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# The Legal 500 Country Comparative Guides Greece **PUBLIC PROCUREMENT**

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This country-specific Q&A provides an overview of public procurement laws and regulations applicable in Greece.

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## GREECE

# PUBLIC PROCUREMENT



\*"Complex contracts" refers to contracts including: where the needs of the contracting authority cannot be met without adaptation of readily available solutions; contracts involving design or innovative solutions; where prior negotiation is required before a contract can be awarded due to particular circumstances related to the nature, the complexity or the legal or financial make-up of a contract or because of risks attaching to these circumstances; and where technical specifications cannot be determined with sufficient precision with reference to established technical standards, references or specifications.

### 1. Please summarise briefly any relationship between the public procurement / government contracting laws in your jurisdiction and those of any supra-national body (such as WTO GPA, EU, UNCITRAL).

The public procurement legislation of the Hellenic Republic (Greece) is based on EU legislation, the principles of the EU Treaties and the case-law of the Court of Justice of the EU. As a member of the European Union, Greece has implemented the 2014 EU Procurement Directives (namely Directive 2014/24/EU on public procurement and Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services) into national law. The EU Procurement Directives apply to procurements above certain thresholds (see Question No 3), but the Greek legislator has chosen to adopt rules also for procurements below the EU thresholds. EU's relevant regulations are directly applicable within the Greek legal system.

Furthermore, through its membership to the EU, Greece is contracting party to several bilateral or multilateral free trade agreements which cover aspects of public procurement.

Greece is also a member of the WTO and is bound by the World Trade Organization's Agreement on Government Procurement (GPA) which was ratified by Law 2513/1997.

### 2. What types of public procurement /

**government contracts are regulated in your jurisdiction and what procurement regimes apply to these types of procurements? In addition to any central government procurement regime please address the following: regulated utilities procurement regime (e.g. water, gas, electricity, coal, oil, postal services, telecoms, ports, airports), military procurements, non-central government (local, state or prefectures) and any other relevant regime. Please provide the titles of the statutes/regulations that regulate such procurements.**

All public contracts are regulated in Greece, including supply and service contracts, works contracts and concessions. Special rules apply to contracts awarded in the water, energy, transport and postal services sectors (utilities sectors) as well as in the defence and security sectors.

The main legislation regulating public procurement contracts is Law 4412/2016 on *Public Procurement*, as amended (hereinafter '*Greek PP Act*'), which implemented the EU Procurement Directives 2014/24/EU on public procurement and 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors in one single legislative act. Greek PP Act, which introduced a comprehensive procurement procedure framework for all national procurement procedures, irrespective of whether they do or do not meet the relevant EU thresholds (cf. question 3), applies to the central Government, regional or local authorities, public authorities or associations formed by

these authorities or, in general, entities governed by public law.

The following types of public contracts are covered by Greek PP Act:

- a. Work contracts;
- b. Supply contracts;
- c. Provision of services contracts -these are further classified into 'general services' having as their subject matter consultancy services in all sectors of the economy and 'contracts of designs, technical and other related scientific services';
- d. Mixed contracts having as their subject matter different types of the abovementioned contracts;
- e. Social and other specific services - existing rules lay down a 'light regime' for health, social, educational and cultural services;
- f. Framework agreements;
- g. Contracts assigned by entities operating in the water, energy, transport, and postal service sectors.

Specifically, Book I of Greek PP Act (Art. 3 to 221) contains provisions that are applicable to procurement procedures with respect to public contracts of works, supplies or services as well as design tenders; articles 116 to 128 of this Book apply only to procurement procedures that fall under the EU thresholds. Book II of Greek PP Act (Art. 222 to 338) contains provisions that are applicable to procurement procedures in relation to public contracts of works, supplies or services by entities operating in the water, energy, transport and postal service sectors (utilities sector); Art. 326 to 333 only apply to such procurement procedures that fall under the EU thresholds.

The recently enacted Law 4782/2021 for the *modernization, simplification and reform of the public procurement regulatory framework* has introduced extensive and critical amendments to the regulatory framework of public contracts, towards a procurement procedure of higher speed and effectiveness and of a less formalistic approach. Aiming at an enhancement of competition by reducing bureaucratic obstacles and the complexity of public procurement procedures in order to attract more small and medium-sized enterprises the amended act provides for the acceleration of the procedures for the award and execution of public contracts, through *inter alia* the mitigation of the excessive severity of certain provisions and the introduction of a new "hybrid" judicial remedy. For instance, under the amended framework, economic operators will be permitted not only to clarify or

complete information or documentation but also to supplement such when missing; provided that relevant requests are made in full compliance with the principles of equal treatment and transparency.

Following the adoption of Law 4782/2021, the Greek authorities have approved a new action plan for the *National Strategy about Public Procurement for the period 2021-2025*, seeking to increase the efficiency of the PP system, with key initiatives including continuous monitoring and simplification of the institutional framework, the digital transformation of the public procurement sector (with the introduction of modern tools and e-services) and enhancing transparency through audit procedures in public procurement.

The reforms of the legislative framework are expected to contribute to addressing the continuing weaknesses of the Greek public procurement market. According to the findings included in a recent report by the European Court of Auditors (*Special report 28/2023: Public procurement in the EU - Less competition for contracts awarded for works, goods and services in the 10 years up to 2021*), 42.8% of public contracts in Greece were awarded after procedures where there was only one offer. This is the fourth highest percentage in the EU, while it is worth noting that in 2011 the corresponding percentage was much lower, 14.9%. Also, according to the 2023 EU Justice Scoreboard, Greece is ranked in very low positions worldwide in terms of delays in the review proceedings.

Greek PP Act is not applicable, save partially only (see below), in the defence and security sectors (Art. 15 of Greek PP Act), in the field of electronic communications and cybersecurity, in confidential public contracts, in privatization agreements.

However, certain main principles regarding transparency of the tendering procedure and equal treatment of participants apply in these cases as well.

The public procurement regulatory framework is complemented by legal provisions on specific public procurement issues, incorporated in other laws, as well as a number of presidential decrees/ministerial decisions. Procurement in the defence and security sectors is regulated mainly by L. 3978/2011 (implementing Directive 2009/81/EC). The award and execution of concessions contracts is governed by Law 4413/2016, which implemented Directive 2014/23/EU. Public-private partnerships (PPPs) are mainly regulated by Law 3389/2005.

### 3. Are there specified financial thresholds

**at which public procurement regulation applies in your jurisdiction? Does the financial threshold differ depending on the nature of procurement (i.e. for goods, works or services) and/or the sector (public, utilities, military)? Please provide all relevant current thresholds in your jurisdiction. Please also explain briefly any rules on the valuation of a contract opportunity.**

There are different financial thresholds for each tender process, depending on the nature of the procurement, on the contracting authority at stake and on whether the contracting authority pertains to the traditional public sector or to the utilities or defence and security sectors.

According to the recently introduced Regulations (EU) 2023/2495, 2023/2496, 2023/2497, 2023/2510, the current financial thresholds at which public procurement regulations apply, which are periodically subject to revision by the European Commission, are for the period from 1st January 2024 to 31st December 2025, as follows (excluding value-added tax (VAT)):

- **EUR 5,538,000** for all public works/construction contracts (including construction contracts in the utilities and the defence and security sectors) and for concession contracts;
- **EUR 143,000** for supply and services contracts of ‘central government authorities’ (e.g. Ministries or local government bodies);
- **EUR 221,000** for supply and services contracts of ‘non-central contracting authorities’ (i.e. all of the remainder except for ministries and local government bodies);
- **EUR 443,000** for supply and services contracts in the utilities sectors;
- **EUR 750,000** for social and other specific services listed under Annex XIV of Appendix A;
- **EUR 1,000,000** for social and other specific services contracts in the utilities sectors listed under Annex XIV of Appendix A.

Whether the respective public award falls above or below these thresholds is determined based on the estimated value of the procurement by the contracting authority. Art. 6 & 236 of Greek PP Act provide for different rules for calculating the estimated contract value depending on the specific type of contract. The general rule is that the calculation of the estimated value of a procurement is based on the total amount payable, net of VAT, as estimated by the contracting

authority, including any form of option and any renewals of the contracts. With regard to framework agreements and dynamic purchasing systems, the value to be taken into consideration shall be the maximum estimated value net of VAT of all the contracts envisaged for the total term of the framework agreement or the dynamic purchasing system. With regard to public works contracts, the calculation of the estimated value shall take account of both the cost of the works and the total estimated value of the supplies and services that are made available to the contractor by the contracting authority provided that they are necessary for executing the works (Article 6, paragraph 5 & 7, of Greek PP Act).

**4. Are procurement procedures below the value of the financial thresholds specified above subject to any regulation in your jurisdiction? If so, please summarise the position.**

Notwithstanding their respective value, all tendering procedures are subject to Greek PP Act, which includes also provisions regulating procurements below the EU thresholds.

For the award of contracts that fall below the value of the financial thresholds specified in Question No 3, Greek PP Act (Art. 117 et seq. and 326 et seq. with regard to the utilities sectors) lays down the following award procedures depending on the value of the contract:

- The award of public contracts whose value does not exceed EUR 2,500 is considered *de minimis*: no formalities e.g., call of interest, contract award or written agreement are required and the supplier may be paid simply by issuing an invoice;
- For contracts whose value does not exceed EUR 30,000, contracting authorities may proceed to a direct award; as per the definition included in Greek PP Act, “direct award” means a contract award procedure with or without prior publication, as the case may be, in accordance with Art. 120 and 330, whereby contracting authorities/entities award a contract to the economic operator of their choice following a market investigation;
- For contracts whose value ranges from EUR 30,001 to the estimated value set out by the relevant EU thresholds, a formal contract award procedure may apply, which is conducted via electronic means.
- Concerning social and other specific services, contracting authorities are exceptionally

permitted to proceed to a direct award of contract with an estimated value of up to EUR 60,000.

**5. For the procurement of complex contracts\*, how are contracts publicised? What publication, journal or other method of publicity is used for these purposes? What is the typical period from the publication of the advert that bidders have to respond to the advert for a complex contract?**

“Complex contracts” are not expressly legally defined under the Greek legislation. With the definition of complex contracts provided herein, contracting authorities could apply a competitive procedure with negotiation or a competitive dialogue to procure a complex contract (Art. 26 Greek PP Act).

Assuming “complex contracts” usually being contracts above the EU thresholds, the (planned) procurement of such contracts has to be published *at EU level* (Art. 65 Greek PP Law); the contracting authority has to submit contract notices and prior information notices including the information stated in Annex V of Appendix A of Greek PP Act by completing a standard form as stated in Annex VIII thereof via the electronic database of EU, Tenders Electronics Daily (“TED”). The information will then be published in Supplement S to the Official Journal of the EU (OJEU).

In addition, contracting authorities are required to publish the contract notice *at national level* on the Central Electronic Register for Public Procurement (KIMDIS) (<https://portal.eprocurement.gov.gr>), as per Art. 66 of Greek PP Act.

The period within which the bidders have to respond to an advert depends on the type of tender procedure launched by the contracting authority as well as the level of complexity of the contract. Art. 27-31 of Greek PP Act only provide for minimum time limits for submitting tenders which correspond to those set out in the EU procurement directives; as a main rule:

- for an open procedure: thirty-five (35) days from the date on which the contract notice was sent to the Publications Office of the EU; and
- for a restricted procedure, competitive procedure with negotiation, competitive dialogue and innovation partnership: thirty (30) days from that date.

Such minimum terms may be further shortened in exceptional cases duly justified or in case of urgency. However, the complexity of a contract as such does not have any consequences on the above mentioned publishing obligations

With respect to public contracts that fall under the EU thresholds and exceed €2,500, direct awards included, contract notices and relevant information notices are only published on the Central Electronic Register for Public Procurement (KIMDIS). The timescale between the publication of the advert for such contracts in KIMDIS and the bidders’ response is as follows: 10 days for the awarding of supplies and services contracts; 6 days for low complexity supplies contracts; 15 days for works contracts.

**6. For the procurement of complex contracts, where there is an initial selection stage before invitation to tender documents are issued, what are typical grounds for the selection of bidders? If there are differences in methodology between different regulated sectors (for example between how a utility might undertake a regulated procurement procedure and how a government department might do so), please summarise those differences.**

Assuming “complex contracts” usually being contracts above the EU thresholds, the usual procedures to procure *complex contracts* are the open or restricted procedures. Certain procurement procedures, such as the restricted procedures, competitive procedures with negotiation and competitive dialogue, provide for an initial stage for selection of the bidders eligible to submit the bids. Pursuant to Art. 84 of Greek PP Act, in those procedures, contracting authorities may limit the number of candidates meeting the selection criteria that they will invite to tender, provided that a minimum number of qualified candidates is available (as far as restricted procedures are concerned, the minimum number of candidates shall be 5 and in the competitive procedure with negotiation, competitive dialogue and innovation partnership the minimum number of candidates shall be 3).

In those procedures with an initial selection stage, contracting authorities shall indicate, in the contract notice or in the relevant invitation to the selected candidates, the qualification criteria that they intend to apply, the minimum number and, where appropriate, the maximum number of candidates. Such criteria will

depend on the type of contract and shall be objective, non-discriminatory and proportionate to ensure a fair competition and equal treatment of the bidders, and enable them to identify the nature and scope of the award.

According to Art. 75 of Greek PP Act, contracting authorities may only impose criteria relating to:

- the suitability of the bidders to pursue the professional activity related to the contract (e.g. membership of professional bodies, license to carry out the activities in question where such license is required etc.; specifically, as far as works, designs and technical services contracts are concerned, participation in tendering procedures is allowed for companies registered in the 'Register of Contractors' Enterprises' kept by the Greek Ministry of Infrastructure);
- the technical and professional ability of the bidders and their personnel (verified, for instance, through the provision of references regarding past performances of other complex contracts of the same nature and scale);
- the economic and financial capacity of the bidders.

The contracting authority shall verify the fulfillment of the criteria related to the technical and professional capacity laid down in the declaration, specifying the appropriate means of proof which are exhaustively listed Annex XII of Appendix A of Greek PP Act (i.e. Annex XII to Directive 2014/24/EU), establishing a closed system of assessment and control of the tenderers' technical capacity' and thereby limiting the ability of the contracting authority to define the corresponding requirements of technical and professional capacity. The qualification criteria above aim to ensure that only eligible bidders, which allow for the expectation of high-quality performance, will be invited to tender, and, where allowed, to conduct a dialogue and negotiate with the contacting authorities.

In terms of content of the requirements for selection of the bidders, there are no substantial differences between the different regulated sectors.

**7. Does your jurisdiction mandate that certain bidders are excluded from tendering procedures (e.g. those with convictions for bribery)? If so, what are those grounds of mandatory exclusion? Are there any notable features of how this**

**operates in your jurisdiction e.g. central registers of excluded suppliers? Does your jurisdiction specify discretionary grounds of exclusion? If so, what are those grounds of discretionary exclusion?**

Greek PP Act, in line with EU Procurement Directives, stipulates mandatory as well as discretionary grounds for the exclusion of bidders. These grounds are specified in Art. 73-74 and are as follows:

Mandatory grounds for exclusion: The contracting authorities *must exclude* an economic operator from a tendering procedure where:

- the economic operator or its legal representative(s) [i.e. members of the board, director(s), manager(s)] have been the subject of a conviction by final judgment for certain criminal offences (such as participation in a criminal organization, crimes against the financial interests of the EU, corruption, bribery, fraud, forgery, embezzlement, terrorist offences or offences linked to terrorist activities, money laundering or financing of terrorism, child labour and other forms of human trafficking etc.; or
- they are aware that the economic operator in question is in breach of its obligations relating to the payment of taxes or social security contributions in (i) the country in which the bidder is established; or (ii) the country where the procurement occurs, and this has been determined by a final, judicial or administrative, decision of its obligations relating to the payment of taxes or social security contributions. Such obligations shall be deemed not to have been breached if they have not fallen due or if they have been subject to a binding settlement which is being observed. In exceptional and duly justified cases the contracting authorities may refrain from the exclusion of an economic operator if its participation cannot be dispensed for reasons of public interest (such as for reasons of public health or environmental protection) or, in case of breach of tax or social security obligations, its exclusion would be clearly disproportionate, in particular where only small amounts of taxes or social security contributions have not been paid or where the economic operator has been informed of the exact amount due as a result of non-payment of taxes or social security contributions at a time when it was not in a position to take

action.

- *National grounds for exclusion:* Please note that, provided the estimated value of the contract to be awarded exceeds EUR 1,000,000, excluding VAT, an economic operator is excluded from participation in Greek PP procedures if provisions of par. 4 of Art. 8 of Law 3310/2005 apply (obligation for registration of the shares); according to this Law, media corporations and their major shareholders are prohibited from signing public contracts.

Discretionary grounds for exclusion: The contracting authorities *may*, at their discretion, include one, any, all or none of the following grounds for exclusion in the procurement documents, taking into consideration the particular characteristics of the contract to be awarded, e.g. estimated value, special circumstances and *exclude* an economic operator from a tendering procedure where such economic operator:

- has not complied with all applicable obligations in the fields of environmental, social and labor law established by EU law, the Greek legislation, collective agreements or international provisions of environmental, social and labor law;
- is in bankruptcy, or has been subjected to a liquidation, or is under compulsory management, or has been subjected to a bankruptcy settlement, or has suspended its business activities;
- has committed a serious professional misconduct;
- has entered into agreements with other bidders with a view to distorting competition;
- has a conflict of interest that cannot be remedied;
- has distorted competition from prior involvement of bidders in the preparation of the contract award procedure that cannot be remedied;
- has shown a serious or recurring defect in the execution of a substantial requirement under a previous public tender, a previous contract with a contracting entity or a previous concession contract, resulting in early termination, damages etc.;
- has been found guilty of serious fraudulent misrepresentation in providing the information required or has concealed such information or is unable to provide the required supporting documents; or
- has attempted to unlawfully influence the decision-making process of the contracting

authority, to obtain confidential information which may provide unfair advantage in the contracting process, or to negligently provide misleading information.

Please note that economic operators can undergo a so-called "self-cleaning" process as set out in Art. 73 (7) of Greek PP Act in case certain exclusion grounds apply to them. Said mechanism allows for economic operators to regain suitability and reliability by providing evidence that they have taken sufficient measures to demonstrate their reliability, despite the existence of a relevant ground for the mandatory and discretionary exclusion of a bidder. Such measures include: (i) paying or undertaking to pay compensation in respect of any damage caused by the misconduct; (ii) clarifying the facts and circumstances by actively collaborating with the investigating authorities; and (iii) taking concrete technical, organisational and personnel measures that are appropriate to prevent further misconduct. The self-cleaning measures must be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct. If such evidence is considered sufficient by the contracting authority, the economic operator shall not be excluded. If such evidence is considered insufficient, the economic operator must be excluded and notified of the reasoning of the relevant decision in order to be able to challenge it.

In addition to exclusion from a specific procurement procedure, administrative exclusion from future public procurement procedures may also be imposed (horizontal exclusion - Art. 74 as amended). In the event of grounds for exclusion which question the credibility and integrity of an economic operator under Art. 73 par. 4, and where the economic operator does not take the necessary measures to prove its credibility (self-cleaning measures), the economic operator may be excluded from participation in future public procurement procedures and from participation in concessions for a reasonable period of time (to be determined on the basis of the principle of proportionality, taking particular account of the gravity of the criminal offence or misconduct, the time of its commission, the duration, any recurrence, the intent or neglect of the economic operator, the measures taken to avoid similar offences, etc.). Where the period of exclusion has not been set by final judgment, the maximum duration of the horizontal exclusion shall not exceed: (i) 5 years from the date of the economic operator's conviction in cases where the economic operator is excluded on mandatory grounds as per Art. 73(1) (criminal offences), or (ii) 3 years from the date of occurrence of the event in question, where it concerns discretionary grounds for exclusion.

A register of excluded economic operators must be kept in the National Public Procurement Database (Article 74(6) of Greek PP Act), maintained and updated by the Hellenic Single Public Procurement Authority (HSPPA), in which the details and period of exclusion of each excluded economic operator must be entered, without prejudice to compliance with provisions on personal data. Contracting authorities and contracting entities shall consult the register of excluded entities when assessing tenders or requests to participate and may exclude economic operators included in the register from their procurement procedures.

The relevant grounds for exclusion, as analysed above, shall not apply to public contracts with an estimated value equal to or less than EUR 2,500, excluding VAT.

**8. Please describe a typical procurement procedure for a complex contract. Please summarise the rules that are applicable in such procedures. Please include a timeline that includes the key stages of the process, including an estimation for the total length of the procedure.**

A typical procurement procedure for a complex contract would include, first, the definition of the needs and the object of the contract by the contracting authority, the carrying out of market consultations with a view to preparing the procurement and informing economic operators of the procurement plans and requirements (cf. Art. 36 and 278 of Greek PP Act), the establishment on technical specifications, the drafting of tender documents and the choice of the appropriate procurement procedure.

Assuming “complex contracts” usually being contracts above the EU thresholds, the usual procedures to procure complex contracts are the open or restricted procedures provided for in Art. 27 and 28 of Greek PP Act respectively.

Open procedure: The open procedure is a one-stage procurement process: the contracting authority publishes a call for tender and any interested economic operator may submit a bid according to the conditions and timescales set forth by the call for tender. The stages of this procedure are as follows:

- opening of the tenders – review of the letter of guarantee and the supporting documentation for participation, evaluation of the adequacy of the tenders with regard to the technical specifications, and technical evaluation of the tenders (if applicable);

- financial evaluation of the tenders and inspection of the supporting documents for the award of the contract;
- award of the contract;
- information for unsuccessful bidders;
- notification and signature of the contract;
- publication of the contract award notice.

Restricted procedure: The restricted procedure is a two-stage procurement process: Any economic operator may submit a request to participate in response to a call for competition by the contracting authority by providing the information for qualitative selection that is requested by the contracting authority and, subsequently, only the shortlisted operators who met the qualitative selection requirements fixed in the call for tender are invited by the contracting authority to submit a bid.

Complex contracts may also be procured through the so called “Special procedures”, such as the competitive procedure with negotiation (Article 29 of Greek PPLaw) or the competitive dialogue (article 30 of Greek PPLaw).

According to Art. 26 of Greek PP Act, contracting authorities may apply a competitive procedure with negotiation or a competitive dialogue in the following situations:

- with regard to works, supplies or services where one or more of the following criteria are met:
- the needs of the contracting authority cannot be met without adaptation of readily available solutions;
- they include design or innovative solutions;
- the contract cannot be awarded without prior negotiations because of specific circumstances related to the nature, the complexity or the legal and financial makeup or because of the risks attaching to them; and
- the technical specifications cannot be established with sufficient precision by the contracting authority; and
- with regard to works, supplies or services where, in response to an open or a restricted procedure, only irregular or unacceptable tenders are submitted (in this case the prior written consent by the Hellenic Single Public Procurement Authority is required).

The standard stages of each of these procedures are the following:

Competitive procedures with negotiation: The procedure typically takes place in two key stages: (a) the prequalification stage and (b) the contract award stage. At the prequalification stage economic operators are



invited to submit “requests to participate” accompanied by all the information which the contracting authority considers necessary in order to evaluate their eligibility, ability and suitability to proceed to the next stage of the procedure. Following the evaluation, the contracting authority selects a minimum of 3 tenderers and invites them to submit initial tenders which are intended to be subject to further negotiations. After the submission of the initial tenders, the contracting authority usually invites the pre-selected tenderers for negotiations for the purpose of providing further information to the tenderers as to how their initial tenders may be adjusted or revised in order to meet the contracting authority’s needs. The minimum requirements and award criteria stipulated in the invitation to submit initial tenders are not subject to negotiation. Following the conclusion of the negotiations, the contracting authority invites the tenderers to submit final tenders which are then evaluated for the purposes of selecting the successful tenderer.

**Competitive dialogue:** The competitive dialogue is aimed for the tenders on which the contracting authority is not able to specify a definitive and concrete solution for the contract and launches a tender to which bidders submit solutions. A competitive dialogue procedure can consist of several phases of negotiations before the dialogue is completed and candidates are called to submit their final offer on the basis of the negotiations. The contract shall be awarded on the sole basis of the award criterion of the best price-quality ratio as envisaged in article 86(2) of Greek PP Act.

The total length of the procurement process ranges from about three months to more than a year for the most complex contracts, depending on the procurement process selected, the number of bidders and the number of negotiation sessions in case Special procedures are used.

**9. If different from the approach for a complex contract, please describe how a relatively low value contract would be procured. (For these purposes, please assume the contract in question exceeds the relevant threshold for application of the procurement regime by less than 50%)**

The open procedure, described already in Question No 8, is the most commonly applied procurement procedure. The open procedure is a one stage procedure, where all interested bidders may submit tenders. There are no negotiations when the open procedure is applied. Procurement procedures among a limited number of

participants are only allowed as exceptions and only for complex public contracts. Regarding the procedures for award of contracts that fall below the value of the EU financial thresholds, please refer to Question No 4.

**10. What is seen as current best practice in terms of the processes to be adopted over and above ensuring compliance with the relevant regime, taking into account the nature of the procurement concerned?**

The Hellenic Single Public Procurement Authority (HSPPA) is the *ex lege* competent Greek independent national administrative body for coordinating and supervising the public procurement sector and reviewing public procurement award procedures. It resulted from the merger of the Single Independent Public Procurement Authority and the Authority for the Examination of Preliminary Appeals (Law 4912/2022), it keeps the National Public Procurement Database and it is responsible for the proper and uniform implementation of the public procurement framework, by ensuring transparency, efficiency, cohesion and compliance of public procurement procedures and contracts with national and EU PP law.

Moreover, HSPPA offers assistance to all stakeholders (policy makers, contracting authorities and economic operators) by preparing and publishing opinions, circulars, manuals, model tender forms, FAQs and guidelines which provide guidance for the proper implementation of the legislation and the adoption of best practices. For instance, it has issued 28 national Guidelines on several PP matters, such as on Exclusion grounds, on Selection criteria, on Award criteria, on Subcontracting, on Reliance on the capacities of other entities, on Modification of contracts, on Contracts below the thresholds, on Avoiding common errors in PP, on Confidential information in the procurement process, on Specific public procurement issues in relation to the COVID-19 health crisis etc.

Art. 24 of Greek PP Act provides for appropriate measures to be taken by the contracting authorities to prevent and resolve any conflict of interest that may arise in the awarding procedures in order to avoid any distortion of competition, as well as to ensure equal treatment between tenderers.

**11. Please explain any rules which are specifically applicable to the evaluation of bids.**

Tenders are evaluated strictly on the basis of the award

criteria determined in the tender documents, which shall be objective and sufficiently precise. Award criteria shall be considered to be linked to the subject matter of the contract where they relate to the works, supplies or services to be provided under that contract, and shall not have the effect of conferring an unrestricted freedom of choice on the authority. Importantly, authorities shall specify in the documentation the relative weighting given to each of the criteria in order to determine the most economically advantageous tender.

First, tenders are assessed with regard to formal deficiencies as well as grounds for exclusion and compliance with qualification and –if any– selection criteria. Missing documentation may be demanded provided that the general principles of equal treatment and transparency are observed. Next, if the above mentioned criteria are met, the bid will be examined regarding the compliance to the award criteria. Contracts can be awarded either to the most economically advantageous tender or on the basis of the lowest price only. In this regard, the technical offers and financial offers submitted by the tenderers are evaluated separately with a score being awarded to each offer. The tender with the highest overall score, is considered to be the most economically advantageous one. Specifically, according to Art. 86 of Greek PP Act, contracting authorities shall base the award of public contracts on the ‘most economically advantageous tender’ (‘MEAT criterion’). This shall be identified either on the basis of the lowest price or on the basis of the price or cost, using a cost-effectiveness approach, as elaborated upon in Art. 87, and may include the best price-quality ratio, which shall be assessed on the basis of criteria, including qualitative, environmental or social aspects, linked to the subject matter of the pertinent contract (e.g., quality, technical merit, organization, qualification and experience of staff assigned to performing the contract, technical assistance etc.). However, contracting authorities, according to Art. 86 par. 7 of Greek PP Act, may decide to award a contract by solely evaluating the technical aspects of a tender, based on a fixed price.

From a procedural point of view, in cases of tenders conducted under the criterion of the most economically advantageous tender, contracting authorities shall be entitled to issue a *single* decision for their evaluation validating the results of all stages of the procedure, i.e. participation documents, technical offer, financial offer and award documents. In cases where the criterion for the award of the contracts is the most economically advantageous tender on the basis of the optimal quality – price ratio, two decisions will be needed (participation documents together with the technical offer and financial offer together with the award documents). The bidder reaching the highest score or the lowest price will

be awarded the contract.

**12. Does your jurisdiction have specific rules for the treatment of bids assessed to be "abnormally low" for the purposes of a particular procurement (i.e. a low priced bid, significantly lower than any other bid or a bid whose pricing raises questions of sustainability/viability over the contract term)? If so, is there a definition of what "abnormally low" means and please can you provide a short summary of the specific rules?**

The notion of an “abnormally low” bid constitutes a vague legal concept and is not defined under Greek PP Act. However, it is generally admitted that the term “Abnormally Low” refers to a situation where the price offered by the bidder raises doubts as to whether the offer is economically sustainable and will properly deliver the contract requirements.

Pursuant to Art. 88 of Greek PP Act, when a contracting authority considers a bid as being “abnormally low”, it requires clarifications from the bidder as to the price or cost it offered with respect to the relevant tender within 20 days following the pertinent request. Said clarifications may relate to costs of manufacturing process or of the services provided; to technical solutions chosen or any exceptionally favourable conditions available to the tenderer for the supply of the products or services or for the execution of the work; to the originality of the work, supplies or services proposed by the tenderer; to compliance with employment obligations and health and safety regulations; to the possibility of the tenderer having been granted State aid.

The contracting authority evaluates the clarifications received from the bidder and may reject the tender only if the clarifications and evidence provided by the bidder do not explain in a satisfactory manner the low price or the low cost that is recommended by the bidder. The explanations provided by the economic operator, in particular with regard to the definition of economic parameters, by which the tenderer has formulated its tender, constitute binding agreements and part of the contract award, which may not be changed during the entire period of performance of the contract.

The contracting authority must reject an abnormally low tender if the reason of being abnormally low is the non-compliance with applicable obligations of environmental, social and labour law established by EU law, national law, collective agreements or by special international

environmental, social and labour law provisions. Where the contracting authority establishes that a tender is abnormally low because the tenderer has received State aid, the tender may be rejected on that ground alone only after consultation with the tenderer and where the latter is unable to prove, within a sufficient period to be fixed by the contracting authority, that the aid in question is compatible with the internal market. If the contracting authority rejects a tender in these circumstances, it shall inform the European Commission thereof.

Art. 88(5a) of Greek PP Act provides that in the case of public contracts for works, studies, technical and other related scientific services, abnormally low tenders shall, in any event, be presumed to be tenders submitted which differ by more than 10% from the average of all discounts of admissible tenders submitted. The contracting authority may also consider as abnormally low tenders the tenders with less or no deviation from the above threshold.

**13. Please describe any rights that unsuccessful bidders have that enable them to receive the reasons for their score and (where applicable in your jurisdiction) the reasons for the score of the winning bidder. Are regulated procuring bodies required to provide these reasons for their award decision before awarding the contract in question?**

As a general principle of Greek administrative law, public authorities are legally required to provide all the reasons which substantiated their award decision, including the reasons justifying the scores assigned to any bidders on the basis of the evaluation criteria pre-determined in the tender documentation. Besides, transparency and equal treatment are basic underlying principles of the PP framework.

Pursuant to Art. 70 of Greek PP Act, as soon as the procurement procedure is concluded, the contracting authority must inform all bidders of its decision to award a contract to a specific bidder. Actually, since tender procedures run on electronic platforms, the relevant entities are alerted through an automatically generated notification in the platform.

Moreover, at the request of the bidders concerned, the contracting authority must notify as soon as possible and in any event within 15 days:

- any rejected bidders of the reasons of the

rejection of their tender;

- any bidders who have submitted an acceptable tender, the characteristics and relevant advantages of the successful tender, as well as the name of the awarded party.

The contracting authority may not disclose certain information to the rejected bidders if the disclosure of such information may prevent the application of laws, be inconsistent to the public interest or harm the legal business interests of public or private economic operators.

**14. What remedies are available to unsuccessful bidders in your jurisdiction? In what circumstances (if any) might an awarded contract be terminated due to a court's determination that procurement irregularity has occurred?**

Before the contract is signed, unsuccessful bidders may challenge the contracting authority's/entity's decisions before the national competent authorities. The remedies that bidders have in order to challenge the decisions of the contracting authorities are regulated in Book IV of Greek PP Act, which applies not only to contracts falling within the scope of EU Directives, but also to any public contract (in principle) with an estimated value over EUR 60,000 for works and EUR 30,000 for services and supplies (with the exception of the administrative review process).

Specifically, the review process is as follows:

- **Administrative review** (Art. 360-367): Any act or omission of a contracting authority, which is enforceable and is deemed to infringe EU or Greek legislation, can be challenged by filing an administrative (non-judicial) appeal before the HSPPA. The lodging of this appeal is a precondition for the lodging of judicial remedies before the competent court. If the appeal is accepted by the HSPPA, the contracting authority is obliged to comply with such a decision, as per Art. 367 of Greek PP Act. If the appeal is rejected, bidders have the right to seek judicial protection before the competent Administrative Court of Appeal (or the Greek Council of State in case of public contracts the estimated values of which is above €15 million or in case of concession contracts).
- **Judicial review** (Article 372): Any act of the HSPPA may be challenged before the competent Administrative Courts by both

contracting authorities and interested bidders. More specifically, any interested party may file a *single application* for both the suspension and the annulment of the act concerned. This judicial remedy, established by Law 4782/2021, combines, for reasons of procedural expediency, in a single petition the applications for interim relief (suspension) and annulment against the decisions of the HSPPA.

As for the termination of an awarded contract due to procurement irregularities, Greek PP Act provides for an administrative appeal for the annulment of the signed contract (Art. 368) exclusively for the following reasons:

- the contracting authority has awarded the contract without prior publication of the notice;
- the obligation to suspend the conclusion of the contract has not been complied with; or
- the relevant award procedures for a framework agreement or for a dynamic purchasing system have been violated.

Such appeal for annulment of the contract is lodged before the HSPPA and it is only permissible if filed no later than six months after the contract has been awarded or, in case of a public announcement of the award in the OJEU, within 30 calendar days after the date of the publication. HSPPA's acts may be challenged before the competent Administrative Court. If the HSPPA declares a contract null and void its nullity shall have retroactive effect; however, the HSPPA, assessing the stage of performance of the contract, the gravity of the infringement and the conduct of the contracting authority, may declare the nullity only of the unexecuted part of the contract. The claims of the parties are governed by the provisions on unjust enrichment and disputes relating thereto shall be heard by the competent court in accordance with the general provisions.

In the case that no interim relief measures have been awarded, following an application for suspension and annulment and the relevant actions of the contracting authority have been annulled after the conclusion of the contract, no remedies are provided for the annulment of the signed contract. However, the party in question may still protect its legal interests by filing a claim for damages. According to article 373 of Greek PP Act, any candidate that was excluded from the procurement procedure or from the conclusion of the public contract, in breach of the EU or national respective legislation, shall be entitled to bring a claim for compensation before the contracting authority in accordance with

articles 197 & 198 of the Greek Civil Code. The decision rendering the procurement unlawful is the basis for claiming damages. Further, if the interested party can demonstrate that, in the absence of the aforementioned infringements, it would be awarded the contract, it may claim damages in accordance with general provisions of Greek civil law (e.g., loss of earnings, loss of profit and non-pecuniary damages).

**15. Are public procurement law challenges common in your jurisdiction? Is there a perception that bidders that make challenges against public bodies suffer reputational harm / harm to their prospects in future procurement competitions? If so, please provide brief comment. Assuming a full hearing is necessary (but there are no appeals), how much would a typical procurement claim cost: (i) for the defendant and (ii) for the claimant?**

Public procurement law challenges are very common in Greece, especially with respect to high value contracts. As per the data available from the HSPPA, there have been a relatively steady number of approx. 2,300 administrative appeals before the HSPPA per year. As mentioned before, in Greece, any act or omission of a contracting authority is challenged before the HSPPA; HSPPA's decisions may then be challenged before the competent Administrative Courts.

There is no general perception that bidders making challenges against public bodies suffer reputational harm or harm to their prospects in future procurement competitions, unless the challenges are unnecessarily numerous and unsubstantiated, aiming only at delaying the award of the contract.

The costs of procurement claims depend on whether a recourse is filed before the HSPPA or before the Administrative Courts.

Administrative appeal before the HSPPA: The filing fees payable to the HSPPA are determined on the basis of the amount of the awarded contract; the filing fees amount to 0.5% of the estimated value of the contract (excluding VAT) and range from €600 to €15,000. If the administrative appeal is successful, the refund of the filing fees is ordered by the HSPPA. Both parties in such proceedings are represented by attorneys; parties are required to pay their legal fees which vary, depending on the law firm chosen by the applicant.

Procurement claims before the Administrative Courts:

The fees for filing a remedy before the Administrative Court are significantly lower; the filing fees amount to 0.1% of the estimated value of the contract (excluding VAT). If the remedy is successful, the refund of the filing fees is ordered by the courts. The legal fees are generally higher than the proceedings before the HSPPA, especially in the event that the case is heard before the Greek Council of State.

**16. Typically, assuming a dispute concerns a complex contract, how long would it take for a procurement dispute to be resolved in your jurisdiction (assuming neither party is willing to settle its case). Please summarise the key stages and typical duration for each stage.**

As mentioned in Question 14, Greek PP legislation provides for administrative and judicial remedies. Generally, administrative appeals tend to be decided very swiftly, whereas judicial proceedings that may follow usually take longer. In 2022, new legislation entered into force amending Greek PP Act, with the objective of achieving a more efficient appeal procedure in the administrative courts for public procurement cases, introducing a new “hybrid” judicial remedy, which combines, for reasons of procedural expediency, in a *single* petition the applications for interim relief (suspension) and annulment against the decisions of the HSPPA. Although it is not possible yet to assess the effects that the new legislation has on the average time for procurement disputes to be resolved before the administrative courts, it is a fact that, following the new legislation, the timescale for the conclusion of the *annulment* procedure is now estimated at 85-90 days (while under the previous framework it was required up to 60 days only for the *suspension* procedure to be concluded).

The key stages and the typical timescale for a procurement dispute to be resolved according to Greek PP Act is the following:

Before the HSPPA:

- Filing of the administrative appeal within ten (10) days from the notification of the contested act to the economic operator concerned;
- Notification of the appeal by the contracting authority to those having legitimate interest within the following business day;
- Notification to the contracting authority and the applicant of the act that appoints a rapporteur and of the date set for the examination;
- The contracting authority submits its opinion on possible request for suspension;
- Decision on the request for suspension;
- Submission of

- an intervention by anyone having a legitimate interest;
- Submission by the contracting authority of its opinion on the appeal;
- Submission of pleadings;
- Examination of the case by the members of HSPPA within 40 days after the filing of the appeal (only exceptionally shall there be an open hearing);
- Issuance of the ruling within 20 days after the hearing and in any case within 60 days following the filing of the appeal, otherwise implied rejection is presumed.

Before the competent Administrative Court of Appeal/Council of State:

- Filing of the single judicial remedy (for suspension and annulment) within 10 days from the notification of HSPPA’s ruling;
- Issuance of an act appointing the rapporteur and setting the date for the hearing;
- Notification of the request for suspension to HSPPA, to the contracting authority and those mentioned in the aforementioned act within 2 days from the receipt of the act;
- Filing of possible intervention(s) by third affected parties and submission of contracting authority’s opinion (all actions take place within 10 days from the notification of the remedy);
- Notification of possible intervention(s) by third affected parties within 2 business days from their submission;
- Issuance of an injunction for the suspension;
- Filing of possible additional grounds for annulment (up to 15 days before the hearing);
- Submission of pre-hearing pleadings (6 days before the hearing unless a deadline extension is requested for submission after the hearing);
- Hearing;
- Written pleadings after the hearing and within the time-limit granted by the Court;
- The court decision (operative part) is issued within 15 days after the hearing;
- Issuance of full text of the decision within 2 months after the issuance of the operative part.

**17. What rights/remedies are given to bidders that are based outside your jurisdiction? Are foreign bidders' rights/remedies the same as those afforded to bidders based within your jurisdiction? To what extent are those rights dependent on whether the host state of the bidder is a member of a particular international organisation (i.e. GPA or EU)?**

Generally, Greek procurement law does not differ between bidders within the EU and bidders based in countries outside the EU. In the light of the principles of non-discrimination and equal treatment, all bidders have the same rights and remedies and Greek contracting authorities/entities apply identical rules, requirements

and criteria for all bidders, irrespective of their nationality.

According to Art. 25 of the Greek PP Act, economic operators established in EU/EEA Member States have the right to participate in public tenders of Greek contracting authorities. In the case of international agreements, the same Article 25 ensures that the EU's commitments arising from international agreements, such as the WTO GPA, are fully respected; Greek contracting authorities must ensure that non-EU/EEA economic operators receive treatment no less favorable than that applicable to economic operators established in the EU.

An exception currently exists for Russia-affiliated undertakings. According to Article 5(k) of Council Regulation (EU) 2022/576 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, it is prohibited to award or continue the performance of any public or concession contract falling within the scope of the public procurement Directives to or with: (a) a Russian national, or a natural or legal person, entity or body established in Russia; (b) a legal person, entity, or body whose proprietary rights are more than 50%, directly or indirectly, owned for by an entity referred to in point (a) above; or (c) a natural or legal person, entity or body acting on behalf or at the direction of an entity referred to in point (a) or (b) above, including, where they account for more than 10% of the contract value, subcontractors, suppliers or entities whose capacities are being relied on within the meaning of the public procurement Directives. Consequently, economic entities that fall under the above prohibition are not entitled to participate in the tender procedures. This means that as part of the suitability test, Greek contracting authorities must exclude the participation of companies from Russia in procurement proceedings.

As far as non-EU bidders are concerned, the following recently adopted EU regulations are also relevant:

Regulation (EU) No 2022/1031 on the International Procurement Instrument - IPI, directly applicable in Greece since 22 August 2022, provides a mechanism for restricting access to the EU public procurement market to suppliers from countries that do not provide reciprocal access to their own public procurement markets. Aiming at strengthening the level playing field in the global procurement market, the new legislation gives the European Commission the power to impose countermeasures where non-EU countries do not provide reciprocal access to public procurement markets. IPI measures can only be applied to procurement procedures which are not covered by the WTO GPA or EU free trade agreements containing reciprocal

procurement access conditions.

Furthermore, following the adoption of Regulation (EU) 2022/2560 on foreign subsidies distorting the internal market, commonly referred to as 'Foreign Subsidies Regulation' (FSR), which took full effect on 12 October 2023 and is henceforth applicable in all public procurement procedures exceeding the threshold of €250 million, foreign-subsidized economic operators are required to notify their participation in an EU public tender listing the financial contributions they have received, as well as those of their main sub-contractors and suppliers. In the open procedure, notifications or declarations are submitted with the offer, while in multi-stage procedures (restricted procedures, competitive procedure with negotiation, competitive dialogue, etc.) disclosure shall take place upon participation in both the prequalification and the binding offer stages. When the Commission determines that a foreign subsidy risks distorting the EU internal market, sanctions may be imposed, and the Commission could even prohibit the award of a public contract.

**18. Where an overseas-based bidder has a subsidiary in your territory, what are the applicable rules which determine whether a bid from that bidder would be given guaranteed access to bid for the contract? Would such a subsidiary be afforded the same rights and remedies as a nationally owned company bidding in your jurisdiction?**

Any subsidiary established in Greece is considered a Greek legal entity, regardless of the nationality of its parent company. As Greek legal entities, and on the basis of public procurement principles, subsidiaries owned by foreign entities are granted the same rights and remedies as national bidders.

As explained in Question No 17, an exception currently exists for subsidiaries of Russian nationals, which are banned from any EU public procurement procedure.

**19. In your jurisdiction is there a specialist court or tribunal with responsibility for dealing with public procurement issues? In what circumstances will it have jurisdiction over a public procurement claim?**

There is no specialist court or tribunal in Greek law that only deals with public procurement issues.

As stated in Question No 10, the HSPPA (Hellenic Single Public Procurement Authority) is the responsible public procurement review body. The HSPPA, albeit an independent administrative body, is not a court or tribunal and its decisions are subject to judicial review before the competent Administrative Court of Appeal. For contracts of an estimated value over €15 million the jurisdiction lies with the Greek Council of State.

**20. Are post-award contract amendments/variatio**  
**ns to publicly procured, regulated contracts subject to regulation in your jurisdiction? Are changes to the identity of the supplier (for example through the disposal of a business unit to a new owner or a sale of assets in an insolvency situation) permitted in your jurisdiction?**

In general terms, post-award contract amendments/variatio

ns are permitted provided that they are not substantial. By virtue of Art. 132 of Greek PP Act, the amendment of a concluded contract without a renewed invitation to tender is permitted in the following exceptional cases:

- where modifications, regardless of their monetary value, are explicitly provided for in the original procurement documents, in clear, precise and unequivocal review clauses;
- for additional works, services or supplies that have become necessary where a change of the contractor cannot be made for financial or technical reasons;
- where the modifications have become necessary as a result of extraordinary circumstances which a diligent contracting authority could not foresee, the modification does not alter the overall nature of the contract, and any increase in price is not higher than 50% of the value of the original contract;
- where a new bidder replaces the one to which the contracting authority had initially awarded the contract under certain conditions; and
- where the modifications, irrespective of their value, are not substantial. Furthermore, a contract amendment may be permitted if the total value of the modification does not exceed both (a) the EU thresholds, and (b) 10% of the value of the initial contract for services and supplies and 15% of the value of the initial contract for works.

The amendment of a public contract may, under certain conditions stipulated in Art. 132, be subject to prior judicial review by the Greek Court of Auditors, if the initial contract is subject to this judicial review.

Similar provisions on post-award contract amendments/variatio

ns of public contracts are included in Art. 156 (in relation to public works contracts) and Art. 186 (in relation to design contests).

As provided under Art. 132 of Greek PP Act, changes to the identity of the contractor are permitted if the new contractor, universally or partially succeeds into the position of the original contractor, following corporate restructuring, including takeover, mergers, acquisitions or insolvency, and the change of contractor does not entail other substantial modifications to the contract or framework agreement. A change of supplier further requires that the new contractor is not subject to any mandatory exclusion ground under PP Law and that it satisfies the criteria for qualitative selection of the original procurement. In addition, a subcontractor of a contractor may, without a new procurement, also succeed into the position of the contractor as a result of an agreement between the contractor, the authority and the subcontractor.

In addition, regarding public work contracts, Art. 165 of Greek PP Act provides that the establishment of a consortium between construction companies is permitted for the construction of a project undertaken by one or more of these companies (construction consortium), provided that: a) the initially preferred bidder holds a stake exceeding 50% in that consortium and all joint members meet the selection criteria set by the call for tenders, b) the agreement on the establishment of the consortium is notified to the Project Authority (otherwise the agreement shall be null and void) and c) the budget of the project exceeds the EU threshold for public works. Consortium members shall be jointly and severally liable to the contracting authority for the entire project.

**21. How common are direct awards for complex contracts (contract awards without any prior publication or competition)? On what grounds might a procuring entity seek to make a direct award? On what grounds might such a decision be challenged?**

Direct awards for complex contracts, i.e., without prior publication or competition, are uncommon and are only permitted in very limited circumstances. According to the Greek PP Act and the EU Directives, for contracts

above the EU thresholds, direct awards without prior notice may be used only when the conditions for using a negotiated procedure without prior notice are satisfied and provided that the HSPPA has granted its consent (as per Art. 347(2)).

Pursuant to Art. 32 and 269 of Greek PP Act, a contracting authority may only proceed with a negotiated procedure without prior publication *inter alia* in the following circumstances:

- where, following an open or restricted procedure, either no tenders or requests were submitted, or the tenders or requests submitted are not suitable, provided that the initial terms of the contract are not substantially modified;
- where the works, supplies or services can be supplied only by a particular economic operator in any of the following cases: (i) the objective of the contract is the creation or acquisition of a unique work of art or artistic event; (ii) there is no competition for technical reasons; (iii) there are grounds for the protection of exclusive rights, including intellectual property rights; and provided that there is no reasonable alternative or substitute and the absence of competition is not the result of an artificial restriction of the parameters of the contract;
- in so far as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the time limits for the open or restricted procedures or competitive procedures with negotiation cannot be complied with; the circumstances invoked to justify extreme urgency shall not in any event be attributable to the contracting authority;
- for additional deliveries by the original supplier which are intended either as a partial replacement of supplies or installations or as the extension of existing supplies or installations where a change of supplier would oblige the contracting authority to acquire supplies having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance; the duration of such contracts as well as that of recurrent contracts shall not, as a general rule, exceed three years.

Art. 32A of Greek PP Act provides that the negotiated procedure shall be conducted by an advisory body, which shall be constituted by the contracting authority

and shall make recommendations to the contracting authority on any issue arising during the award of the contract. Such a decision can be challenged on the same grounds as described in Question 14.

The contracting authority must justify that the specific conditions for using such a direct award, which must be interpreted strictly, are met. If such a decision is challenged, the grounds will usually be the allegation, that the preconditions for a derogation were not met, so the recourse of the contracting authority to the negotiated procedure without publication was unlawful and that, therefore, the contracting authority has breached its obligation to publish a contract notice in the OJEU and the pertaining contract in consequence is null and void.

## **22. Have your public procurement rules been sufficiently flexible and/or been adapted to respond to other events impacting the global supply chain (e.g. the war in the Ukraine)?**

The events impacting the global supply chain, such as the shortage of certain raw materials and the rise in supply prices, accentuated by the war in Ukraine, have given rise to significant difficulties in the performance of public contracts already signed. There have been challenges as suppliers have not been able to e.g. comply with prescribed delivery times or to continue to supply products or services at the price agreed in the initial contract.

Even though Greek PP Act includes possibilities to amend public contracts without a new procurement procedure (for instance, article 206 of Greek PP Act provides for the possibility of postponing the time of delivery of the materials in case of *force majeure* reasons), there are limitations and conditions as to the amendments permitted. For instance, the prolongation or amendment of already signed public contracts by means of *de minimis* (non-substantial) amendments pursuant to Art. 132(2) of Greek PP Act is an important practical tool in order to deal with requests for price revision; however, such amendments must not exceed 10 % of the procurement value for supply and service contracts and 15 % for construction contracts (see Question No 20). Furthermore, Art. 132 (1) provides that if the need for modification arose due to circumstances which could not have been foreseen by a diligent contracting authority (as in the case of rise in supply prices), a price increase not exceeding 50% of the value of the original contract is possible provided that the other cumulative conditions mentioned therein are also met.



In order to adapt to this exceptional situation, Art. 53 of Greek PP Act as amended by Law 4965/2022 provides that a price revision clause shall *mandatorily* be included in specific categories of public contracts and under specific conditions (for supply public contracts with a duration of more than 12 months and for contracts for the provision of cleaning and building maintenance services), while specific mathematical formulas are

introduced for the calculation of price revision. Additionally, with reference to public works contracts, Art. 24 of Law 4903/2022 provides that where it is established by the competent authorities that there is a major divergence from the prices of the tendering quarter which relates exclusively to material prices, the competent body of the Ministry of Infrastructure and Transport may, by decision, set individual revision coefficients for the prices of materials used in works.

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