds the funds planned or ensured by the contracting authority for procurement or a tender submitted by a tenderer that does not meet the economic operator qualification criteria;

3) irregular – which does not comply with the tender documentation, or it was received outside the deadline for the submission of tenders, or where there is evidence of a collusion or corruption, or it is not a result of market competition or which have been found by the contracting authority to be abnormally low;”

In item n) in the second line, after the words “several contracting authorities and”, the words “one or” are inserted.

After item t), new items u) and v) are added to read:

“u) **“Public Procurement Portal”** is an information system which enables electronic communication, publication of documents and electronic procurement procedures;

v) **dynamic purchasing system** is a system established and managed as a completely electronic process, and is used for the procurement of common procurement subject-matters that are generally available on the market; it is open to all economic operators that meet the criteria for qualitative selection during its entire duration; the dynamic purchasing system provides for a list of acceptable tenderers, which is supplemented by new tenderers for the duration of the dynamic purchasing system.”

### **Article 3**

After Article 4, Articles 4a and 4b are inserted to read:

#### **“Article 4a**

#### **(Procurement involving contracting authorities with the seats in BiH and contracting authorities from the European Union Member States)**

(1) Contracting authorities may jointly conduct public procurement procedures with one or several contracting authorities from the European Union Member States pursuant to the provisions of this Article and Article 4b of this Law.

(2) The contracting authority may use centralised public procurement services provided by centralised public procurement authorities from a Member State of the European Union.

(3) The law of the European Union Member State in which the centralised public procurement authority referred to in paragraph (2) of this Article has its seat shall apply to the centralised public procurement operations, to contract awards based on framework agreements concluded by the centralised public procurement authority and to contract awards on the basis of a dynamic purchasing system managed by the centralised public procurement authority.

(4) Contracting authorities may not exercise the option under paragraphs (1) and (2) of this Article with the aim of circumventing the application of the provisions of this Law, other laws and regulations in Bosnia and Herzegovina.

(5) The provisions of this Article shall apply from the date of accession of Bosnia and Herzegovina to the European Union.”

#### **Article 4b**

##### **(Conducting a procurement procedure involving contracting from different European Union Member States)**

(1) The contracting authority may jointly conduct a procedure for the award of a public procurement contract with one or more contracting authorities from the European Union member states, conclude a framework agreement, operate a dynamic purchasing system, and award contracts based on a framework agreement or a dynamic purchasing system.

(2) Unless the necessary elements of joint procurement are regulated by an international agreement concluded between Bosnia and Herzegovina and the European Union Member States in which the contracting authorities have their seat, the contracting authorities participating in the joint procurement shall be obliged to conclude an agreement in which they determine:

a) Parties' responsibilities and applicable national law of Bosnia and Herzegovina or of one of the European Union Member States where the contracting authorities have their seats;

b) The internal organisation of the procurement process, including the management of the procedure, the distribution of supplies, works or services to be procured and the conclusion of a contract.

(3) When determining responsibilities and applicable national law, in accordance with paragraph (2) of this Article, contracting authorities participating in a joint procurement may allocate specific responsibilities among themselves and determine that the provisions of the national law of any of the countries of the contracting authorities shall apply in the proceedings.

(4) The allocation of responsibility and the applicable national law shall be stated in the procurement notice and the tender documentation of the proceedings in question.

(5) The provisions of this Article shall apply from the date of accession of Bosnia and Herzegovina to the European Union.”

#### **Article 4**

In Article 8, paragraph (1), the words “Part B” are deleted.

#### **Article 5**

Article 10 is amended to read:

**“Article 10  
(Public contracts awarded pursuant to international rules)**

- (1) This Law shall not apply to public contracts which the contracting authority awards or organises in accordance with procurement procedures different from those laid down in this Law, established by any of the following:
  - a) a legal instrument creating international law obligations between Bosnia and Herzegovina and one or more countries or subdivisions thereof and covering works, supplies or services intended for the joint implementation or exploitation of a project by their signatories; or
  - b) an international organisation.
- (2) This Law shall not apply to public contracts which the contracting authority awards or organises in accordance with procurement rules provided by an international organisation or international financing institution, where the public contracts concerned are fully financed by that organisation or institution.
- (3) In the case of public contracts referred to in paragraph (2) of this Article co-financed for more than 50% by an international organisation or international financing institution the parties shall agree on applicable procurement procedures.”

## **Article 6**

New Articles 10a, 10b, 10c, 10d, 10e and 10f are inserted following Article 10:

### **“Article 10a (Exclusions for service contracts)**

- (1) This Law shall not apply to public service contracts for:
  - a) the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property or concerning rights thereon;
  - b) the acquisition, development, production or co-production of programme material intended for audiovisual media services or radio media services, that are awarded by audiovisual or radio media service providers, or contracts for broadcasting time or programme provision that are awarded to audiovisual or radio media service providers:
    - 1) The term “audiovisual media service”, “radio media service” and “programme” have the meaning set forth in the broadcasting legislation,
    - 2) The term “programme” includes radio programmes and radio programme materials, whereas the term “programme material” has the same meaning as “programme”,
  - c) arbitration and conciliation services;
  - d) legal services:
    - 1) legal representation of a client by a lawyer in an arbitration or conciliation held in Bosnia and Herzegovina, in another country or before an international arbitration or conciliation instance;
    - 2) legal representation in judicial proceedings before the courts or public authorities of Bosnia and Herzegovina or another country or before international courts or institutions;
    - 3) legal advice given in preparation of any of the proceedings referred to in items a) and b) of this paragraph where there is a tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings;
    - 4) document certification and authentication services provided by notaries;

- 5) legal services provided by trustees or appointed guardians or other legal services the providers of which are designated by a court in Bosnia and Herzegovina or are designated by law to carry out specific tasks under the supervision of such courts;
- 6) other legal services which in Bosnia and Herzegovina are connected, even occasionally, with the exercise of official authority;
- e) financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments within the meaning of a specific law regulating the capital market and services of the Central Bank of Bosnia and Herzegovina;
- f) loans, whether or not in connection with the issue, sale, purchase or transfer of securities or other financial instruments;
- g) employment contracts and appointment decisions;
- h) civil defence, civil protection, and danger prevention services that are provided by non-profit organisations or associations, and which are covered by CPV codes 75250000-3, 75251000-0, 75251100-1, 75251110-4, 75251120-7, 75252000-7, 75222000-8, 98113100-9 and 85143000-3, except patient transport ambulance services;
- i) public passenger transport services by rail or metro;
- j) political campaign services covered by CPV codes 9341400-0, 92111230-3 and 92111240-6, when awarded by a political party in the context of an election campaign;
- k) research and development services which are covered by CPV codes 73000000-2 to 73120000-9, 73300000-5, 73420000-2 and 73430000-5 provided that the benefits do not accrue exclusively to the contracting authority for its use in the conduct of its own affairs and that the service provided is not wholly remunerated by the contracting authority.
- l) concession contract shall be awarded in accordance with the laws on concessions in Bosnia and Herzegovina.
- m) public-private partnership contracts shall be awarded in accordance with the legislation on public-private partnerships.

#### **Article 10b**

##### **(Specific exclusions in the field of electronic communications)**

This Law shall not apply to public contracts for the principal purpose of permitting the contracting authorities to provide or exploit public communications networks or to provide to the public one or more electronic communications services, as defined in a specific law on electronic communications.

#### **Article 10c**

##### **(Public contracts between entities within the public sector)**

(1) A public contract awarded by a contracting authority to a legal person shall fall outside the scope of this Law where:

- a) the contracting authority exercises over the legal person concerned a control which is similar to that which it exercises over its own departments;
- b) more than 80 % of the activities of the controlled legal person are carried out in the performance of tasks entrusted to it by the controlling contracting authority or by other legal persons controlled by that contracting authority;

- c) there is no direct private capital participation in the controlled legal person, with the exception of noncontrolling and non-blocking forms of private capital participation which do not exert a decisive influence on the legal person.

(2) A contracting authority shall be deemed to exercise over a legal person a control within the meaning of paragraph (1) a) of this Article where it exercises a decisive influence over both strategic objectives and significant decisions of the legal person; such control may also be exercised by another legal person, which is itself controlled in the same way by the contracting authority.

(3) Contracting authorities shall be deemed to exercise joint control over a legal person within the meaning of paragraph (1) a) of this Article where all of the following conditions are fulfilled:

- a) the decision-making bodies of the controlled legal person are composed of representatives of all participating contracting authorities; individual representatives may represent several or all of the participating contracting authorities;
- b) those contracting authorities are able to jointly exert decisive influence over the strategic objectives and significant decisions of the controlled legal person;
- c) the controlled legal person does not pursue any interests which are contrary to those of the controlling contracting authorities.

(4) Paragraph 1 of this Article also applies where a controlled legal person which is a contracting authority awards a contract to its controlling contracting authority, or to another legal person controlled by the same contracting authority, provided that there is no direct private capital participation in the legal person being awarded the public contract with the exception of non-controlling and non-blocking forms of private capital participation required by provisions of a specific law, which do not exert a decisive influence on the controlled legal person.

(5) A contract concluded exclusively between two or more contracting authorities shall fall outside the scope of this Law where all of the following conditions are fulfilled:

- a) the contract establishes or implements a cooperation between the participating contracting authorities with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common;
- b) the implementation of that cooperation is governed solely by considerations relating to the public interest;
- c) the participating contracting authorities perform on the open market less than 20 % of the activities concerned by the cooperation.

(6) For the determination of the percentage of activities, referred to in paragraph (1), item b) and paragraph (5), item c), the average total turnover, or an appropriate alternative activity-based measure such as costs incurred by the relevant legal person or contracting authority with respect to services, supplies and works for the three years preceding the contract award shall be taken into consideration.

(7) Exceptionally, for the determination of the percentage of activities it shall be sufficient to show by means of business projections that the alternative measurement of activity is credible, where data on turnover or alternative activity based measure such as costs, are either not available for the preceding three years or no longer relevant, because of the date on which the relevant legal person

or contracting authority was created or commenced activities or because of a reorganisation of its activities.

**Article 10d**  
**(Procurement involving defence or security aspects)**

(1) This Law shall not apply to public contracts involving defence or security aspects:

- a) governed by special procurement rules apply laid down in an international agreement or arrangement between Bosnia and Herzegovina and one or more countries and covering works, supplies or services intended for the joint implementation or exploitation of a project by their signatories;
- b) governed by special procurement rules apply laid down in an international agreement or arrangement relating to the stationing of troops and concerning the undertakings of Bosnia and Herzegovina or another country;
- c) as part of an international organization;
- d) governed by special procurement rules of an international organisation purchasing for its own purposes, or contracts which Bosnia and Herzegovina must award in accordance with those rules;
- e) awarded in accordance with procurement rules provided by an international organisation or international financing institution, where the public contracts concerned are fully financed by this organisation or institution;
- f) for which the application of the provisions of this Law or legislation on procurement for defence and security purposes would oblige Bosnia and Herzegovina to supply information the disclosure of which is contrary to the essential interests of its security, in accordance with the Law on the Defence of Bosnia and Herzegovina (Official Gazette of BiH, 88/05) and other applicable legislation pertaining to security interests of Bosnia and Herzegovina;
- g) for the purposes of the security-intelligence system bodies;
- h) awarded in the framework of cooperative programme based on research and development, conducted jointly by Bosnia and Herzegovina and one or several states for the development of a new product and, where applicable, for the latter phases of all or part of the life cycle of this product;
- i) awarded in another country, including for civil purposes, where the forces are deployed outside the territory of Bosnia and Herzegovina if the operational needs require the contracts to be concluded with economic operators located in the area of operations;
- j) awarded by Bosnia and Herzegovina to another country, and relating to:
  - 1) the supply of military equipment or sensitive equipment,
  - 2) works and services directly linked to such equipment,
  - 3) works and services specifically for military purposes, or sensitive works and sensitive services.

(2) In the case of public contracts referred to in paragraph (1) e) of this Article co-financed by an international organisation or international financing institution for more than 50%, the parties shall agree on applicable procurement procedures.

**Article 10e**  
**(Procurement with the goal of protection of the essential security interests)**

(1) This Law shall not apply to public contracts not otherwise exempted under Article 10d of this Law, to the extent that the protection of the essential security interests of Bosnia and Herzegovina, in accordance with the Law on the Defence of Bosnia and Herzegovina (Official Gazette of BiH, 88/05) and other applicable legislation pertaining to security interests of Bosnia and Herzegovina, cannot be guaranteed by less intrusive measures, for instance by imposing requirements aimed at protecting the confidential nature of information which the contracting authority makes available in a contract award procedure as provided for in this Law.

#### **Article 10f**

#### **(Specific exemptions of contacts declared to be secret or which must be accompanied by special security measures)**

Where the procurement and performance of the public contract are declared to be secret or must be accompanied by special security measures in accordance with the Law on Protection of Classified Information, this Law shall not apply provided that Bosnia and Herzegovina has determined that the essential interests concerned, in accordance with the Law on the Defence of Bosnia and Herzegovina (Official Gazette of BiH, 88/05) and other applicable legislation pertaining to security interests of Bosnia and Herzegovina, cannot be guaranteed by less intrusive measures, such as those referred to in Article 10e of this Law.

#### **Article 7**

In Article 11, new paragraph (6) is added following paragraph (5):

“(6) The contracting authority shall allow photocopying or photographing tenders or data transfer to a data storage medium to every tenderer that files a written request thereon, except for the data marked as confidential, pursuant to paragraph (5) of this Article.”

#### **Article 8**

In Article 13, new paragraphs (3) and (4) are inserted following paragraph (2):

“(3) Every contracting authority in Bosnia and Herzegovina shall enact an internal rulebook to regulate the organisation and efficient procurement function in the contracting authority, such as: circulation of public procurement documents, specific duties of officers and administrative staff conducting procurement procedures or otherwise involved in them, time limits, appointment and possible rotation of procurement commission members and all other relevant matters.

(4) In the adoption of the rulebook referred to in paragraph (3) of this Article, the contracting authority shall take into account the type of tasks it performs, the organisation, size, staffing, possible decentralisation and regional units and all other relevant matters.”

#### **Article 9**

A new Article 13a shall be inserted following Article 13 to read as follows:

#### **“Article 13a**

#### **(Public procurement officer)**



(1) Contracting authorities whose procurement budget is equal to or higher than the amount of BAM 1.000.000 shall regulate the position of the public procurement officer by an internal act.

(2) Contracting authorities shall enable its officer to attend procurement officer training, organised and carried out by the Agency pursuant to Article 92 (3) i) of this Law.

(3) The contracting authority shall make sure that at least one public procurement officer takes part in the procurement procedures with estimated value of over BAM 250 000. A contracting authority that does not have a permanent employee for public procurement at its disposal may engage public procurement officers outside the contracting authority, which must be specifically explained.”

### **Article 10**

A new Article 14a shall be inserted following Article 14:

#### **“Article 14a**

##### **(Preliminary market consultations)**

(1) Before launching a procurement procedure, contracting authorities shall conduct market consultations with a view to preparing the procurement and informing economic operators of their procurement plans and requirements. For this purpose, contracting authorities may seek or accept advice from independent experts or authorities or from market participants.

(2) A written record on the preliminary market consultations shall be made about all actions and procedures and it shall be filed. That advice may be used in the planning and conduct of the procurement procedure, provided that such advice does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency.”

### **Article 11**

In Article 15 (2) a), the wording: “This value, in the case of a works contract, shall also include the facilities necessary for the execution of such a contract, that the contracting authority shall ensure or cede to the works contractor.” is replaced with: “The calculation of the estimated value of the works contract shall take account of both the cost of the works and the total estimated value of the supplies or services that are made available to the contractor by the contracting authority provided that they are necessary for executing the works.”

In paragraph (3), the wording: “In case of a contract on leasing, lease, hire purchase or rental on installment of various supplies, the value that should be taken as the basis for calculation of the estimated procurement value shall be as follows:” is replaced with: “With regard to public supply contracts relating to the leasing, hire, rental or hire purchase of products, the value to be taken as a basis for calculating the estimated contract value shall be as follows:”.

A new paragraph (6) shall be inserted following paragraph (5):

“(6) Where a contracting authority is comprised of separate operational units, account shall be taken of the total estimated value for all the individual operational units.”

Current paragraphs (6) and (7) hereafter become (7) and (8).

## **Article 12**

Article 16 is amended to read:

### **“Article 16**

#### **(Division of procurement subject-matter into lots)**

“(1) Contracting authorities may divide the procurement subject-matter into lots based on objective criteria, e.g., type, characteristics, purpose, place or time of delivery. In that case, the subject-matter shall be determined by applying the rules of grouping from the Common Procurement Vocabulary (hereinafter: CPV), taking into account the possibility of participation of small and medium-sized economic operators in the procurement procedure.

(2) Should the contracting authority decide not to divide the subject-matter into lots in a procurement procedure under Part II of this Law, the main reasons thereof shall be indicated in the procurement notice.

(3) Contracting authorities shall define in the procurement documents whether tender may be submitted for one, several or all lots, stating the reasons for such decision.”

## **Article 13**

Article 17 is amended to read:

### **“Article 17**

#### **(Conditions for the start of the public procurement procedure)**

(1) The contracting authority shall launch the public procurement procedure if the procurement is foreseen in the procurement plan.

(2) The procurement plan shall contain the following data:

- a) the procurement subject-matter,
- b) CPV numerical code and the procurement subject-matter,
- c) type of procedure,
- d) whether subject-matter is divided into lots,
- e) type of contract,
- f) whether contract or framework agreement shall be concluded,
- g) duration of the contract or framework agreement,
- h) estimated value of procurement,
- i) provisional date for the launch of procurement procedure,
- j) source of financing,
- k) the year for which the plan is adopted,
- l) additional notes.

(3) Except as provided for in paragraph (1) of this Article, the contracting authority shall adopt a specific decision to launch the public procurement procedure for procurement not envisaged by the procurement plan whereby the procurement plan shall be amended.

(4) The specific decision on the launch of the public procurement procedure referred to in paragraph (3) shall contain the data referred to in paragraph (2) of this Article.

(5) The contracting authority shall publish the procurement plan at the Public Procurement Portal not later than 30 days as of the adoption of the budget, financial plan or other document approving the funds for procurement, in the form and manner defined by the “e-Procurement” system.

(6) In the event that the budget or financial plan or other document authorising procurement funds is not adopted, the contracting authority shall publish a provisional public procurement plan for a period of temporary financing.

(7) The contracting authority shall publish all amendments to the public procurement plan at the Public Procurement Portal.

(8) Where there are justified reasons, especially in relation to the procurement subject-matter in the contract, the duration of the contract may be longer than one year.

#### **Article 14**

In Article 18, paragraph (2), the words: “Part B” are deleted.

In Article 18, after paragraph (2), paragraph (3) is added as follows:

“(3) In the direct agreement procedure, the contracting authority shall not adopt a decision to launch the procedure in writing.”

#### **Article 15**

In Article 26 (2) b) the wording “providing or” are deleted and the wording “at the Public Procurement Portal” are added in the end after the word “prequalification”.

#### **Article 16**

In Article 27 (1) b) the words “render accessible the prequalification documentation” is replaced with “render accessible the prequalification documentation at the Public Procurement Portal”.

Following item d) a new item e) is inserted:

“e) send an invitation to qualified tenderers to submit their initial tenders.”

In item f) the wording “deliver tender documents” are replaced with “render accessible the tender documents at the Public Procurement Portal”.

Current items e), f), g), h) and i) hereafter become f), g), h), i) and j).

#### **Article 17**

In Article 28, paragraph (4) is amended to read:

“(4) In cases referred to in Article 21, items a), b) and c) contracting authority shall publish on the public procurement portal the information on the negotiated procedure without publication of procurement notice that it intends to conduct by making the tender documentation available to all interested candidates/tenderers.”

In Article 28, new paragraph (5) is added to read:

“(5) In the cases referred to in Article 21 item d), the contracting authority may publish on the public procurement portal information about the negotiated procedure it intends to conduct without publishing a procurement notice, by making the tender documentation available to all interested candidates.”

Other paragraphs move forward one place each.

### **Article 18**

In Article 32 (5) b) after indent 4), new indent 5) is inserted:

“(5) the contracting authority shall deliver the decision on selection of most advantageous tenderer or public procurement cancellation to all tenderers that submitted their tenderers;”

Current indent 5) hereafter becomes indent 6).

Paragraph (6) is deleted.

### **Article 19**

In Article 33 paragraph (5), the words “paragraph (3)” are replaced with “paragraph (1) item c)”.

### **Article 20**

In Article 36, a new paragraph (6) is added following paragraph (5):

“(6) The public enterprise Official Gazette of BiH shall invest at least 15% of the income it receives from the fees for notice publication referred to in paragraph (1) during the year in research and development, and improvement of the public procurement system. The Council of Ministers of BiH shall adopt, at the proposal of the Agency, an implementing regulation to further regulate the financing and conduct of research, development and improvement of the public procurement system.”

### **Article 21**

In Article 37, paragraph (1), item b) the wording: “in each of the categories in Annex II Part A” are deleted.

### **Article 22**

In Article 39, paragraph (3) is deleted.

### **Article 23**

In Article 41, paragraph (3) is deleted.

## **Article 24**

In Article 44, a new paragraph (7) is inserted after paragraph (6) in the following wording:

“(7) The electronic verification of candidates/tenderers shall be regulated in an implementing regulation to be enacted by the Council of Ministers of BiH no later than one year from the start of application of this Law, and once the relevant conditions have been met in one or more competent authorities where databases on economic operators are kept.”

## **Article 25**

Article 45 (5) is amended to read:

“Contracting authority may exclude from participation in a procurement procedure for the period of 12 months a candidate/tenderer found in any of the following situations:

- a) where there is proof that the candidate/tenderer entered into an agreement with other candidate/tenderer aimed at distorting market competition;
- b) where the contracting authority can prove by appropriate means of proof that the tenderer is guilty of grave professional misconduct which renders its integrity questionable;
- c) where significant deficiencies have been established in the performance of a prior public contract or prior contract with a sectoral contracting authority which led to early termination of that prior contract, damages or other comparable sanctions;
- d) where the candidate/tenderer misrepresented facts in supplying the information required for the verification of the qualifications and/or contract award criteria, withheld such information or is not able to submit the supporting documents;
- e) where a conflict of interest within the meaning of Article 52 of this Law cannot be remedied by other, less drastic measures.”

After paragraph (5), new paragraphs (6), (7), (8) and (9) are inserted as follows:

“(6) The time limit of 12 months shall start on the date of the decision of the competent authority referred to in paragraph (5) of this Article of the Law.

(7) A candidate/tenderer found in the situation that represents the grounds for exclusion referred to in Article 45 (5) of this Law may provide evidence to the contracting authority of the measures taken to demonstrate its reliability despite the existence of the relevant grounds for exclusion. The candidate/tenderer shall prove that the measures have been taken pursuant to this paragraph:

- a) by paying compensation or by taking other appropriate measures in order to pay compensation for any damage caused by a criminal offense or misconduct;
- b) by active cooperation with the competent investigative bodies for the purpose of full clarification of the facts and circumstances concerning the criminal offense or misconduct;
- c) by appropriate technical, organisational and personnel measures to prevent any further criminal offense or misconduct.

(8) The measures taken by the candidate/tenderer shall be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct and the reasons for acceptance or non-acceptance of the measures shall be explained. The contracting authority shall not exclude

the candidate/tenderer from the public procurement procedure if it is assessed that the measures taken are appropriate.

(9) A candidate/tenderer that has been excluded by final judgment from participation in public procurement procedures for a limited period shall not be entitled to make use of the possibility provided for under paragraph (7) of this during the period of exclusion resulting from the judgment in the country where the judgment is effective.”

Current paragraphs (6), (7), (8), (9) hereafter become (10), (11), (12), (13).

#### **Article 26**

In Article 50, new paragraph (2) is inserted after paragraph (1) as follows:

“(2) In cases of restricted procedure, negotiated procedure with publication of notice, negotiated procedure without publication of notice and competitive dialogue, the documents referred to in paragraph (1) items c), d) e) and f) of this Article shall be submitted as regular copies together with a statement certified by the candidate/tenderer, in the manner and form stipulated by the Agency in an implementing regulation enacted by the Council of Ministers of BiH, no later than three months after the entry into force of this Law.”

#### **Article 27**

In Article 51 new paragraph (2) is inserted after paragraph (1) as follows:

“(2) In cases of restricted procedure, negotiated procedure with publication of notice, negotiated procedure without publication of notice and competitive dialogue, the documents referred to in paragraph (1) items c), d) e) and f) of this Article shall be submitted as regular copies together with a statement certified by the candidate/bidder, in the manner and form stipulated by the Agency in an implementing regulation enacted by the Council of Ministers of BiH, no later than three months after the entry into force of this Law.”

#### **Article 28**

Article 52 is amended to read:

#### **“Article 52**

##### **(Disqualification on the basis of conflict of interest or corruption)**

“(1) Contracting authority shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all economic operators.

(2) Conflict of interest between the contracting authority and economic operator shall cover any situation where representatives of the contracting authority, who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure, in particular:

- a) if the representative of the contracting authority also performs managerial tasks in the economic operator, or
- b) if the representative of the contracting authority owns business stocks, shares, i.e., other rights based on which they participate in the management, or in the capital of the economic operator with more than 0.5 %.

(3) The representative of the contracting authority within the meaning of this Article shall be:

- a) head, a member of the administrative, managerial, or supervisory body of the contracting authority,
- b) member of the public procurement commission,
- c) any other person involved in the conduct of the procurement procedure or person that may influence the decision-making in the contracting authority during the procedure.

(4) Provisions of paragraph (1) of this Article shall accordingly apply to blood relatives in lineal and collateral descent up to third degree, in-laws up to second degree, spouse or partner, irrespective of whether the marriage ended, adoptees and adoptive parents (hereinafter: related persons) of the representative of the contracting authority referred to in paragraph (3) of this Article.

(5) The transfer of ownership shares to another person or a special body (trustee), acting as a trustee in exercising membership rights and interests in a company, shall act in its own name, and for the account of officials in accordance with specific legislation on prevention of conflict of interest shall not affect the conflict of interest within the meaning of paragraphs (1) to (4) of this Article.

(6) Representative of the contracting authority shall sign a statement on the existence or non-existence of conflict of interest and shall update it, without delay, in case of any changes.

(7) Based on statements of its representatives, the contracting authority shall:

- a) publish on its websites a list of economic operators with which a representative of the contracting authority or a related person is in conflict of interest or shall inform that such operators are non-existent and shall update the list without delay in case of any changes,
- b) state in the tender documentation for a specific procurement procedure a list of economic operators with which a representative of the contracting authority is in conflict of interest or shall state that such operators do not exist.

(8) If the contracting authority does not have websites, the list shall be published on the website of its founder.

(9) Representative of the contracting authority referred to in paragraph (3) items b) and c) of this Article shall withdraw from the procurement procedure immediately after finding out about the conflict of interest and shall inform the head of the contracting authority thereon.

(10) Each candidate/tenderer is obliged to submit along with the tender a separate written statement verified by the competent authority that they did not offer bribes or participated in any actions aimed at corruption in the public procurement in question.

(11) Any public procurement contract concluded in contravention of these provisions shall be null and void.

(12) In a public procurement procedure, tenderers shall submit their tenders without distorting market competition by way of collusion with other tenderers. The Competition Council of Bosnia and Herzegovina is responsible for market competition protection procedures. Should there be grounds for suspicion that the public procurement procedure is distorting market competition, a request to initiate the procedure before the Competition Council of Bosnia and Herzegovina may be submitted by any economic entity or natural person having a legal or economic interest thereon, chambers of commerce, employers' or business associations, consumer associations and executive authorities."

### **Article 29**

In Article 53, paragraph (2) is amended to read:

"(2) Tender documents shall be published on the public procurement portal."

In paragraph (3), following item r), the full stop is replaced with semicolon and a new item s) is added in the following wording:

"s) estimated value of public procurement."

### **Article 30**

Article 55 is deleted.

### **Article 31**

In Article 56, paragraph (2) is amended to read:

"(2) Contracting authority shall respond to a request for clarification of the tender documents on the public procurement portal, within three days from the receipt of the request for clarification and not later than five days before the expiry of the time limit for the submission of requests for participation or tenders."

Paragraph (5) is deleted.

### **Article 32**

In Article 74, paragraph (1), a comma is inserted following the words "design contest" instead of "and" and following the words "competitive dialogue" the wording "or competitive request for quotations" is inserted.

### **Article 33**

In Article 75, paragraph (2) is amended to read:

"(2) At the latest within 30 days as of contract conclusion or any changes thereon, the contracting authority shall publish on the public procurement portal the basic contract elements for each public procurement procedure, as well as any contractual changes that might occur during contract execution."

Following paragraph (2), new paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13) are inserted to read:



“(3) Contracting authority shall publish the following data:

- a) Ordinal number,
- b) Description and code of the Common Procurement Vocabulary,
- c) Type of procedure and number of contract award notice from the public procurement portal, for procurement procedures for which contract award notice must be published,
- d) Data on supplier(s) in a framework agreement (name, ID number, place),
- e) Basic elements of the contract/framework agreement (value, duration/expiration, payment deadline, warranty period, etc.),
- f) Description of the change to basic contract elements with the date of the change,
- g) Remaining value of the contract following the change/remaining value of the framework agreement (following the conclusion of the individual contract),
- h) Date of contract conclusion,
- i) Date of full execution of the contract/framework agreement and the total spent value,
- j) Notes/explanations (significant changes, contract termination, etc.).”

(4) Procurement from Article 10e and 10f of this Law shall not be published on the Public Procurement Portal or on the website of the Contracting Authority.

(5) Notwithstanding the provisions of Article 72, paragraph (5) of this Law, a public procurement contract may be modified during its validity without a new public procurement procedure if the following conditions are met cumulatively:

- a) the need for modification has been brought about by circumstances that a diligent contracting authority could not foresee;
- b) the modification does not change the entire nature of the contract;
- c) any price increase does not exceed 30% of the value of the original contract and shall not be aimed at circumventing the application of this Law.

(6) Modification of the contract in light of paragraph (5) of this Article shall not be possible if it entails a price increase of up to 5% of the value of the original public contract for supplies and services, or up to 10% of the value of the original contract on public works contract.

(7) A price modification may only be requested for a price difference that exceeds 5% or 10%, unless the price increase occurred after supplier’s culpable delay.

(8) Where several consecutive modifications have been made, the threshold referred to in paragraph (5) item c) of this Article shall be assessed based on the net cumulative value of all consecutive modifications.

(9) The contracting authority shall act in accordance with Article 75, paragraphs (2) and (3) of this Law regarding the modification of the contract referred to in this Article.

(10) Where the contract contains a provision on price indexation (a provision on price volatility with objectively determined rules on price volatility), the reference value for calculating the maximum price increase shall be the updated price of the initial contract at the time of the modification.

(11) In the process of contract modification, the contracting authority shall provide evidence, in writing, that confirm the facts and circumstances referred to in paragraph (5) of this Article, on the basis of which the contract was modified.

(12) The provisions of paragraphs (5) through (11) of this Article shall apply accordingly to modifications of framework agreements during their validity.

(13) The provisions of paragraphs (5) through (12) of this Article shall apply to all public procurement contracts/framework agreements, the duration and implementation of which are ongoing, as well as to all future public procurement contracts/framework agreements that will be concluded following public procurement procedures.”

#### **Article 34**

In Article 87 paragraph (2), at the end of the text, a comma is inserted instead of a full stop and the wording “where the total estimated value of similar procurement at the annual level is not equal to or does not exceed BAM 50 000 for supplies or services, or BAM 80 000 for works”.

In paragraph (3), at the end, a comma is inserted instead of a full stop and the wording: “where the total estimated value of similar procurement at the annual level does not exceed BAM 10 000”.

#### **Article 35**

Article 88 is amended to read:

#### **“Article 88**

##### **(Competitive request for quotations)**

(1) Competitive request for quotations is a procedure in which the contracting authority prepares simplified tender documentation that contains: description/technical specification of the procurement subject-matter, minimum of documents proving tenderer qualification (if required), deadline for tender submission and manner to prepare and submit tenders.

(2) In competitive request for quotation, a decision to launch a procurement procedure shall be adopted and a procurement notice shall be published on the public procurement portal.

(3) The contracting authority shall set tender submission deadline which may not be shorter than 10 days as of the day of publication of the notice.

(4) The tenderer may request clarification of the tender documentation no later than three days before the expiration of the deadline for the submission of the tender documentation.

(5) The contracting authority shall appoint a public procurement commission and shall provide for public tender opening.”

#### **Article 36**

In Article 89 paragraph (3), the wording “as of the day on which the public procurement procedure is concluded” is replaced with “counting from the day of receipt of the decision of the contracting authority on tenderer selection”.

## **Article 37**

Article 90 is amended to read:

### **“Article 90**

#### **(Direct agreement)**

- (1) Direct agreement procedure shall be carried out in the manner which ensures adherence to principles laid down in Article 3 of this Law. Contracting authority shall select a tenderer in the manner which guarantees best value for money.
- (2) Contracting authority shall request in writing or through the public procurement portal a proposal of price or tender from one or several economic operators performing the activity which is the subject-matter of the public procurement.
- (3) Following the receipt of the price proposal or tender in one of the ways referred to in paragraph (2) that the contracting authority selected, the contracting authority shall accept the price proposal or tender of the economic operator.
- (4) Price or tender negotiations are allowed in direct agreement procedure.
- (5) Direct agreement shall be considered concluded by submission of an invoice or other appropriate documentation.
- (6) The contracting authority shall publish the report on direct agreement procedure referred to in Article 75 paragraph (1) on the public procurement portal.”

## **Article 38**

In Article 93, new paragraph (2) is inserted after paragraph (1) to read:

“(2) The PRB shall have 17 members.”

In paragraph (2), now paragraph (3), following “PRB” the wording “with the seat in Sarajevo” is inserted.

In paragraph (3), now paragraph (4), in the first line, following “PRB”, the wording “with the seat in Sarajevo” is inserted; in the second sentence the words “Other three” are replaced with the words “Other four”.

Paragraph (4), now paragraph (5) is amended to read:

“(5) PRB shall have two branch offices in Banja Luka and Mostar. They shall not have a legal entity status. The branch offices have stamps identical to the PRB stamp, and the only difference allowed is the name and location of the branch office.”

In paragraph (14), now paragraph (15), following item c) the full stop is replaced with semicolon and a new item d) is inserted in the following wording:

“d) to fulfil the conditions pursuant to Article 71 paragraph (1) item a) indent 1) of the Labour Law in the Institutions of BiH (Official Gazette of BiH, 26/04, 7/05, 48/05, 60/10, 32/13 and 93/17).”

Paragraphs (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17) and (18) become paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18) and (19).

### **Article 39**

In Article 94, paragraph (2) is amended to read:

“(2) In the review procedure pursuant to Article 100 paragraphs (4) and (5) of this Law, the PRB shall inform the selected tenderer or candidate of the review procedure in the phase in which the appeal has been filed.”

### **Article 40**

In Article 97, the word “who” is inserted after the wording “was or”, and the wording “unlawful” is inserted after the word “because”.

### **Article 41**

In Article 98 paragraph (2) item a), the words “Part B” and the semicolon are deleted and the following wording is inserted “provided that *ex ante* transparency notice has not been published”.

Paragraph (3) is deleted.

Paragraphs (4) and (5) hereafter become (3) and (4).

### **Article 42**

In Article 99 paragraph (1) the words “contracting authority” are replaced with “the PRB through the contracting authority”.

A new paragraph (3) is inserted following paragraph (2):

“In the review procedure pursuant to Article 100 (2) and (3) of this Law, the contracting authority shall inform the tenderers of the review procedure on the public procurement portal.”

Paragraphs (3), (4) and (5) become paragraphs (4), (5) and (6).

### **Article 43**

Article 100 is amended to read:

#### **“Article 100**

#### **(Procedure of the contracting authority on appeal)**

(1) The contracting authority shall within five days from the date of receipt of the appeal determine whether the appeal was timely, admissible, filed by an authorised person and by a person having a standing to bring a claim.

(2) If the contracting authority determines that the appeal is untimely, inadmissible and filed by an unauthorised person or by a person without a standing to bring a claim, it shall reject the appeal by virtue of a conclusion. An appeal may be filed against the conclusion to the PRB within five days from the date of receipt of the conclusion.

(3) If the appeal is timely, admissible and filed by an authorised person and by a person having a standing to bring a claim, the contracting authority may, in considering the appeal, determine that it has been partially or completely grounded and, it may adopt a decision to remedy the action, take action, amend and/or supplement the tender documentation or may repeal the existing decision and replaced it by another decision, or annul the public procurement procedure in case the requirements referred to in Article 69 paragraphs (2) and (3) of this Law are fulfilled and inform thereon the participants in the public procurement procedure in the manner laid down in this Law, within five days from the date of receipt of the appeal.

(4) An appeal against the decision of the contracting authority referred to in paragraph (3) of this Article may be lodged with the PRB through a contracting authority within ten days from the date of receipt of the decision. The contracting authority shall forward the appeal to the PRB with its opinion and documentation not later than five days as of the day of the receipt.

(5) If the contracting authority determines that the appeal was timely, admissible, filed by an authorised person and by a person having a standing to bring a claim, but entirely ungrounded, it shall not adopt a decision thereon, but it shall send it to the PRB within five days from the date it received the appeal, with its statement on the allegations of the appeal, as well as the complete documentation regarding the procedure against which the appeal was filed.”

#### **Article 44**

In Article 101, paragraph (1) is amended to read:

“(1) Appeals may be filed:

- a) 10 days at the latest as of the day of notice publication in relation to data contained in the procurement notice, or within 10 days as of the day of obtaining tender documentation in relation to the contents of the tender documentation;
- b) 10 days at the latest as of the day of publication of amendments to tender documentation in relation to the contents of the amendments to tender documentation;
- c) 5 days at the latest upon receiving the written record of the opening of tenders in relation to the actions, procedures and failures to act in the procedure of tender opening;
- d) 10 days at the latest upon receiving the decision on candidate qualification or decision on selection of the most successful tenderer or decision on cancellation of the procedure;
- e) 10 days at the latest as of the day the contracting authority should have made a procedure related decision and failed to do so.”

Paragraph (3) is amended to read:

“(3) In the event of awarding a contract based on the framework agreement referred to in Article 32, paragraph (5), item b) of this Law or within the dynamic purchasing system referred to in Article 123 of this Law, the appeal shall be filed within ten days after the contracting authority has notified tenderers that a contract based on a framework agreement or a dynamic purchasing system

is concluded in relation to the contract award procedure under a framework agreement or a dynamic purchasing system.”

In paragraph (4), the words: “Part B” are deleted.

Paragraph (5) is amended to read:

“(5) In public procurement procedures involving competitive request, appeals shall be filed within five days upon:

- a) obtaining the competitive request;
- b) receiving the written record of opening the tenders;
- c) receiving decision on the selection of the most successful tenderer or the decision on cancellation of procurement procedure.”

New paragraph (6) is inserted after paragraph (5) to read:

“(6) Appeal shall not be admissible in direct agreement procedures.”

The current paragraph (6) becomes paragraph (7).

#### **Article 45**

In Article 103, paragraph (1) is amended to read:

“(1) In public procurement procedures, absolutely fundamental breaches of the Law shall be those breaches that the PRB handles *ex officio* and that may lead to the cancellation of the procedure completely or partially, as follows:

- a) lack of compliance of tender documentation with this Law or implementing regulations that, due to incompleteness, inconsistency or unclarity rendered it impossible to establish whether the allegations in the appeal are grounded or that due to significant omissions resulted in the violation of basic principles of this Law, i.e., unlawful contract award;
- b) violations of procedure in tender opening, requests to participate;
- c) failure to extend the time limit for submission of tenders or for request for participation although such obligation is provided for by this Law;
- d) where the contracting authority enters into negotiations in the procedure where negotiation is not allowed or where tenderers amend their tenders contrary to the provisions of this Law following the expiration of the time limit for submission of tenders.”

#### **Article 46**

In Article 105, item i) is amended to read:

“i) proof of paid fee for filing an appeal, in the amount defined in Article 108 of this Law, based on which it can be established with certainty that the transaction has been performed;”

#### **Article 47**

In Article 106, paragraph (1) is amended to read:

“(1) If an appeal does not contain the information pursuant to Article 105, the PRB shall invite the appellant to supplement the appeal within three days from the day of receipt of the request to supplement.”

In paragraph (2) the wording “the administrative fee for the appeal” is replaced with the wording “fee for filing an appeal”.

#### **Article 48**

Article 107 is deleted.

#### **Article 49**

The Article 108 is amended to read;

#### **“Article 108**

##### **(Fee for filing an appeal)**

- 1) The appellant shall pay a fee for initiating the review procedure in the following amounts:
  - a) BAM 500 for the estimated value of the procurement up to BAM 50 000;
  - b) BAM 800 for the estimated value of the procurement from BAM 50 001 to 80 000;
  - c) BAM 2 000 for the estimated value of the procurement from BAM 80 001 to 250 000;
  - d) BAM 3 500 for the estimated value of the procurement from BAM 250 001 to 400 000;
  - e) BAM 5 000 for the estimated value of the procurement from BAM 400 001 to 800 000;
  - f) BAM 7 500 for the estimated value of the procurement from BAM 800 001 to 9 000 000;
  - g) BAM 10 000 when the value of the procurement amounts to or exceeds BAM 9 000 000.
- (2) The appellant shall pay the appropriate amount of the fee referred to in paragraph (1) of this Article on the basis of the estimated value of the procurement from the tender documentation.
- (3) The appellant shall pay the appropriate amount of the fee referred to in paragraph (1) of this Article based on data in the tender documentation on the estimated value of the lot that is subject to appeal or the sum of estimated values of lots that are subject to appeal if the appeal refers to one or several lots instead of the entire procurement.
- (4) Prior to the consideration of the appeal, the PRB shall determine whether the appellant has paid the fee in accordance with paragraphs (1) and (2) of this Article and Article 105 item i) of the Law.
- (5) If the estimated procurement value is not known at the moment of filing the appeal to the PRB or has not been disclosed, the fee for filing an appeal shall be paid in the amount of BAM 2 000. The PRB shall invite the appellant to pay the difference within a certain time limit if it is established in the appeal procedure that the fee was paid in an insufficient amount.
- (6) The fee shall be paid to the budget of the institutions of Bosnia and Herzegovina and international obligations of Bosnia and Herzegovina and shall be non-refundable in the event that the appeal is found to be ungrounded.

(7) In the event of a grounded appeal and in the event of irregular appeal when it is subsequently established that the payment was made after the deadline, the PRB shall adopt a specific decision to reimburse the fee for filing the appeal, which must be enforced within 30 days from the date of receipt of the decision on reimbursement of the fee for the initiation of the appeal procedure, in accordance with the Instruction on the manner of payment, control and reimbursement of the fees under this Article.”

#### **Article 50**

In Article 109 paragraph (1) following the wording “by an authorised person” the following wording is inserted “and by a person having a standing to bring a claim”.

In paragraph (2) following the wording “by an authorised person” the following wording is inserted “and by a person having a standing to bring a claim”.

#### **Article 51**

In Article 110, the words “The filed appeal” are replaced with the wording “Timely and admissible appeal filed by an authorised person and by a person having a standing to bring a claim”.

New paragraph (2) after paragraph (1) is inserted to read:

“(2) Contracting authority shall inform all procurement procedure participants of the filed appeal on the public procurement portal.”

#### **Article 52**

In Article 111 paragraph (1), item d), before the word “annul” the wording “uphold the appeal” is inserted.

In paragraph (1), item e) is amended to read:

“e) decide on the request of the contracting authority to continue the public procurement procedure at any time following the receipt of the appeal and before the decision has been made by the PRB, once the conditions are met so that the decision on the suspension of the procedure does not cause disproportionate damage to the public interest. The request of the contracting authority to continue the procedure must be reasoned and the burden of proof that the circumstances exist to continue with the procedure shall be on the contracting authority. The PRB shall make the decision on the request to continue the public procurement procedure not later than 5 days as of the day of submission of appeal documentation by the contracting authority or the submission of the request in case the request has been filed after submitting the appeal with supporting documents;”

In paragraph (2) item a), the words: “Part B” are deleted.

#### **Article 53**

In Article 115 paragraph (2), at the end of the text, the full stop is replaced with a comma and the following wording is inserted: “and the decision on the lawsuit shall be made not later than 60 days upon receiving the lawsuit”.

#### **Article 54**



In Article 116, paragraph (1), the words: “an infringement report with the competent minor offence court” are replaced with the wording “request to initiate minor offence proceedings with the competent court”.

In paragraph (2), new item s) is added following item r):

“s) continuing public procurement procedure, concluding public procurement contract or framework agreement in the course of suspensive effect of the appeal in contravention of Article 110 of this Law.”

### **Article 55**

In Article 119, new paragraphs (3), (4), (5), (6), (7), (8), (9) and (10) are added following paragraph (2):

“(3) In the legal protection procedure, each party shall bear the costs incurred by the procedure, such as travel costs, loss of time (failure to perform regular work duties), legal representation and expert assistance. Legal representation costs shall be reimbursed only in those cases where such representation has been necessary and justified by clearly defined arguments.

(4) The PRB shall decide on the cost of appeal procedure, it shall establish who shall bear the costs of the appeal procedure and shall determine their amount, to whom the costs are to be paid and the payment deadline.

(5) The losing party in the appeal procedure shall reimburse the other party for the clearly defined justified costs incurred by participation in the appeal procedure.

(6) In the event of withdrawal of the appeal, rejection or dismissal of the appeal, the appellant shall not have the right to reimbursement of the appeal procedure costs.

7) If the appeal is partially upheld, the PRB may decide that each party shall bear its own costs, may decide that the appeal procedure costs are shared in equal amounts or proportionate to appeal upholding.

(8) If the appeal is upheld, the PRB shall pass a decision ordering the contracting authority to pay for the appeal procedure costs to the appellant not later than eight days upon receiving the PRB’s decision.

(9) The appeal may contain the appeal procedure cost compensation claim which must be determined and submitted to the PRB prior to decision-making.

(10) In the appeal procedures for compensation of costs of legal representation, the fee shall be determined according to the fees that attorneys have the right to in administrative procedures in inestimable value cases.”

### **Article 56**

#### **(Alignment with the EU *acquis*)**

This Law transposes the provisions of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC,

Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy and transport sectors and the postal services sector and repealing Directive 2004/17/EC and 2014/25, 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 and Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC.

### Article 57

Annex II is amended to read as follows:

#### “ANNEX II SOCIAL AND OTHER SPECIAL SERVICES

CPV code	Description
75200000-8; 75231200-6; 75231240-8; 79611000-0; 79622000-0 [services acquiring person to help in the household]; 79624000-4 [recruiting services for medical care] and 79625000-1 [services of medical personnel] from 85000000-9 to 85323000-9; 98133100-5, 98133000-4; 98200000-5; 98500000-8 [private households with employed persons] and from 98513000-2 to 98514000-9 [mediation of labor for household services agency's staff for household, office personnel services for household staff to work at a certain time for households, services domestic help and household services]	Health, social and related services
85321000-5 and 85322000-2, 75000000-6 [services administration, defense and social security], 75121000-0, 75122000-7, 75124000-1; from 79995000-5 to 79995200-7; from 80000000-4 service education and professional training to 80660000-8; from 92000000-1 to 92700000-8 79950000-8 [services of organizing exhibitions, trade fairs and congresses] 79951000-5 [services organizing seminars] 79952000-2 [services of organizing various events] 79952100-3 [services organizing cultural events] 79953000-9 [services of organizing the festival], 79954000-6 [party service] 79955000-3 [services organizing fashion shows] 79956000-0 [services organizing fairs and exhibitions]	Administrative, social, educational, health services and services related to culture
75300000-9	Services of mandatory social insurance, except in the case of non-economic services of general interest.
75310000-2, 75311000-9, 75312000-6, 75313000-3, 75313100-4, 75314000-0, 75320000-5, 75330000-8, 75340000-1	Services related fees
98000000-3; 98120000-0; 98132000-7; 98133110-8 i 98130000-3	Other services community, social and personal services, including trade unions, political organizations, youth associations and other membership organization
98131000-0	religious services

55100000-1 to 55410000-7; 55521000-8 to 55521200-0 [55521000-8 service delivery of prepared food in private households, services 55521100-9 regular delivery of meals, services 55521200-0 catering] 55520000-1 service delivery of prepared food, 55522000-5 service delivery of prepared food for transport companies, courier services 55523000-2 prepared food for other companies or institutions, 55524000-9 service delivery of prepared food in school 55510000-8 service canteens, 55511000-5 service canteens and other services Cafeteria closed, 55512000-2 management services canteens, school meals services 55523100-3	Hotel and catering services
79100000-5 to 79140000-7; 75231100-5;	Legal services, to the extent that they are not exempt under Article 10a (1) d)
75100000-7 to 75120000-3; 75123000-4; 75125000-8 to 75131000-3	Other administrative services and state services
75200000-8 to 75231000-4	Providing services to the community
75231210-9 to 75231230-5; 75240000-0 to 75252000-7; 794300000-7; 98113100-9	Prison services, public safety and emergency services, to the extent that they are not excluded on the basis of Article 10a (1) h)
79700000-1 to 79721000-4 [investigative services and services in the field of security services in the field of security, service control alarms, security services, service control, service monitoring system, a search for fugitives, services, patrol services, services for issuing identification badges, hostese and a detective agencies] 79722000-1 [graphology service] 79723000-8 [a waste analysis]	Investigative services and services in the field of security
98900000-2 [services provided by extraterritorial organizations and bodies] and 98910000-5 [services inherent in international organizations and bodies]	international services
64000000-6 [postal and telecommunications services], 64100000-7 [postal and courier services] 64110000-0 [postal service], 64111000-7 [postal services related to newspapers and magazines] 64112000-4 [postal-related services letters] 64113000-1 [postal services related to parcels] 64114000-8 [postal-stop shop service] 64115000-5 [rent a mailbox] 64116000-2 [raising services at the post office], 64122000-7 [internal postal office and courier services]	Postal services
50116510-9 [service retreading tire] 71550000-8 [blacksmith services]	Other services

**Article 58  
(Repeals)**

Upon the beginning of application of this Law the following shall cease to have effect:

- a) Instruction for publishing the basic elements of the contract and amending the contract (Official Gazette of BiH, 56/15);
- b) Rulebook on Direct Agreement Procedure (Official Gazette of BiH, 90/14);

**Article 59**  
**(Entry into force)**

This Law shall enter into force on the eighth day following its publication in the Official Gazette of Bosnia and Herzegovina, and it shall become applicable three months as of the date of its entry into force, except for the following provisions:

- a) new Articles 4a and 4b of the Law, added by Article 3 of this Law, which shall apply as of the date of accession of Bosnia and Herzegovina to the European Union;
- b) new paragraphs (5), (6), (7), (8), (9), (10), (11), (12) and (13), which, in accordance with Article 33 of this Law, amend Article 75 of the Law, and shall apply from the date of entry into force of this Law.

Number 01,02-02-1-495/21  
29 August 2022  
Sarajevo

Chairperson  
of the House of Representatives  
of BiH Parliamentary Assembly  
**Nebojša Radmanović**

Chairperson  
of the House of Peoples  
of BiH Parliamentary Assembly  
**Nikola Špirić**