

# Current public procurement issues in the European Union and the Member States



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# Advertising and communication

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## **Types of notices :**

### Notices launching the procedure

- contract notice,
- invitation to tender,
- invitation specified in Article 123 of the PPA (independent procedural rules for the execution of public supplies and public services not reaching EU thresholds)
- contest notices launching design contests (the procedure is regulated by a separate Gov. Decree)

### Information notices:

- notices on the results of the procedure - new: dispatch within 10 working days,
- notices on the results of design contests
- information notices concerning the amendment of the contract,
- as regards legal services specified in Annex IV, the contract notice concerning the conclusion of the public procurement contract.

# Advertising and communication

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## Other notices:

- notice on the user's side
- prior information notice (new rules!),
- periodic indicative notice.

Dispatch of notices: by electronic means according to a separate act of legislation, on the basis of a standard form specified in a separate act of legislation.

Sending, dispatch, examination and the relevant fee, as well as detailed rules for the advertising will be regulated by the Decree of the Minister responsible for the supervision of the national property.

# Advertising and communication

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**Advertising on a homepage** (on their own homepage or, failing this, on the homepage of the Public Procurement Authority)

- public procurement plan and its amendment(s),
- contracts concluded in application of Article 9(1)(k) of the PPA (*in-house*),
- data concerning preliminary dispute settlement,
- specified data of the request as regards the review procedure launched in relation to the contract award procedure and the decree of the Arbitration Board authorizing the conclusion of the contract,
- the contracts concluded on the basis of the public procurement procedure,
- specified data concerning the performance of the contract (replaces the information notice concerning the performance of the contract!),
- annual statistical summary.

# Advertising and communication

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## Contact keeping

written statements: by postal delivery or handing, by fax, by electronic means.

Contracting authority may choose from these options

- but the making of statements by electronic means only may not be made mandatory,
- postal delivery only in justified cases,
- sending of the written summary, preliminary dispute settlement only by fax or by electronic means.

## Alleviation of administrative burden

- carrying out of certain procedural acts by electronic means,
- all documents may be submitted in a simple copy form (with the exception of documents directly underlying the validation of a claim, e.g. bank guarantee - in that case originals or certified copies may be requested),
- certified translation may not be required in case of documents not submitted in Hungarian language - liable translation must be accepted.

# Types of public procurement procedures - new or amended rules

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- The concepts of the design contest and the dynamic purchasing system are indicated among the Definitions, no detailed rules in the PPA, detailed regulation will be made in a Government Decree.
- Accelerated procedure is not an individual type of procedure, it is a variation of the restricted procedure and the negotiated procedure with the publication of a contract notice, with the application of shorter time limits.
- Competitive dialogue - a procedure consisting of three stages: 1. participation stage (suitability, grounds for exclusion), 2. dialogue (submission of proposals for solution), 3. tendering stage (submission of tenders).
- Re-regulation of the validity period of tenders: commitment of the contracting authority, commitment of the tenderer, the starting date of the validity period, the maximum duration of the validity period.

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# Types of public procurement procedures - new or amended rules

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In restricted procedures, the time limit for submission of tenders may only be shortened by 5 days if the tender documentation is made available in full, without any charge, directly by electronic means, from the date of publishing of the invitation to participate.

In restricted procedures or negotiated procedures with the publication of a contract notice, after successful completion of the participation stage, the determination of the duration of the period open for the sending of the invitation to tender.

In negotiated procedures with the publication of a contract notice, if the contracting authority negotiates with the tenderers one by one, no information provided by the tenderer about his tender during the negotiation may be communicated to the other tenderers without his permission

# Types of public procurement procedures

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## Negotiated procedures with the publication of a contract notice:

- no validity period in force until the end of negotiations, the terms set forth in the invitations and the documentation(s) may be amended, supplemented, but within limits:
  - the award criteria or method may not be changed,
  - the modification may not distort competition or prejudice equal opportunities of economic operators (in particular where the decision of the interested economic operators concerning their ability to participate in the procedure may have been substantially influenced by their awareness of the new terms, or the new terms would make any tenderer incapable to submit a final tender at the end of the negotiations).
- the contracting authority shall clearly notify the tenderers of the date of conclusion of the negotiations.

Negotiated procedures with the publication of a contract notice, and negotiated procedures without prior publication of a contract notice: evaluation of tenders in two stages: as regards the first tender and as regards the final tender as well.

# Types of public procurement procedures

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## Negotiated procedures without prior publication of a contract notice:

- The amendment of the wording of the ground for its use - when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract may only be concluded with a particular organisation or person.
- no validity period in force until the end of negotiations, the terms set forth in the invitations and the documentation may be amended, supplemented, but within limits:
  - the award criteria or method may not be changed,
  - subject-matter or the terms of the contract may not be altered to such an extent that would have not allowed the application of a negotiated procedure,
  - subject-matter or the terms of the contract may not be altered to such an extent that would make any tenderer incapable to submit a final tender at the end of the negotiations.

# Types of public procurement procedures

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Framework agreement procedures: the invitation must indicate which type will be used

- framework agreement concluded with one tenderer - provides for, in a mandatory way, all the terms of the contract to be concluded for the execution of the public procurement determined by it, - through direct ordering
- framework agreement concluded with one tenderer - does not contain, or not in a mandatory way, all the terms of the contract to be concluded for the execution of the public procurement determined by it, - through consultation, supplementation of the tender, only a similar tender may be presented, or more favourable for the contracting authority
- framework agreement concluded with more than one tenderer - provides for, in a mandatory way, all the terms of the contract to be concluded for the execution of the public procurement determined by it, - through direct ordering, the framework agreement must indicate the objective criteria on the basis of which the contracting authority will conclude the contract with a tenderer.
- framework agreement concluded with more than one tenderer - does not contain, or not in a mandatory way, all the terms of the contract to be concluded for the execution of the public procurement determined by it, - through reopening of competition, electronic auction



**THANK YOU FOR YOUR ATTENTION!**

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