

THE LAW ON PUBLIC PROCUREMENT

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Date of last check: 11 August 2026

Pursuant to Article 82 item 2 and Article 91 paragraph 1 of the Constitution of Montenegro, the Parliament of Montenegro, at its 26th Convocation, at the Sixth Sitting of the Second Regular (Autumn) Session in 2019, on 17 December 2019, adopted the following:

THE LAW ON PUBLIC PROCUREMENT¹

I. BASIC PROVISIONS

1. Scope of the Law, Obligated Entities and Definitions

Scope of the Law

Article 1

This Law shall govern the rules of public procurement procedures for concluding contracts or framework agreements on public procurement of goods, works or services, protection of rights in public procurement procedures and other matters relevant to public procurement.

Obligated Entities

Article 2

Entities obliged to apply this Law are public and sectoral contracting authorities (hereinafter referred to as: the contracting authority).

Public contracting authorities shall be:

- 1) State authority;
- 2) local self-government unit;
- 3) public service, i.e., a company that:
 - has the status of a legal entity,

¹ Official Gazette of Montenegro 074/19 of 30 December 2019, 003/23 of 10 January 2023, 011/23 of 27 January 2023, 084/24 of 6 September 2024 and 098/26 of 9 July 2026.

- was founded to meet the needs of the public interest, which does not have an industrial or commercial character,

- in which the state and/or local self-government unit owns more than 50% of the shares or equity interests or which is financed with more than 50% from the budget of Montenegro and/or the budget of the local self-government unit and other public revenues or over which the public contracting authority exercises control or which has more than half of the members of the management body or supervisory body appointed by the public contracting authority;

- 4) association, i.e., an organisation founded by two or more contracting authorities.

Sectoral contracting authority shall be:

- 1) public contracting authority that performs one of the sectoral activities established by this Law,

- 2) company in which the public contracting authority has a predominant influence and which performs sectoral activity, or

- 3) another economic operator that performs a sectoral activity based on special or exclusive rights granted to them by the competent state authority or the competent authority of the local self-government unit.

Public contracting authority shall have the predominant influence referred to in paragraph 3 item 2 of this Article provided that it:

- has, directly or indirectly, a major share of the registered capital of the company, or

- controls the majority of votes related to shares issued by the company, or

- may appoint more than half of the members of the supervisory, administrative, or other body responsible for the management and conduct of the affairs of the company.

Special or exclusive rights referred to in paragraph 3 item 3 of this Article shall be the rights granted by the competent state authority or the competent authority of the local self-government unit based on a law or other regulation, with the effect to limit the performance of sectoral activities to one or more economic operators and which significantly affect the ability of other economic operators to perform that activity.

Rights referred to in paragraph 5 of this Article shall not be considered to be the rights granted based on a publicly conducted procedure in which objective criteria for the award of those jobs were determined.

Procedures referred to in paragraph 6 of this Article shall be:

- 1) procedures carried out in accordance with the provisions of this Law, regulations governing public procurement for defence and security, or regulations governing the awarding of concessions and public-private partnerships provided that tender documentation, i.e., a public invitation or a concession act in accordance with the law, has been previously published;

- 2) procedures that ensure appropriate prior transparency for granting authorisation based on objective conditions for:

- a) granting of authorisation for work at gas plants in accordance with the procedures established by special regulations regulating the gas market field;

- b) authorisation or tender documentation for the construction of new facilities for the production of electricity in accordance with the regulations governing the area of the electricity market;

- c) granting of authorisation for postal services that are not or cannot be reserved, in accordance with the procedures established by the regulations governing the provision of postal services;

- d) granting of approval for the continuation of hydrocarbon production activities in accordance with the regulations governing the exploration and production of hydrocarbons;

e) conclusion of public procurement contracts of public passenger transport services by bus or rail, which were awarded based on a competitive negotiated procedure.

Newly established contracting authority shall, within 30 days from the date of acquisition of the status of the contracting authority, apply to the state administration body responsible for public procurement affairs (hereinafter referred to as: the Ministry) for the purpose of its registration on the list of contracting authorities.

Contracting authority shall apply this Law even should it not be recorded in the list referred to in paragraph 8 of this Article.

Entity obliged to apply this Law shall also be a natural or legal person that is not the contracting authority referred to in paragraphs 1 and 2 of this Article for the procurement of:

1) works that are directly subsidised or co-financed by the public contracting authority with more than 50% and whose estimated value is equal to or greater than the value referred to in Article 26, paragraph 1 item 6 of this Law,

2) services related to the works contract referred to in item 1 of this paragraph, which are directly subsidised or co-financed by the public contracting authority with more than 50% and whose estimated value is equal to or greater than the value referred to in Article 26, paragraph 1, item 6 of this Law.

Public contracting authority that subsidizes or co-finances works or services, shall inspect the implementation of the procedure and the use of funds referred to in paragraph 10 of this Article in accordance with this Law.

Public Procurement, Affairs and Public Procurement Activities

Article 3

Public procurement shall be a set of actions and activities carried out by the contracting authority, in accordance with this Law, to procure goods, provide services or execute works for which funds are provided, regardless of whether the goods, services or works have a public purpose.

Affairs of public procurement shall be the following: procurement planning, conducting a public procurement procedure, preparation of tender documents and other documents, preparation of public procurement contracts and monitoring of the implementation of public procurement contracts, as well as other tasks related to the public procurement procedure.

Provided that centralised public procurement is carried out, the contract implementation referred to in paragraph 2 of this Article shall be monitored by the contracting authority for whom the public procurement has been carried out.

Public procurement affairs include provision of technical and expert support and advice in the preparation and implementation of public procurement procedures on its own behalf or on behalf and for the account of a specific contracting authority.

Definitions

Article 4

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 1)

Terms used in this Law shall have the following meaning:

1) state body shall be: the Parliament of Montenegro, the President of Montenegro, the Government of Montenegro, the Constitutional Court of Montenegro, the Judicial

Council, the State Audit Institution, the Protector of Human Rights and Freedoms, the State Prosecutor's Office, the Council of Prosecutors, the Protector of Property and Legal Interests, the Central Bank of Montenegro, court, ministry, administrative body and other body and organisation founded by the state;

2) unit of local self-government shall be: a municipality, Capital City and the Old Royal Capital, in accordance with the law;

3) public service shall be the University of Montenegro, a public institution, the state fund and other body or organisation exercising public powers, founded by the state, or a local self-government unit;

4) economic operator shall be a company, entrepreneur, institution and other legal and physical entity that bids goods, services and/or works on the market;

5) candidate shall be an economic operator that has qualified for the next stage of the multi-stage public procurement procedure;

6) e-Certis shall be an electronic system, an online database of the European Commission that contains information on the evidence submitted in the public procurement procedure and the authorities responsible for issuing it in the Member States of the EU;

7) equivalence shall be the possession of the same or better technical characteristics of the offered goods or services than the characteristics of the subject of procurement required by the technical specification;

8) electronic public procurement system (hereinafter referred to as: the EPPS) shall be a public procurement system that applies information and communication means;

9) electronic communication service shall be a service provided for a fee or free of charge and which consists entirely or predominantly of the transmission of signals via electronic communication networks, including telecommunications services and transmission services in networks used for broadcasting, excluding the provision of services, or the exercise of editorial supervision over content transmitted using electronic communication networks and services;

10) electronic shall be is electronic processing equipment including digital compression (data compression) and storage of data sent, transmitted and received by wire, radio, optical or other electromagnetic means;

11) innovation shall be the practical application of new or significant improvement of existing products, goods, services, procedures, processes, organisation and marketing, which contribute to the creation of new value and quality in its application;

12) public communication network shall be an electronic communication network that is used entirely or predominantly for the provision of electronic communication services;

13) authorised person of the contracting authority shall be the head of the authority or public service, the executive director of a company or legal entity or a person authorised by them to take actions on their behalf in the public procurement procedure;

14) authorised person of the economic operator shall be the executive director, or the person authorised by them or the management body to undertake actions in the public procurement procedure;

15) military equipment shall be equipment specially designed or adapted for military needs and intended for use as a weapon, ammunition or military material, including its every part or component thereof;

16) life cycle of the subject of public procurement shall be all successive and/or interconnected phases, including research and development, production, trade and terms of trade, transportation, use and maintenance throughout the existence of the product, provision of service or works, from procurement of raw materials or generation of resources to disposal, withdrawal, execution or use of the subject of procurement;

17) bidder shall be an economic operator that submitted a bid or several economic operators that submitted a joint bid in a public procurement procedure;

18) subcontractor shall be an economic operator to which the bidder has entrusted the implementation of part of the subject of procurement or part of the public procurement contract;

19) centralised procurement activities shall be activities that the authorised contracting authority continuously carries out for the procurement of goods and/or services intended for other public contracting authorities by concluding contracts, or framework agreements;

20) technical reference shall be a product standard developed by European accreditation bodies, different from European norms, in accordance with procedures adapted to the development of market needs;

21) security-sensitive equipment, security-sensitive works and security-sensitive services shall be equipment, works and services that are procured for security purposes, which include, or which require data marked with a classification level in accordance with the law governing classified information;

22) special risks associated with the subject of public procurement shall be the risks that exist in the procurement of services in the area of the Law on the Protection of the Population from Infectious Diseases (Official Gazette of Montenegro 012/18, 064/20 and 059/21) and the Law on Health Care (Official Gazette of Montenegro 003/16, 039/16, 002/17, 044/18, 024/19, 082/20 and 008/21);

23) Common Procurement Vocabulary shall be the nomenclature of goods, services and works that is applied in the public procurement procedure and which ensures compliance with other nomenclature.

Language in a Public Procurement Procedure

Article 5

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 2)

Contracting authority shall prepare the tender documentation and conduct the procedure in Montenegrin language or another language that is in official use in Montenegro.

Contracting authority may prepare tender documentation or individual parts of tender documentation in the language used in international trade.

Qualification application and bid shall be drawn up in the language stipulated by the tender documentation.

Contracting authority may allow qualification application and bid to be made in the language used in international trade entirely or partially, in the part related to technical characteristics, quality and technical documentation.

Provided that the bidder submits a part of the bid in the language used in international trade in accordance with the tender documentation, the contracting authority shall provide translations by a certified interpreter of all documents that are not in the language referred to in paragraph 1 of this Article, in the event of an appeal.

Currency

Article 6

In public procurement procedures, the currency shall be the Euro.

Provided that no currency is specified in the tender documentation, bid, decision, contract or other act related to public procurement, it shall be considered that the estimated value, bid price and/or contracted price are expressed in euros.

2. Principles of Public Procurement

The Principle of Cost-Effectiveness, Efficient and Effective Use of Public Funds

Article 7

In the public procurement procedure, the contracting authority shall ensure the cost-effective, efficient and effective use of public funds and the procurement of goods, services, i.e. works, of appropriate quality taking into consideration the purpose, use and estimated value of the public procurement.

Principle of Ensuring Competition

Article 8

Contracting authority shall ensure competition between economic operators in the public procurement procedure, in accordance with the law.

Contracting authority may not restrict or prevent competition between economic operators, and in particular may not prevent the participation of the economic operator in the public procurement procedure by unjustified application of the negotiated procedure or by the application of discriminatory conditions and criteria or measures that favour individual economic operators.

Principle of Transparency of Public Procurement Procedure

Article 9

Contracting authority shall conduct public procurement procedures in a transparent manner.

Transparency referred to in paragraph 1 of this Article is ensured by publishing the documentation necessary for conducting and implementation of the public procurement procedure in the EPPS, in accordance with this Law.

Principle of Equality, Freedom and Prohibition of Discrimination

Article 10

Contracting authority shall ensure that all economic operators are treated equally in the public procurement procedure.

Contracting authority shall not establish the conditions which would constitute national or territorial, subject-matter or other kind of discrimination against economic operator, or discrimination which would arise from the classification of business activity carried out by an economic operator.

Contracting authority shall not restrict the free movement of goods, depending on the place of registration of the economic operator and the place of performance of works and provision of services.

In the public procurement procedure, the contracting authority shall not provide information in a discriminatory manner, which would provide an advantage to a particular participant in the procedure over the other participants.

Principle of Environmental Protection, Social and Labour Law and the Promotion of Energy Efficiency

Article 11

Contracting authority shall ensure in the public procurement procedure that all economic operators comply with applicable obligations in the fields of environmental protection, social and labour law, including collective agreements, in accordance with the law and ratified international conventions on environmental protection and social and labour law.

Contracting authority shall procure goods, services or works while ensuring an adequate reduction in energy consumption, i.e., compliance with the principles of energy efficiency.

Principle of Proportionality

Article 12

Contracting authority shall establish the conditions for participation in the public procurement procedure, related to the economic-financial and professional-technical ability of the economic operator, proportionally to the complexity of the subject of procurement, the execution of the public procurement contract and the estimated value of the public procurement.

3. Exemptions from Application of the Law

Exceptions under Concluded International Agreements

Article 13

This Law shall not apply to procurement of goods, services or works carried out:

1) according to the particular rules of an international organisation, based on a ratified international agreement with that international organisation;

2) in accordance with the procedures established differently from this Law, based on legal instruments establishing international legal obligations, such as international agreements between Montenegro and one or more Member States of the European Union or third countries, for procurements that the contracting authorities shall jointly realize or use;

3) according to particular rules established by an international organisation or an international financial institution, which fully finances or provides financing for the project, unless otherwise agreed.

In terms of procurements referred to in paragraph 1 item 3 of this Article that are co-financed by more than 50% by an international organisation or an international financial institution, the contractual parties shall mutually determine the rules of the public procurement procedure they shall apply.

Legal instruments that establish international legal obligations and procedures that are applied to conclude contracts referred to in paragraph 1 item 2 of this Article are

implemented in accordance with the principles of equal treatment, non-discrimination and transparency.

Contracting authority shall notify the Ministry on concluded contracts or the agreements referred to in paragraph 1 of this Article, within 30 days of signing thereof.

Government of Montenegro (hereinafter referred to as: the Government) shall notify the European Commission that the contract referred to in paragraph 1 item 2 of this Article has been concluded.

Exemptions for Procurement of Specific Items

Article 14

This Law shall not apply to:

- 1) acquisition or lease of land, existing buildings or other immovable property or concerning rights thereof;
- 2) acquisition, development, production or co-production of programme material intended for audiovisual media services or radio media services procured by providers of audiovisual or radio media services;
- 3) services of providing radio-television or programme broadcasting which are contracted with providers of audiovisual or radio media services;
- 4) arbitration or peaceful dispute resolution services,
- 5) legal services namely:
 - a) lawyer services in:
 - representation in arbitration or peaceful settlement of disputes in Montenegro, a member state of the European Union, a third country or international arbitration; or
 - representation before courts and other bodies in Montenegro, a member state of the European Union or in a third country, before international courts and other institutions;
 - b) advisory services of a lawyer in order to prepare for the representation referred to in sub-item a of this item;
 - c) notary services or other legal services related to the exercise of entrusted public powers;
- 6) procurement of services of the Central Bank of Montenegro;
- 7) services related to the issuing, sale, purchase or transfer of securities or other financial instruments, financial and legal services and other services related to securities or other financial instruments, in accordance with the law regulating the capital market;
- 8) loans, credits and other financial derivatives, regardless of whether they are related to the issuing, sale, purchase or transfer of securities and other financial instruments;
- 9) financial and legal assistance, i.e. other actions related to loans, credits and other financial derivatives from item 8 of this paragraph;
- 10) financial, legal or other services in the process of privatisation of the economy;
- 11) services related to employment;
- 12) civil protection and rescue services covered by the CPV under codes 75250000-3, 75251000-0, 75251100-1, 75251110-4, 75251120-7, 75252000-7, 75222000-8, 98113100-9 and 85143000-3 provided by non-profit organisations or associations;
- 13) research and development services, except services included in the CPV under codes: 73000000-2 to 73120000-9, 73300000-5, 73420000-2 and 73430000-5, provided that these services are fully financed by the contracting authority and used for their own needs;
- 14) public transportation of passengers by rail, tram or underground railway;

15) political campaign services, covered by the CPV codes 9341400-0, 92111230-3 and 92111240-6, provided that procured by a political party within the framework of an election campaign;

16) procurement of election material;

17) tasks of preparation and adoption of planning documents stipulated by the law governing spatial planning.

Exemption for Procurement of Postal Services

Article 15

This Law shall not apply to procurements made by a sectoral contracting authority that provides postal services referred to in Article 165, paragraph 2, item b of this Law, for the following:

1) services provided entirely by electronic means, including secure transmission of encrypted documents by electronic means, address management services and sending of registered electronic mail;

2) financial services covered by CPV under codes from 66100000-1 to 66720000-3 and financial services related to securities or other financial instruments from Article 14 paragraph 1 item 7 of this Law, including postal money orders and postal giro transfers;

3) philatelic services, or

4) logistics services (combination of physical delivery or storage and other non-postal functions).

Exemptions for Procurement in the Field of Electronic Communications

Article 16

This Law shall not apply to procurement whose purpose is to enable the contracting authority to provide or use a public electronic communication network or to provide the public with one or more electronic communication services, in accordance with the law regulating electronic communications.

Exemptions for Procurement of Services Based on Exclusive Right

Article 17

This Law does not apply to the procurement of services that a public contracting authority assigns to another public contracting authority or a group of public contracting authorities based on an exclusive right established in accordance with the law or another regulation.

Exemption for Procurement in the Public Sector

Article 18

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 3)

This Law does not apply to procurement of goods, services and works awarded by the public contracting authority to another legal entity, provided that:

1) independently or together with another public contracting authority supervises that legal entity;

2) that legal entity performs more than 80% of the activities in the execution of tasks entrusted by one or more public contracting authorities or other legal entities over which those public contracting authorities supervise; and

3) there is no direct participation of private capital in a legal entity, except for the participation of private capital in accordance with the law and founding acts of that legal entity, and which does not entail any controlling or blocking interest and does not exert a decisive influence on that legal entity.

Public contracting authority shall be deemed to independently manage the legal entity referred to in paragraph 1 item 1 of this Article provided that it has a decisive influence on the management and conduct of the affairs of that economic operator, i.e., on making important decisions and determining the strategic goals of the economic operator.

Joint management referred to in paragraph 1 item 1 of this Article shall be considered management, provided that:

1) management bodies of the economic operator are made up of representatives of public contracting authorities, provided that an individual representative may represent several or all public contracting authorities;

2) public contracting authorities together have a decisive influence on strategic goals and significant decisions in that economic operator; and

3) that economic operator does not pursue interests different from those of the public contracting authorities who supervise it.

Provision of paragraph 1 of this Article also applies provided that the legal entity over which supervision is exercised is a public contracting authority, and it awards a contract to a public contracting authority which supervises it or to another legal entity over which that public contracting authority exercises control, provided that in the legal entity to which the contract is awarded there is no direct participation of private capital, except for the participation of private capital in accordance with the law and founding acts of that legal entity, which does not entail any controlling or blocking interest and does not exert a decisive influence on that legal entity.

Exemptions for Procurement between Public Contracting Authorities

Article 19

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 4)

This Law shall not apply to procurements that are carried out exclusively between two or more public contracting authorities provided that:

1) contract is concluded which establishes or implements the cooperation of public contracting authorities, in order to provide a public service that achieves their common goals;

2) cooperation is carried out in order to achieve and/or protect the public interest; and

3) those public contracting authorities perform on the market less than 20% of the activities to which the cooperation referred to in item 1 of this paragraph refers.

Determining the percentage share of the activities referred to in paragraph 1 item 3 of this Article and Article 18 paragraph 1 item 2 of this Law is done on the basis of the average of the total turnover or another measure such as the costs incurred by the contracting authorities for the provision of services, the procurement of goods and the performance of works for the period of three years preceding the year in which the contract is concluded.

Provided that for the public contracting authority that was founded or started to perform its activity or due to the reorganisation of that contracting authority, turnover data for the three years preceding the year in which the contract is concluded is not available, the fulfilment of the required conditions is proven by the economic projections of the contracting authority.

Exemptions for Procurement for the Pursuit of Sectoral Activity of Resale or Lease

Article 20

This Law shall not apply to procurements made by the sectoral contracting authority:

1) for the purpose of resale or leasing of subjects of procurement provided that the sectoral contracting authority does not have a special or exclusive right to sell or lease subjects of procurement and provided that other subjects may freely sell or lease these items under the same conditions as the sectoral contracting authority, or

2) provided that the sectoral activity is directly exposed to competition in markets where access is not restricted, in accordance with Articles 170 and 171 of this Law.

Exemptions for Procurement of Water, Energy or Fuel for Energy Production

Article 21

This Law shall not apply to:

1) procurement of energy or fuel for energy production carried out by a sectoral contracting authority that performs activities from Article 159, or Article 160 paragraph 1, Article 161 paragraph 1 or Article 166 of this Law;

2) procurement of water carried out by the sectoral contracting authority that performs the activity referred to in Article 162 paragraph 1 of this Law;

3) procurement from an affiliated company or on the basis of a joint venture from Article 167 of this Law.

Exemptions for Procurement in the Field of Defence or Security

Article 22

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 1)

This Law shall not apply to defence and security procurements containing elements referred to in Article 176 of this Law.

Exemptions for Simple Procurements

Article 23

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 2)

Manner of conducting the procedure and monitoring, and the implementation of procurements referred to in Article 26 paragraph 1 items 1, 2 and 3 of this Law (hereinafter referred to as: simple procurements), shall be prescribed by the Ministry.

4. Special public procurement

Procurement for Diplomatic-consular Missions and Military-diplomatic Representatives

Article 24

Method of conducting procurement of goods and services with an estimated value of less than 40,000.00 euros or procurement of works with an estimated value of less than 100,000.00 euros and reporting on the procurements carried out for diplomatic and consular missions of Montenegro abroad, military and diplomatic representatives and units of the Army of Montenegro in international forces and peacekeeping missions is prescribed by the Government, unless otherwise stipulated by an international agreement or contract.

Reserved Public Procurements

Article 25

Contracting authority may, in the tender documentation, establish the right to participation of economic operators that perform professional rehabilitation and employment of persons with disabilities, as well as persons in a disadvantageous social position in accordance with a special law, provided that these persons make up at least 30% of the employees, while all participants in the joint bid shall belong to that group.

Economic operator referred to in paragraph 1 of this Article may hire a subcontractor who does not meet the conditions referred to in paragraph 1 of this Article, whose participation in the public procurement shall not exceed 20% of the value of the procurement.

Economic operator referred to in paragraph 1 of this Article shall submit proof of fulfilment of the conditions referred to in paragraph 1 of this Article along with the application for qualification and the bid.

5. Thresholds, Participation in a Procedure and Data Protection

Thresholds

Article 26

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 5)

Procurements shall be classified into:

- 1) procurement of goods, services and works with an estimated annual value of up to EUR 8,000.00;
- 2) procurement of goods and services with an estimated annual value equal to and greater than EUR 8,000.00 and less than EUR 25,000.00;

3) procurement of works with an estimated annual value equal to or greater than EUR 8,000.00 and less than EUR 40,000.00;

4) public procurement of goods and services with an annual estimated value equal to or greater than 25,000.00 euros;

5) public procurement of works with an annual estimated value equal to or greater than 40,000.00 euros;

6) public procurement of goods, services and works of estimated annual value equal to or greater than the thresholds of the European Union.

Thresholds referred to in paragraph 1 item 6 of this Article are published by the Ministry.

Application of Regulations

Article 27

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 6)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 3)

Contracting authority shall conduct purchases referred to in Article 26 paragraph 1 items 4, 5 and 6 of this Law according to the procedure stipulated by this Law.

Contracting authority shall not divide the subjects of procurement in order to avoid the application of this Law.

Contracting authority may conduct simple purchases referred to in Article 26 paragraph 1 items 1, 2 and 3 of this Law according to the procedures referred to in Article 51 of this Law.

Provisions of the law governing the administrative procedure shall apply to matters of the protection of rights in public procurement procedures that are not regulated by this Law, except in the part of the implementation of the public procurement procedure, until the protection of rights is achieved.

Application of this Law to Public-Private Partnership

Article 28

Provisions of this Law shall apply accordingly to the awarding of public-private partnership contracts, unless otherwise stipulated by a separate law.

Right to Participate in a Public Procurement Procedure

Article 29

Economic operator may participate in the public procurement procedure independently or jointly with one or more economic operators in accordance with this Law.

Data Protection

Article 30

Economic operator may mark certain data that represent a business secret in the application for qualification, and the bid, as confidential, except for the bid price, the catalogue, the financial part of the bid, data that are evaluated according to the criteria for selecting the most advantageous bid, public documents and evidence of the fulfilment of the conditions in public procurement procedure.

Contracting authority shall not disclose the data of the economic operator that are listed as business secrets.

Contracting authority shall not disclose or forward certain data or solutions to other candidates and bidders in the negotiated procedure without prior publication of the call for tenders, competitive negotiated procedure, competitive dialogue, partnership for innovation or negotiated procedure with prior publication of the call for public tenders, communicated by a candidate or bidder participating in negotiations or dialogue, without their written consent.

Contracting authority may, in the tender documentation, establish as confidential certain data which they make available to economic operators in the public procurement procedure, in accordance with the law governing classified information.

II. COMMUNICATION, CONFLICT OF INTEREST AND ANTI-CORRUPTION ACTIVITIES

1. Communication Between Contracting Authorities and Economic Operators

Electronic Communication

Article 31

Contracting authority and economic operators exchange information and data in the public procurement procedure electronically in accordance with the regulations governing electronic administration, electronic identification and electronic signature, electronic document, electronic trade and information security.

Notwithstanding paragraph 1 of this Article, the contracting authority and economic operators exchange information and data in the public procurement procedure in another manner provided that:

1) exchange of information and data electronically would require special electronic means or the use of file formats that are not generally available or not supported by generally available applications;

2) exchange of information and data electronically supports the use of file formats, which may be used to describe bids, but shall not be downloaded or used remotely by the contracting authority;

3) use of electronic means requires specialised office equipment that is not generally available to the contracting authority;

4) samples, models, original documents or other evidence, not submitted by electronic means, are submitted in the public procurement procedure;

5) regulation regulating public procurement for the needs of defence and security or the regulation governing public procurement for the needs of diplomatic-consular missions and military-diplomatic representatives abroad is applied to procurement.

Communication in the case referred to in paragraph 2 of this Article takes place through an authorised postal service provider or other appropriate courier service, by fax, by electronic mail or by combining them with electronic means.

Provided that in the public procurement procedure, a document is sent electronically by the contracting authority or an economic operator, it is considered that the delivery

has been made properly provided that the recipient confirms receipt of the document by an action that materially confirms the receipt of the electronic document, including automated systems for confirming receipt.

Sent electronic document is considered received when the sender receives a confirmation of receipt from the recipient.

Provided that the document, for technical reasons, shall not be read, the economic operator, the applicant for the qualification, or the bidder, may request that the document be delivered to them in another appropriate form.

Electronic Means of Communication

Article 32

Electronic means of communication, as well as their technical characteristics, shall be non-discriminatory, generally available and interoperable with information and communication technology products in general use and shall not restrict the access of economic operators to the public procurement procedure.

Communication, exchange and storage of information and data in the public procurement procedure shall be conducted in a way that ensures the integrity and confidentiality of data from applications for qualification, bids, plans and projects.

Powers of Contracting Authority

Article 33

Contracting authority need not require communication solely by electronic means in the public procurement procedure in the event of:

- 1) existence of a risk of violation of the security of electronic means of communication or
- 2) need to protect sensitive information that requires a high level of protection, and not sufficiently provided by electronic tools and devices that are generally available to economic operators or may be made available to them in another way, by an alternative means of access.

Alternative Means of Access

Article 34

Contracting authority may require the use of electronic means that are not widely available, provided that it offers an alternative means of access.

Contracting authority shall be deemed to have offered an alternative means of access provided that:

- 1) provide unlimited, complete and free direct access to those means electronically, from the date of publication or sending of the tender documentation, provided that the tender documentation specifies the Internet address at which the electronic means are available;
- 2) ensures that an economic operator that does not have access to electronic means or does not have the possibility to obtain them within a certain time limit, may participate in the public procurement procedure by using free access available via the Internet, established by the contracting authority;
- 3) supports an alternative channel for electronic submission of bids.

Special Requirements for the Use of Electronic Means

Article 35

Contracting authority may, in the case of procurement of works, plans and projects, require the use of special electronic means such as virtual representations of the building model or similar, whereby it shall provide an alternative means of access, until such means become generally available.

Electronic means for transmitting and receiving applications for qualification, bids, plans and projects shall ensure that:

- 1) exact time and date of receipt of applications for qualification, bids, plans and projects may be accurately determined;
- 2) before the set deadline, no one may have access to the data transferred referred to in item 1 of this paragraph;
- 3) only authorised person of the contracting authority may determine or change the date set for the opening of the received data, access to all submitted data or their parts in different stages of the public procurement procedure, as well as access to the transferred data;
- 4) data received and disclosed in accordance with this Law shall be made available only to persons authorised to acquaint themselves therewith;
- 5) violation and prohibition or conditions referred to in items 1, 3 and 4 of this paragraph are clearly detectable.

In addition to the requirements referred to in paragraph 2 of this Article, electronic means for transmitting and receiving applications for qualification, bids, plans and projects shall ensure that:

- 1) data related to the specifications required for the electronic submission of applications for qualification and bids, including encryption and electronic time stamping, shall be available to economic operators;
- 2) in different stages of the specific public procurement procedure, the contracting authority may require a certain level of security of the means of electronic identification;
- 3) provided that the contracting authority concludes that the level of risk, assessed in accordance with item 2 of this paragraph, is such that a qualified electronic signature is required, it shall accept a qualified electronic signature in accordance with the regulation governing electronic identification and electronic signature.

Contracting authority shall explain the reasons for the use of non-electronic means of communication referred to in Articles 31 and 33 of this Law in the tender documentation and other documents in the public procurement procedure.

Written Communication

Article 36

Written communication in the public procurement procedure between contracting authorities and economic operators is conducted by mail, courier service or in another appropriate way stipulated by the tender documentation.

Verbal Communication

Article 37

Notwithstanding Articles 31 and 36 of this Law, the contracting authority may communicate verbally with the economic operator, provided that the communication

does not relate to the key elements of the public procurement procedure, provided that the content of the communication is documented in an essential part by making an official note or audio recording by the contracting authority.

Key elements of the public procurement procedure referred to in paragraph 1 of this Article are the tender documentation, the conditions for participation in the public procurement procedure, the application for qualification and the bid.

2. Prevention of Corruption and Conflicts of Interest

Definition of Corruption in Public Procurement

Article 38

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 4)

Corruption in public procurement shall be conduct by a participant in a public procurement procedure involving the abuse of official position, influence, trust, authority or information with the aim of obtaining an undue benefit for oneself or another natural or legal person.

Corruption in a public procurement procedure, aimed at obtaining unlawful pecuniary or non-pecuniary gain, shall be committed through actions intended to influence the course or outcome of the public procurement procedure, which shall include in particular:

- 1) subordination of the public interest to a private interest - where a person deciding in the procedure has a personal, family or business interest connected with a bidder;
- 2) granting an advantage to one economic operator over another - establishing technical specifications, requirements, criteria or other elements of the public procurement procedure in a manner that gives one or more economic operators an advantage over others;
- 3) collusion - coordination of bidders' bids in order to restrict or distort competition with the intention of influencing the decisions of the contracting authority;
- 4) unauthorised alteration of documentation - falsification of data contained in a bid or in the documentation of the public procurement procedure;
- 5) improper performance of a public procurement contract - performance of the contract contrary to the agreed terms, including subsequent unjustified amendments to the contract.

Principles of integrity, transparency and accountability, as well as the rules of conduct for contracting authorities, economic operators and other persons directly or indirectly involved in a public procurement procedure, shall be regulated in greater detail by the Code of Ethics in Public Procurement.

Code of Ethics in Public Procurement shall be prescribed by the Ministry.

Anti-corruption Measures in Public Procurement, Reporting Obligation and Sanctions

Article 39

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 5)

Contracting authority shall establish and implement anti-corruption measures comprising:

- 1) identification, assessment and management of corruption risks in public procurement;
- 2) procedures for preventing and controlling the subordination of the public interest to a private interest;
- 3) training of employees on the prevention of corruption, ethics and professional conduct;
- 4) procedures for anonymous reporting of irregularities and suspected corrupt activities through the EPPS.

Person employed in public procurement or another person engaged by the contracting authority who becomes aware of corruption in public procurement shall, depending on the person to whom such information relates, notify without delay the authorised person of the contracting authority, the Ministry, the authority responsible for the prevention of corruption and the competent state prosecutor.

Contracting authority shall:

- 1) exclude from the public procurement procedure an economic operator, applicant for qualification or bidder found to have directly or indirectly given, offered, promised or otherwise made available a gift or other benefit to an authorised public procurement officer, a member of the commission for conducting the public procurement procedure, a person who participated in the preparation of tender documentation, a person participating in procurement planning or another person, with the aim of obtaining confidential information or influencing the actions of the contracting authority, and submit a report to the state authorities responsible for the prevention of corruption for the purpose of taking measures in accordance with the law;
- 2) record every suspected case of corruption or initiated procedure for examining a case of corruption, draw up an official note, submit a report to the competent state authorities for the purpose of taking measures in accordance with the law and notify the Ministry;
- 3) conduct risk analysis and risk control in public procurement procedures;
- 4) apply the Code of Ethics in Public Procurement.

Public procurement contract concluded in breach of the anti-corruption rule shall be void (anti-corruption clause).

Nullity of the contract referred to in paragraph 4 of this Article shall be determined by the competent court upon an application submitted by the contracting authority, the Ministry, the Agency for the Prevention of Corruption or the state prosecutor.

Application for a declaration of nullity shall be submitted within three years from the date of conclusion of the contract.

Matters not expressly regulated by this Law concerning the prevention of conflicts between public and private interests, the protection of persons reporting irregularities and other matters relevant to the prevention and suppression of corruption shall be governed by regulations in the field of prevention of corruption and conflicts of interest.

Manner of keeping and the content of records on conflicts of interest or breaches of the anti-corruption rule, and the risk-analysis methodology for conducting controls in public procurement procedures for the purpose of proactive prevention and early detection of corrupt activities and other acts exhibiting characteristics of corruption, shall be prescribed by the Ministry.

Obligation to Prevent Conflict of Interest

Article 40

Contracting authority shall take appropriate measures to effectively prevent, recognise and remove conflicts of interest related to a public procurement procedure.

Conflict of Interest Between Contracting Authority and Economic Operator

Article 41

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 6)

Conflict of interest between the contracting authority and the economic operator exists provided that:

- 1) representative of the contracting authority acting in the name and/or on behalf of the contracting authority, conducting the public procurement procedure, has a direct or indirect financial, economic or other personal interest that may affect their impartiality and independence in conducting the public procurement procedure, particularly provided that:
 - participate in the management of an economic operator or
 - their participation in ownership stake or shares exceeds 2.5% of the capital or another right on the basis of which they may participate in the management of the activity of the economic operator;
- 2) authorised person of the economic operator:
 - has an ownership or shares of the contracting authority that exceeds 2.5% of the capital value or
 - is a spouse or common-law partner to the representative of the contracting authority, regardless of whether the union still exists, is a relative in the direct line or in the collateral line up to the fourth degree, in-laws up to the second degree or as an adoptive parent or adoptee.

Representative of the contracting authority referred to in paragraph 1 item 1 of this Article shall be:

- 1) authorised person of the contracting authority;
- 2) public procurement officer, member of the commission for conducting the public procurement procedure, person participating in the preparation of tender documentation, person participating in procurement planning, another person involved in conducting the procedure or capable of influencing the decision-making of the contracting authority in the public procurement procedure;
- 3) person referred to in item 1 and 2 of this paragraph, acting in the name and/or on behalf of the contracting authority in joint procurement.

Provision of paragraph 1 item 2 of this Article also applies to the authorised person of the candidate, bidder, member of the joint bid and/or subcontractor.

Provision of paragraph 1 item 1 of this Article applies to relatives in the direct line and in the collateral line up to the fourth degree, relatives by in-laws up to the second degree, spouse or common-law partner, regardless of whether the marriage has ended, adoptive parents and adoptees and representatives of the contracting authority referred to in paragraph 2 item 1 of this Article.

Transfer of ownership shares or equity interests to another legal entity or natural person in accordance with regulations on the prevention of conflicts of interest does not exclude the existence of a conflict of interest while the transfer of shares lasts.

Economic operator or a person who, independently or through a related person, in its own name or in the name of another person, participated in technical consultations, provided technical advice to the contracting authority, prepared or participated in the preparation of technical documentation used for drawing up the technical specification in the tender documentation, shall not participate in that public procurement procedure, unless all information and documents produced during the consultations or preparation of the documentation have been made available to all interested persons through the tender documentation.

Conflicts of interest in the procurement of works and services in the field of construction shall be governed by the special law governing construction.

Article 42

Deleted. (Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26, Article 7)

Preventing and Recording Conflicts of Interest

Article 43

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 8)

Prior to the commencement of the public procurement procedure, the representative of the contracting authority referred to in Article 41 paragraph 2 of this Law shall draw up through the EPPS and, in the event of any change, update a statement on the avoidance of conflicts of interest. Should a conflict of interest arise during the public procurement procedure, that representative shall submit a request for exemption without delay.

Statement on the avoidance of conflicts of interest shall confirm that the person referred to in paragraph 1 of this Article is not in a conflict of interest or that a conflict of interest exists with specifically identified economic operators that may have the status of bidder or candidate within the meaning of this Law.

Economic operator intending to participate in a public procurement procedure may, within the time limit for filing an appeal against the tender documentation, request that the contracting authority exclude from the public procurement procedure a person referred to in Article 41 paragraph 2 items 2 and 3 of this Law who is in a conflict of interest.

Notwithstanding paragraph 3 of this Article, an economic operator may not participate in the public procurement procedure where a conflict of interest exists with the head of the authority.

Request for exemption referred to in paragraph 3 of this Article shall contain the facts and circumstances on which the suspicion of the existence of a conflict of interest is based.

Contracting authority shall enter submitted requests for exemption due to a conflict of interest in the conflict-of-interest records and notify the Ministry and the authority responsible for the prevention of corruption thereof without delay.

Economic operator participating in the public procurement procedure shall state in the statement of the economic operator whether its authorised person referred to in Article 41 paragraph 1 item 2 of this Law and/or another person taking actions in the public procurement procedure is in a conflict of interest.

III. AUTHORITIES IN CHARGE OF CONDUCTING PUBLIC PROCUREMENT PROCEDURES

Tasks in the Public Procurement Field

Article 44

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 7)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 9)

Ministry shall perform the following administrative and associated professional tasks in the field of public procurement systems:

- 1) supervise the implementation of this Law in public procurement procedures;
- 2) issue professional guidelines on application of this Law;
- 3) monitor the compliance of the regulations governing public procurement with the regulations of the European Union;
- 4) issue opinion to the contracting authorities on the fulfilment of the conditions for the implementation of the negotiated procedure, without prior publication of the call for tenders, in accordance with this Law;
- 5) provide advisory assistance to contracting authorities and economic operators upon request;
- 6) organise and carry out professional training and education of the staff of contracting authorities and other persons for performing public procurement tasks;
- 7) organise the taking of professional exam for conducting tasks in public procurement and issues certificates for tasks in public procurement field;
- 8) establish, maintain and manage the EPPS and monitors its use;
- 9) establish and maintain records of registered bidders in the EPPS;
- 10) enable the publication of procurement plans, tender documentation, decisions and other acts of contracting authorities adopted in public procurement procedures, including amendments thereto, public procurement contracts and framework agreements, contract amendments, notices of filed appeals and notifications of irregularities exhibiting characteristics of corruption detected by automated detection mechanisms within the EPPS;
- 11) enable the contracting authority to receive applications for qualifications, bids, projects and solutions through the EPPS;
- 12) compile, publish and update the list of contracting authorities registered at the EPPS, and the list of public procurement officials;
- 13) prepare and publish the Common Procurement Vocabulary on its website, in accordance with European Union regulations;
- 14) cooperate and exchange information with international organisations, institutions, the European Commission and experts in the public procurement field;
- 15) cooperate and exchange information with the competent authorities of other countries and organisations within the framework of its jurisdiction;
- 16) inform inspection and other competent authorities about observed irregularities in public procurement procedures;
- 17) prepare and submit reports to the Government in accordance with this Law;
- 18) conduct monitoring of simple procurements;

- 19) submit requests for the initiation of misdemeanour proceedings for misdemeanours prescribed by this Law and initiate other appropriate proceedings before competent authorities where irregularities in the application of public procurement regulations are identified through supervision or monitoring;
- 20) notify the competent authorities of suspected corrupt activities;
- 21) perform other tasks in accordance with the law.

The EPPS Article 45

EPPS through electronic means shall, in particular, enable:

- 1) preparation and publication of tender and other procurement documentation;
- 2) when announcing procurements above the value class referred to in Article 26 paragraph 1 item 6 of this Law, submitting of procurement notification to the European Union Publication Office for publication in the Official Journal of the European Union;
- 3) free access, search, review and download of published tender and other documentation on the implementation of public procurement procedures;
- 4) compiling, sending, receiving, assessing and evaluating applications for qualification, bids, plans, projects and solutions, free of charge;
- 5) registering and keeping records of bidders;
- 6) competent state authorities access to the EPPS data;
- 7) access to data from Article 46 of this Law.

User shall be responsible for the accuracy of the data entered in the EPPS.

Funds for financing the EPPS shall be provided from the Budget of Montenegro and from the dedicated revenue based on the fee for using the EPPS, which is used for investment, research, development, improvement and maintenance of the EPPS.

Processing, exchange and publication of data in electronic form in the EPPS shall be carried out in accordance with the laws governing electronic administration, electronic identification and electronic signature, electronic document, electronic commerce and information security.

Ministry shall prescribe the operating conditions and use of the EPPS.

Compulsory Data Access Provision Article 46

State administration bodies and other bodies, organisations and bodies that keep public records or registers in electronic form, shall provide access to data from records or registers through electronic means of communication for the purposes of the EPPS, in accordance with the law regulating electronic administration.

Public Procurement Officer Article 47

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 8)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 10)

Contracting authority shall designate at least one person to perform the tasks of a public procurement officer, from among the employees, or a person who is hired for public procurement tasks in accordance with the law.

Public procurement officer shall have attained at least Level VI of the national qualifications framework and hold a certificate of having passed the professional examination for performing public procurement tasks.

Public procurement officer shall participate in the preparation of the public procurement plan, issue to interested economic operators the part of the tender documentation containing classified information in accordance with the law, keep public procurement records, draw up reports on conducted public procurement procedures, perform administrative tasks in the implementation of public procurement procedures and perform other tasks in accordance with this Law and secondary legislation.

Contracting authority shall submit to the Ministry a decision on the appointment of a public procurement officer.

Commission for Conducting Public Procurement Procedure **Article 48**

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 9)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 11)

Commission for conducting the public procurement procedure (hereinafter referred to as: the Commission) shall be established by a decision of the authorised person of the contracting authority.

Commission shall conduct the public procurement procedure independently and autonomously, in accordance with this Law.

Commission shall consist of an odd number of members.

At least one member of the Commission shall be employed by the contracting authority.

Public procurement officer of the contracting authority may be a member of the Commission.

Contracting authority may appoint a vice-president and a member of the Commission.

Commission shall prepare the tender documentation and amendments thereto, provide clarifications thereof, review, assess and evaluate bids or applications for qualification, draw up minutes on the review, assessment and evaluation of bids, prepare and propose to the authorised person of the contracting authority a decision on exclusion from the public procurement procedure, a decision on the selection of the most advantageous bid and a decision on the annulment of the procedure, prepare a proposed response to an appeal and perform other tasks in accordance with this Law.

Commission shall cease to operate upon conclusion of the public procurement contract or adoption of an enforceable decision on the annulment of the public procurement procedure.

Commission referred to in paragraph 1 of this Article may be entitled to remuneration for its work.

More detailed criteria for the establishment of the commission shall be prescribed by the Ministry.

Professional Exam for Work in Public Procurement **Article 49**

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 12)

Professional examination for work in public procurement (hereinafter referred to as: the professional examination) shall be taken before the commission for conducting the professional examination.

Commission for taking the professional exam referred to in paragraph 1 of this Article shall be established by the Ministry and consists of at least three members.

Administrative and other tasks for the needs of the commission from paragraph 1 of this Article shall be performed by the secretary of the commission.

President, members and secretary of the commission from paragraph 1 of this Article shall have the right to compensation for their work.

Costs of taking the professional exam for work in public procurement shall be borne by the person who applied for the professional exam.

Certificate of having passed the professional examination referred to in paragraph 1 of this Article shall be valid for three years from the date on which it was obtained, in accordance with this Law.

Person who has passed the professional examination referred to in paragraph 1 of this Article shall undergo recertification.

Recertification shall be carried out by the Commission referred to in paragraph 1 of this Article on the basis of evidence of completed professional training and development.

Programme and method of taking the professional examination, the composition and manner of establishment of the commission referred to in paragraph 1 of this Article, the amount of the costs of taking the professional examination, expiry of certificates, recertification, the method of assessing evidence of completed professional training and development, the amount of remuneration for the work of the president, members and secretary of the commission, the issuance of certificates and the form of the certificate of having passed the professional examination shall be prescribed by the Ministry.

Professional Training and Education

Article 50

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 13)

Persons employed by the contracting authority in public procurement shall undergo professional training and development.

Contracting authority shall provide professional training and education for the public procurement officer and other persons employed by the contracting authority engaged in public procurement.

Professional training and education in the field of public procurement shall be carried out on the basis of professional training and development programmes.

Professional training and education referred to in paragraph 2 of this Article shall be organised and implemented by the Ministry for the needs of contracting authorities.

Ministry may organise and implement professional training and education for economic operators and other persons.

Programme and method of professional training and development in the field of public procurement and the amount of remuneration for experts implementing the Programme shall be prescribed by the Ministry.

PUBLIC PROCUREMENT PROCEDURES

1. Types, Selection and Initiation of the Public Procurement Procedure

Types of Procedures

Article 51

Public procurement procedures are:

- 1) open procedure;
- 2) restricted procedure;
- 3) competitive negotiated procedure;
- 4) negotiated procedure without prior publication of invitations to tender;
- 5) Innovation partnership;
- 6) competitive dialogue;
- 7) negotiated procedure with prior publication of invitations to tender.

Selection of Procedure

Article 52

Contracting authority shall choose the public procurement procedure depending on the type, essential characteristics and special conditions of the subject of public procurement.

Initiation of Proceedings

Article 53

Public procurement procedure shall be initiated by publishing or sending of tender documents containing the invitation to tender, technical specification of the subject of procurement, bid evaluation methodology, instructions for making bids and instructions on means of legal protection, in accordance with this Law.

Invitation referred to in paragraph 1 of this Article shall contain in particular: information about the contracting authority, the type of procedure, the subject of procurement, the estimated value of the public procurement, the conditions for participation, the deadline for submitting the application/bid, the time of opening the application/bid and other data necessary for more complete information of the bidder on the subject and public procurement procedure.

Content and form of the tender documentation referred to in paragraph 1 of this Article, depending on the type of public procurement procedure, shall be prescribed by the Ministry.

Open Procedure

Article 54

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 10)

Open public procurement procedure may be conducted for each subject of procurement, in which any economic operator may submit a bid, in accordance with the tender documentation.

Open procedure is initiated by publishing of tender documentation on the EPPS, for the purpose of submitting bids.

Bids in the open procedure of public procurement of goods and services, thresholds:

1) up to 150,000.00 euros, or works up to 500,000.00 euros, shall be submitted within a period not shorter than 15 days from the date of publication of the tender documentation;

2) equal to or more than EUR 150,000.00, or works with a value equal to or more than EUR 500,000.00, shall be submitted within a period not shorter than 30 days from the date of publication of the tender documentation.

Notwithstanding paragraph 3 item 2 of this Article, the contracting authority may set a shorter deadline for submission of bids, not shorter than 15 days, from the date of publication of the tender documents, provided that it is required by reasons of public procurement urgency that are not caused by the fault of the contracting authority.

Contracting authority shall explain in the tender documentation the reasons for the urgency due to which it shortened the deadline for submitting bids from paragraph 4 of this Article.

Restricted Procedure

Article 55

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 11)

Restricted public procurement procedure may be carried out for each subject of procurement, in which an application for qualification may be submitted by an economic operator, in accordance with the call for tenders.

First phase of the restricted procedure shall be initiated by publishing the tender documents on the EPPS, for the purpose of submitting applications for qualification.

Applications for qualification in the restricted procedure of public procurement of goods and services, thresholds:

1) up to 150,000.00 euros, or works up to 500,000.00 euros, shall be submitted within a period not shorter than 15 days from the date of publication of the tender documentation;

2) equal to or more than EUR 150,000.00, or works with a value equal to or more than EUR 500,000.00, shall be submitted within a period not shorter than 30 days from the date of publication of the tender documentation.

Notwithstanding paragraph 3 item 2 of this Article, the contracting authority may set a shorter deadline for application submission, not shorter than 15 days, from the date of publication of the tender documents, provided that it is required by reasons of public procurement urgency that are not caused by the fault of the contracting authority.

Contracting authority shall explain in the tender documentation the reasons for the urgency due to which it shortened the deadline for submitting bids referred to in paragraph 4 of this Article.

Second Stage of Restricted Procedure

Article 56

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 12)

Second stage of the restricted public procurement procedure shall be initiated by sending the invitation to the candidates to submit a bid.

Contracting authority shall submit the invitation from paragraph 1 of this Article to all candidates individually on the same day, via the EPPS.

Invitation referred to in paragraph 1 of this Article shall contain the deadline and method of submitting the bid, in accordance with the tender documentation.

Bids in the restricted procedure of public procurement of goods and services, thresholds:

1) up to 150,000.00 euros, or works up to 500,000.00 euros, shall be submitted within a period not shorter than 15 days from the date of publication of the tender documentation;

2) equal to or more than EUR 150,000.00, or works with a value equal to or more than EUR 500,000.00, shall be submitted within a period not shorter than 30 days from the date of publication of the tender documentation.

Notwithstanding paragraph 4 item 2 of this Article, the contracting authority may set a shorter deadline for submission of bids, not shorter than 10 days, from the day of delivery of the invitation to submit bids, provided that it is required by reasons of public procurement urgency that are not caused by the fault of the contracting authority.

In the invitation to submit bids, the contracting authority shall explain the reasons for the urgency due to which he shortened the deadline for submitting bids referred to in paragraph 4 item 2 of this Article.

Competitive Negotiated Procedure

Article 57

Competitive negotiated procedure may be carried out for the procurement of goods, services and works, provided that:

1) needs of the contracting authority cannot be met without adjusting the existing solutions of the subject of procurement;

2) subject of procurement includes design or innovative solutions;

3) due to the specifics of the subject of procurement, which relate to the nature, complexity, legal or financial conditions of the subject of procurement or the risks associated with them, the public procurement cannot be successfully implemented without prior negotiations;

4) contracting authority cannot precisely determine the technical specifications of the subject of procurement with regard to standards, a common technical specification or a technical reference, or

5) in the open or restricted public procurement procedure, all bids were invalid.

First phase of the competitive negotiated procedure shall be initiated by the publication of the tender documents on the EPPS, in order to submit the application for qualification.

Contracting authority shall describe the subject of procurement in the tender documentation by defining its needs and minimum requirements regarding the elements and characteristics of the subject of procurement that all bids shall meet, so

that economic operators may identify the nature and scope of the procurement and decide whether to submit an application for qualification.

Every economic operator shall have the right to submit an application for qualification, in accordance with the tender documentation.

Applications for qualification shall be submitted within a period not shorter than 30 days from the date of publication of the tender documentation.

Notwithstanding paragraph 5 of this Article, the contracting authority may set a shorter deadline for submitting applications, not shorter than 15 days, from the date of publication of the tender documents, provided that it is required by reasons of public procurement urgency that are not caused by the fault of the contracting authority.

Contracting authority shall explain in the tender documentation the reasons for urgency due to which it shortened the time limit for the submission of bids referred to in paragraph 6 of this Article.

The Second Stage of the Competitive Negotiated Procedure

Article 58

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 13)

Second stage of the competitive negotiated procedure shall be initiated by sending the candidates an invitation to submit an initial bid, which shall be the basis for negotiations.

Contracting authority shall deliver the invitation from paragraph 1 of this Article to all candidates individually, electronically, on the same day.

Invitation referred to in paragraph 1 of this Article contains the deadline and method of submitting the initial bid, in accordance with the tender documentation.

Deadline for submitting the initial bid shall not be shorter than 30 days, from the day of the invitation to submit the initial bids.

Notwithstanding paragraph 4 of this Article, the contracting authority may set a shorter deadline for the submission of initial bids, not shorter than 10 days, from the date of delivery of the invitation to submit bids, provided that it is required by reasons of public procurement urgency that are not caused by the fault of the contracting authority.

Contracting authority shall explain in the invitation to submit bids the reasons for urgency due to which it shortened the time limit for the submission of bids referred to in paragraph 5 of this Article.

Contracting authority shall negotiate individually with the bidders on the initial and subsequent bids, in order to improve their content and determine the final requirements and specifications for submitting the final bid.

Subject of negotiations referred to in paragraph 7 of this Article shall not be:

- reduction of minimum requirements regarding the subject of public procurement,
- mandatory conditions for participation in the procedure,
- capacity requirements of the economic operator provided for in the tender documentation,
- increasing of the amount of the estimated value of the subject of public procurement.

Contracting authority shall keep separate minutes on the negotiations referred to in paragraph 7 of this Article.

Contracting authority may conduct several consecutive negotiations, in order to reduce the number of bids that need to be negotiated further, with the application of the criteria for selecting the most advantageous bid provided by the tender documentation.

Contracting authority shall:

- 1) electronically notify bidders that will not be invited to further negotiations no later than 24 hours prior to the commencement of the next negotiations;
- 2) simultaneously notify by electronic means all bidders that will be invited to further negotiations of all amendments to the technical specifications or other parts of the tender documentation and set an appropriate time limit for preparing and submitting an amended bid;
- 3) notify the bidders referred to in item 2 of this paragraph of the completion of negotiations, provide them with the final technical specification and other elements relating to the subject of procurement that are required for preparing the final bid, and set the time limit for the submission of the final bid.

Content and form of the invitation referred to in paragraph 2 and the minutes referred to in paragraph 9 of this Article shall be prescribed by the Ministry.

Negotiated Procedure without Prior Publication of a Call for Tenders

Article 59

Negotiated procedure without prior publication of a call for tenders may be conducted for the procurement of goods, services or works provided that:

- 1) in the open public procurement procedure, no bid or no valid bid was submitted, or in the restricted public procurement procedure, no application for qualification or no valid application for qualification was submitted, provided that the subject of procurement and the content of the tender documentation have not been significantly changed, in which case the contracting authority shall also invite to the negotiated procedure all bidders who submitted a bid in the open or restricted procedure;
- 2) only a certain economic operator may realize the procurement in the case of:
 - a) that the goal of the procurement is the creation of a unique work of art or the artistic request of the subject of procurement,
 - b) lack of market competition for technical reasons, or
 - c) protection of exclusive rights, including intellectual property rights;
- 3) to the extent that it is necessary, due to the extreme urgency caused by an event that the contracting authority could not foresee, and which was not caused by the actions of the contracting authority, it is not possible to proceed within the deadlines prescribed for the open, restricted or competitive negotiated procedure;
- 4) is the subject of procurement of goods that were produced exclusively for the purposes of research, experimentation, study or development, provided that it is not a serial production of goods with the aim of making a profit or reimbursing the costs of research and development;
- 5) it is about additional deliveries of goods during the performance of contractual obligations from the bidder, with whom the public procurement contract was concluded in accordance with this Law, which are intended for the partial replacement of goods or installations or the expansion of the scope of existing deliveries of goods or installations, provided that a change of bidder or goods would cause technical problems in operation and maintenance, provided that the total value of additional deliveries of goods does not exceed 20% of the value of the concluded contract, and from the date of conclusion of the basic contract, the duration of those contracts, as well as recurring contracts, shall not be longer than three years;

- 6) goods are procured on commodity exchanges;
- 7) goods are procured under particularly advantageous conditions, from a bidder who has permanently suspended economic activities or who is in the process of bankruptcy, i.e. liquidation, in accordance with the law;
- 8) is the subject of procurement of services, which refers to the continuation of similar services carried out through a project competition in accordance with Article 156 of this Law, and the public procurement contract is concluded with the selected, i.e. with one of the selected economic operators, provided that the contracting authority includes all selected economic operators in the negotiated procedure;
- 9) is the subject of procurement of services and/or works that represent a repetition of similar services or works entrusted to the bidder with whom the contracting authority concluded the basic contract, provided that the services and/or works are in accordance with the basic contract concluded after the procedure referred to in Article 51 of this Law, provided that the tender documentation states the possibility of additional services or works and that the total value of additional services or works is not greater than 20% of the value of the concluded basic contract and that no more than three years have passed since the conclusion of the basic contract.

The Method of Conducting the Negotiated Procedure Without Prior Publication of the Call for Tenders

Article 60

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 14)

Negotiated procedure without prior publication of the call for tenders shall be initiated, depending on the conditions referred to in Article 59 of this Law, by submitting the tender documents to one or more economic operators, directly or electronically, in order to submit the initial bid.

Tender documentation referred to in paragraph 1 of this Article shall be delivered individually to all economic operators on the same day.

Contracting authority shall specify in the tender documentation the subject of negotiations, the method of negotiation and the appropriate deadline for submitting the initial bid, not shorter than eight days from the date of delivery of the tender documentation, except in the case referred to in Article 59 paragraph 1 item 3 of this Law.

Initial bid may be submitted by the economic operator to which the contracting authority submitted the tender documentation independently or together with one or more economic operators.

Contracting authority shall negotiate with bidders in order to improve the terms of the bid in order to prepare the final bids.

With the negotiations referred to in paragraph 5 of this Article, the contracting authority shall draw up a record.

Subject of negotiations referred to in paragraph 6 of this Article shall not be:

- reduction of minimum requirements regarding the subject of public procurement,
- mandatory conditions for participation in the procedure,
- capacity requirements of the economic operator provided for in the tender documentation,

- increasing of the amount of the estimated value of the subject of public procurement.

Contracting authority may conduct several consecutive negotiations, in order to reduce the number of bids to be negotiated, with the application of the criterion for selecting the most advantageous bid provided by the tender documentation.

Contracting authority shall notify:

1) bidders who shall not be invited to the continuation of negotiations electronically, no later than 24 hours before the start of the next negotiations;

2) all bidders whose bids have not been rejected by electronic means at the same time of all changes to technical specifications or other parts of the tender documentation that are the result of negotiations and to set an appropriate deadline for preparing and submitting an amended or new bid.

3) bidders of the conclusion of negotiations and to set a deadline for submission of final bids.

Competitive Dialogue

Article 61

Competitive dialogue may be conducted for the procurement of goods, services or works in cases referred to in Article 57 paragraph 1 of this Law.

First phase of the competitive dialogue is initiated by the publication of the tender documents on the EPPS in order to submit applications for qualification.

Contracting authority shall specify in the tender documentation the needs and requirements related to the subject of procurement and the framework period for the realisation of the procurement, as well as the elements, needs and characteristics of the goods, services or works that represent the minimum requirements that all bids shall meet and that shall not change during the procedure, conditions for participation and criteria for choosing the most advantageous bid.

Applications for qualification shall be submitted within a period not shorter than 30 days from the date of publication of the tender documentation.

The Second Phase of the Competitive Dialogue

Article 62

Second phase of the competitive dialogue is initiated by sending the candidates an invitation to dialogue on the subject of procurement in order to define the final conditions and requirements regarding the subject of procurement necessary for making a bid.

Contracting authority shall deliver the invitation referred to in paragraph 1 of this Article to all candidates individually, electronically, on the same day.

Invitation referred to in paragraph 1 of this Article shall contain the deadline and manner of conducting the dialogue, in accordance with the tender documentation.

Contracting authority may conduct several dialogues with the candidates, individually, until it determines the final solution that satisfies the requirements regarding the subject of procurement, on the basis of which the candidates shall submit a bid.

During the dialogue, the contracting authority, with the bidders, shall consider all essential elements of the subject of procurement and shall provide equal treatment to the bidders and shall not provide data and information that provide an advantage to individual candidates.

Reduction of the number of proposed solutions of the subject of procurement shall be carried out by applying the criteria for selecting the most advantageous bid.

Contracting authority shall keep special records of the conducted dialogues.

Contracting authority shall notify:

1) candidates who shall not be invited to further dialogue electronically, no later than 24 hours before the start of the next dialogue;

2) electronically, at the same time, all candidates who shall be invited to the next dialogue of all the changes to technical specifications or other parts of the tender documentation and set them an appropriate deadline for drafting and submitting the amended solution;

3) notify the candidates of the conclusion of the dialogue and invite them to, within a reasonable period of time, not shorter than eight days from the date of delivery of the invitation, submit a bid in relation to the final solution to the subject of procurement determined in the dialogue.

Contracting authority may require the bidder to clarify, specify and adjust the bid or to provide additional information, which does not change the basic elements of the bid, provided that such clarification does not result in distortion of competition or discrimination of the bidder.

In the competitive dialogue, the proposed procurement solutions and bids shall be evaluated based on the criteria of price and quality ratio.

After evaluating the validity of the bids, the contracting authority may negotiate with the bidder who submitted the most advantageous bid based on the ratio of price and quality in order to confirm financial obligations and/or other terms of the bid and specify the terms of the contract, provided that this does not result in changes to the basic elements of the bid or of the subject of procurement, including the needs and requirements established in the tender documentation, as well as not to distort competition and cause discrimination.

Contracting authority may provide the tender documents with awards for the offered solutions and/or compensation for the costs of the participation of the candidate in the dialogue.

Content and form of the invitations referred to in paragraph 3 and the minutes referred to in paragraph 7 of this Article shall be prescribed by the Ministry.

Partnership for Innovation

Article 63

Contracting authority may implement the innovation partnership procedure provided that it has a need for innovative goods, services or works, which cannot be satisfied with the procurement of goods, services or works that are available on the market.

Innovation partnership aims at the development of innovative goods, services or works and their subsequent procurement, provided that it is in accordance with the level of development and the maximum costs agreed between the contracting authority and the participants in the innovation partnership.

Innovation Partnership shall be launched by publishing the tender documents on the EPPS for the submission of applications for qualification.

Applications for qualification shall be submitted within a period not shorter than 30 days from the date of publication of the tender documentation.

Contracting authority shall describe in the tender documentation the need for innovative goods, services or works, as well as the minimum requirements concerning the elements of the subject of procurement that the bids shall satisfy, the capacity requirements of the bidder relating to research, development and implementation of

innovative solutions, and the manner in which intellectual property rights shall be regulated.

Data referred to in paragraph 5 of this Article shall be sufficiently precise, so that economic operators may recognise the nature and scope of the subject of procurement and decide whether to submit an application for qualification.

Estimated value of the subject of procurement referred to in paragraph 1 of this Article shall be proportionate to the necessary investments required for research and development of an innovative solution to the subject of procurement.

Contracting authority may decide to establish a partnership for innovation with one or more candidates, who meet the requirements referred to in paragraph 5 of this Article, for the purpose of conducting separate research and development activities.

Partnership referred to in paragraph 8 of this Article shall be established by concluding a contract that regulates the mutual rights and obligations of the contracting authority and the candidate.

On the same day, the contracting authority shall individually invite all candidates with whom he has concluded a partnership agreement for innovation to submit their initial bids within a certain period of time, without the possibility of viewing data on other candidates.

Innovation partnership shall take place in successive stages, following the sequence of steps in the research and innovation process that may include the production of goods, the provision of services or the implementation of works.

In the innovation partnership procedure, temporary goals shall be determined that the partners shall achieve in certain stages of the procedure, as well as the payment of compensation in appropriate amounts.

Based on the objectives referred to in paragraph 12 of this Article, the contracting authority may terminate the innovation partnership after each phase or, in the case of an innovation partnership with several partners, reduce the number of partners by terminating individual contracts, provided that this possibility has been foreseen in the tender documentation.

Contracting authority shall negotiate the initial and all subsequent bids with the bidders in order to improve their content and reduce the number of bids that need to be further negotiated, except in the case of the final bid, for which a record is drawn up.

It is not possible to negotiate a reduction in the minimum requirements of the subject of procurement and a change in the criteria for selecting the most advantageous bid from the tender documentation.

Contracting authority shall:

1) with the bidder who shall not be invited to the next stage of negotiations, terminate the innovation partnership agreement,

2) notify bidders with whom the innovation partnership agreement has not been terminated about the conclusion of negotiations and to set a deadline for submission of the final bid not shorter than eight days from the date of delivery of the invitation.

In the Innovation Partnership, bids shall be evaluated solely on the basis of the offered price/quality ratio.

Negotiated Procedure with Prior Publication of Invitations to Tender

Article 64

Negotiated procedure with prior publication of the call for tenders may be carried out by the sectoral contracting authority for the procurement of goods, works and/or services that are necessary for the performance of sectoral activities.

Negotiated procedure with prior publication of the call for tenders shall be conducted in accordance with Articles 57 and 58 of this Law.

Obtaining an Opinion Beforehand

Article 65

Contracting authority shall obtain the opinion of the Ministry before starting the negotiated procedure without prior publication of the call for tenders, except in the case referred to in Article 59 paragraph 1 item 3 of this Law.

To obtain the opinion referred to in paragraph 1 of this Article, the contracting authority shall submit a written request that contains: the legal basis for conducting the procedure, the name of the subject of procurement, the estimated value of the public procurement, the position from the procurement plan, source, i.e. the method of providing financial resources, reasons and evidence of the fulfilment of the conditions for the implementation of the procedure.

Ministry shall issue an opinion referred to in paragraph 2 of this Article, without an investigation procedure, based on the submitted evidence, within eight days from the day of receipt of complete documentation.

Application for Qualification

Article 66

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 15)

Application for qualification shall be a statement of the intention of an economic operator to participate in a restricted procedure, a competitive negotiated procedure, a competitive dialogue, a partnership for innovation or a negotiated procedure with the prior publication of a call for tenders, in accordance with the conditions established by the tender documentation.

In order to participate in the procedure referred to in paragraph 1 of this Article, an economic operator shall submit an application for qualification (hereinafter referred to as: the applicant).

With the application for the qualification referred to in paragraph 2 of this Article, the following shall be submitted:

- statement of the economic operator referred to in Article 111 paragraph 1 of this Law,
- evidence on the basis of which candidates are ranked, provided that the number of candidates is limited by the tender documentation.

Qualification of the applicant shall be carried out in relation to the mandatory and special grounds for the exclusion of an economic operator from the procedure, which are provided for in the tender documentation, and which are applicable in the first phase of the two-phase public procurement procedure.

Application for qualification, the statement of the economic operator and the evidence from paragraph 3 of this Article shall be submitted through the EPPS, within the time limit stipulated in the tender documentation.

After the opening of applications for the qualification referred to in paragraph 5 of this Article, the commission reviews and evaluates the applications, without the presence of the authorised representatives of the applicants.

During the review and assessment of the applications from paragraph 6 of this Article, the commission shall determine whether:

- 1) application was made in accordance with the tender documentation;
- 2) statement of the economic operator and the evidence for the ranking of the applicants provided for in the tender documentation were submitted with the application;
- 3) statement of the economic operator was properly made and whether it contains all the required information and data;
- 4) due to the content of the statement of the economic operator, there is a basis referred to in Articles 108 and 110 of this Law for the exclusion of bidders from the public procurement procedure, provided for in the tender documentation that is applicable in this stage of the public procurement procedure.

Provided that the number of candidates is limited by the tender documentation, the commission shall verify the accuracy of the statement of the economic operator of each ranked candidate.

Applicant whose application is invalid or who has not met the qualification requirements or who is not ranked within the established number of candidates shall be excluded from the further public procurement procedure.

In the case referred to in paragraph 9 of this Article, the decision on exclusion from the procedure shall be submitted to the applicant for qualification, in accordance with this Law.

Application form for the qualification shall be prescribed by the Ministry.

Limitation of the Number of Qualified Applicants

Article 67

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 16)

Contracting authority may limit the number of qualified candidates through the tender documentation, provided that this number shall not be less than five candidates in a restricted public procurement procedure and less than three in a competitive negotiated procedure, competitive dialogue and innovation partnership.

In the case referred to in paragraph 1 of this Article, the selection of the anticipated number of candidates shall be made according to the number and/or amount of references for proving the capacity requirements for qualification.

Provided that the number of qualified candidates is less than the number stipulated in the tender documentation, the contracting authority may continue the public procurement procedure, provided that it has foreseen this possibility in the tender documentation.

After evaluating the validity of the applications for qualification, the contracting authority shall rank the valid applications.

2. Special Forms of Public Procurement

Framework Agreement

Article 68

Framework agreement shall be an agreement between one or more contracting authorities and one or more bidders, which determines the conditions for concluding a

public procurement contract for a specific period, a specific price and quantity as needed.

Framework agreement may be concluded by implementing the procedures from Article 51 of this Law, except for the negotiated procedure without prior publication of the call for tenders.

Framework agreement may be concluded for a maximum of four years, except for procurement that is necessary for the performance of sectoral activities and in specially justified cases related to the subject of public procurement, which the contracting authority shall explain.

Public procurement contracts that are concluded on the basis of a framework agreement shall be concluded before the expiration of the term for which the framework agreement was concluded, provided that the duration of individual contracts concluded on the basis of that agreement does not have to coincide with the duration of the framework agreement, but may, should this be necessary, last longer or shorter, but not longer than 12 months from the expiration of the term for which the framework agreement was concluded.

Contracting authority shall establish in the tender documentation that it shall conclude a framework agreement and the number of bidders with which it intends to conclude a framework agreement.

Contracting authority shall specify in the tender documentation whether the signatories to the framework agreement are required to implement it, determine the procedure for concluding contracts on the basis of the framework agreement and, in the case of centralised or joint procurement, specify the names of the contracting authorities covered by the framework agreement.

Public procurement contracts based on the framework agreement may be concluded by the contracting authorities who concluded the framework agreement, the contracting authorities on whose behalf the framework agreement was concluded and the contracting authorities for whom it may be clearly established from the tender documentation that the framework agreement is intended for them.

Contracting authority which intends to conclude a framework agreement with several bidders may also conclude a framework agreement with a smaller number of bidders, i.e. with one bidder, provided that he does not receive a predetermined number of bids that meet the conditions for awarding a framework agreement and provided that he has foreseen this possibility in the tender documentation.

Provisions of Articles 150 and 151 of this Law shall also apply to termination and changes to the framework agreement.

Conclusion of a Public Procurement Contract based on a Framework Agreement

Article 69

Provided that the framework agreement is concluded with one bidder, the contract is concluded directly on the basis of the conditions stipulated in the framework agreement.

Provided that the framework agreement was concluded with several bidders, contracts based on that agreement are concluded:

- 1) according to the terms of the framework agreement, without rebidding, provided that that agreement establishes all the necessary conditions for the performance of works, the provision of services or the delivery of goods and the capacity requirements established in the tender documentation;

2) by re-tendering the signatories of the framework agreement, provided that the framework agreement does not specify all conditions for the performance of works, provision of services or delivery of goods;

3) partially without re-tendering from item 1 of this paragraph, and partially with re-tendering of the signatories of the framework agreement from item 2 of this paragraph, provided that all the conditions for the performance of works, provision of services or delivery of goods are determined by the framework agreement, provided that this possibility is determined by the tender documentation and provided that conditions and criteria that shall be applied in the re-bidding are determined.

Re-tendering referred to in paragraph 2 item 2 of this Article shall be carried out on the basis of the conditions stipulated in the tender documentation for the conclusion of the framework agreement and, should this be necessary, on the basis of more precisely defined other conditions from the tender documentation, as follows:

- contracting authority shall invite all bidders from the framework agreement in writing for the conclusion of each contract;
- contracting authority shall set an appropriate deadline for the submission of bids for each contract it concludes, in accordance with the complexity of the subject of procurement and the time required for submitting the bid;
- content of bids shall be kept secret until the deadline for opening bids expires;
- contracting authority concludes an individual contract with the bidder who submitted the most advantageous bid based on the criteria for selecting the most advantageous bid determined by the tender documentation;

Dynamic Procurement System

Article 70

(Correction to the Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 011/23 of 27 January 2023)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 14)

Contracting authority may procure goods, services and works that are generally available on the market using a dynamic procurement system, with the application of the rules of restricted procedure.

Dynamic procurement system shall be established and managed electronically, free of charge, throughout its duration, and shall be open to all economic operators that meet the conditions established by the tender documentation.

Provided that the contracting authority applies a dynamic procurement system divided by type of item, it shall determine with the tender documentation, for each item of public procurement separately, the conditions that each economic operator shall fulfil.

In the dynamic procurement system, each economic operator may submit an application for qualification during the entire period of the system, in accordance with the tender documentation.

Each qualified candidate shall be provided with access to the dynamic procurement system throughout its duration.

Contracting authority in the dynamic procurement system may not limit the number of qualified candidates.

In order to award a public procurement contract within the framework of the dynamic procurement system, the contracting authority shall:

- 1) state in the tender documentation that it is establishing a dynamic procurement system and its duration;
- 2) in the tender documentation, specify the basic information on the nature and estimated quantity of individual procurements and all necessary information related to the dynamic procurement system, including information on the way the dynamic procurement system is run, the electronic equipment used and technical connections and specifications;
- 3) specify the division into types of goods, works or services and the essential characteristics defining them, and determine the mandatory requirements and capacity requirements for economic operators for each type of subject of procurement;
- 4) provide unlimited, complete and immediate access to tender documentation by electronic means of communication during the entire period of the dynamic procurement system.

Contracting authority shall evaluate the received applications for qualification in the dynamic system in accordance with the conditions established by the tender documentation within ten days from the day of their receipt.

Deadline referred to in paragraph 8 of this Article may be extended by five days provided that it is justified in the specific case, due to the need to study additional documentation or to check the fulfilment of the mandatory and capacity requirements for economic operators.

Notwithstanding paragraph 9 of this Article, provided that no call for tenders has been sent for the first special procurement within the dynamic public procurement system, the contracting authority may extend the evaluation period of the application for qualification, provided that no call for tenders has been sent during the extended evaluation period, provided that the contracting authority states in the tender documentation the time for which he intends to extend that period.

After the assessment of the application for qualification, the contracting authority shall deliver to the applicant, without delay, a notice on access to the dynamic procurement system or a notice on the prohibition of access to the dynamic procurement system.

Contracting authority shall simultaneously, by electronic means of communication, invite all candidates that have access to the dynamic procurement system to submit a bid for each individual procurement within the system.

After the completion of each individual procurement within the framework of the dynamic procurement system, the contracting authority shall announce the decision on the selection of the most advantageous bid.

During the operation of the dynamic procurement system, the contracting authority may require all candidates that have access to the system to submit revised and updated statements of the economic operator within five days from the date of delivery of the request.

Provided that the dynamic procurement system is divided into subject of procurement types for goods, works or services, the contracting authority shall invite candidates who have access to the item type corresponding to that procurement to submit a bid.

Contracting authority selects the most advantageous bid within the dynamic procurement system based on the criteria for selecting the most advantageous bid specified in the tender documentation.

Provisions of Article 134 of this Law shall apply throughout the entire period of the dynamic procurement system.

Provided that, during the duration of the dynamic procurement system, the contracting authority changes the duration of the system, it shall inform the candidates of the changes in the duration.

After completion of the dynamic procurement system, the contracting authority shall publish a notice of its completion.

Manner of planning and conducting procurements of specific subjects of procurement through a dynamic procurement system shall be prescribed by the Government.

Electronic Auction

Article 71

Contracting authority may, in an open procedure, a restricted procedure, a competitive negotiated procedure, a negotiated procedure with prior publication of a call for tenders, in a re-tendering referred to in Article 69 paragraph 2 items 2 or 3 of this Law and in the dynamic procurement system, determine that the conclusion of the public procurement contract is preceded by an electronic auction, provided that the tender documentation provides for that possibility and provided that the technical specification is precisely determined.

Electronic auction may be conducted after the evaluation of bids, as an electronic process that repeats, in order to achieve new prices, modified downwards and/or new thresholds of certain elements of the bid, which enables the ranking of bids using automatic evaluation methods.

Electronic auction shall be based on one of the following criteria, provided that the criteria may be expressed in numbers or percentages, or are suitable for automatic evaluation using electronic means, without the intervention of the contracting authority:

- price, provided that the selection of bids is conducted on the basis of price only,
- price and/or the new value determined by the tender documentation, provided that the selection of the bid is made on the basis of the criteria of the ratio of price and quality in the proportion determined by the contracting authority or on the basis of the lowest cost applying the cost-effectiveness approach.

Before the beginning of the electronic auction, the contracting authority shall evaluate the bids based on the conditions for participation in the public procurement procedure determined by the tender documentation, which is recorded in the minutes.

Provided that the evaluation referred to in paragraph 4 of this Article determines that there is only one valid bid, the electronic auction shall not be conducted, and the contracting authority may make a decision on choosing the most advantageous bid or annul the public procurement procedure.

Manner of conducting and terminating the electronic auction shall be prescribed by the Ministry.

Electronic Catalogue

Article 72

Contracting authority may require with the tender documentation that the bid shall be submitted in the form of an electronic catalogue or that the bid contains an electronic catalogue.

Other documentation may be attached to the bid referred to in paragraph 1 of this Article.

Electronic catalogue shall be compiled by the bidder in accordance with the technical specifications and in the form determined by the contracting authority in the tender documentation.

In the tender documentation referred to in paragraph 1 of this Article, the contracting authority specifies the necessary information about the form of the electronic catalogue, the electronic equipment used, technical connections and specifications for the electronic catalogue.

Provided that the framework agreement was concluded with several bidders by submitting bids in the form of electronic catalogues, the contracting authority may determine that a new tender for the conclusion of the contract based on the framework agreement is conducted on the basis of updated catalogues.

In the case referred to in paragraph 5 of this Article, the contracting authority may:

1) invite bidders to resubmit electronic catalogues adapted to the new requirements in order to conclude the contract, or

2) notify the bidders that it intends to collect the information necessary for the preparation of bids adapted to the requirements of the contracting authority from the submitted electronic catalogues, provided that this possibility is foreseen in the tender documentation for the framework agreement.

In the case referred to in paragraph 6, item 2 of this Article, the contracting authority shall inform all the signatories of the framework agreement about the date and deadline in which it intends to collect the information necessary for the preparation of bids adapted to the requirements of the contract.

Contracting authority shall determine an appropriate period from the moment of notifying the signatories of the framework agreement to the actual collection of information.

Before concluding the contract, the contracting authority shall inform the signatories of the framework agreement on the collected information and enable them to state whether the bid contains material errors.

Dynamic procurement system may also be implemented by submitting a bid in the form of an electronic catalogue in accordance with the tender documentation.

Contracting authority may conclude contracts based on a dynamic procurement system in accordance with paragraph 6 item 2 and paragraphs 7, 8 and 9 of this Article, provided that the bid in the dynamic procurement system is accompanied by an electronic catalogue in accordance with the technical specifications and in the form determined by the contracting authority.

3. Joint and Centralised Procurement

Joint Procurement

Article 73

Two or more contracting authorities may conclude an agreement on the implementation of joint public procurement, which determines mutual rights and obligations.

Provided that the public procurement procedure referred to in paragraph 1 of this Article is carried out in its entirety in the name and on behalf of all contracting authorities participating in joint procurement or provided that one contracting authority alone carries out the procedure on behalf of all contracting authorities, all contracting

authorities shall be deemed jointly responsible for fulfilling their obligations in accordance with this Law.

Provided that the public procurement procedure referred to in paragraph 1 of this Article is not carried out in its entirety in the name and on behalf of all the contracting authorities participating in the joint procurement, the contracting authorities shall be deemed jointly responsible only for those parts of the public procurement procedure that they carry out together, while each contracting authority shall be considered independently responsible for the fulfilment of its obligations in accordance with this Law for those parts of the procedure that it carries out in its own name and on its own behalf.

Centralised Public Procurement

Article 74

Public procurement for the needs of state administration bodies and public services founded by the state may be carried out by a contracting authority determined by a Government regulation.

Public procurement for the needs of local government bodies and public services, whose founder is the local self-government, may be carried out by the contracting authority determined by the regulation of the competent local self-government body.

Manner of planning and implementation of centralised public procurement is prescribed by the Government, or the competent authority of the local self-government unit.

V. SUBJECT OF PROCUREMENT

1. Types of Subjects of Procurement

Procurement of Goods

Article 75

Subject of procurement of goods shall be the purchase, hire-purchase or leasing of goods, with or without the right of redemption, which may include the placement and installation of goods as a secondary subject of procurement.

Procurement of Services

Article 76

Subject of procurement of services shall be services from the fields of: traffic, finance, information and communication technologies, education, science, research, accounting and auditing, consulting, design, professional supervision, catering, healthcare, social protection, as well as other services, except services that are covered by the procurement of goods referred to in Article 75 of this Law.

Procurement of Works

Article 77

Subject of procurement of works shall be:

- 1) works;
- 2) design and execution of works;

3) execution of works or works on the construction of a building and/or civil engineering facility, as a whole that meets all the economic and technical requirements of the contracting authority.

List of works and jobs referred to in paragraph 1 of this Article that may be the subject of procurement and the list of works and jobs referred to in Article 2 paragraph 10 of this Law shall be prescribed by the Ministry, with the previously obtained opinion of the state administration authorities responsible for traffic and building construction.

Mixed Procurement

Article 78

Where the subject of procurement consists of two or more items referred to in Articles 75, 76 and 77 of this Law, the subject of procurement shall be determined according to the main subject of procurement.

Main subject of procurement referred to in paragraph 1 of this Article shall be the subject with the highest estimated value.

In the case of a mixed procurement, the subject of which is partly a service and partly goods, provided that both subjects have equal value, the main object shall be the goods.

In the case of mixed procurement, the subject of which are partly services, and partly social and other special services referred to in Article 153 of this Law, provided that both subjects have equal value, the main subject shall be the service.

Provided that different parts of the subject of a mixed procurement are objectively separable, the contracting authority may decide to conclude separate contracts for separate parts of the mixed procurement or to conclude a single contract.

Provided that the contracting authority decides to conclude separate contracts for separate parts of the mixed procurement, the provisions of this Law relating to those parts of the subject of procurement matter shall apply to each of the special contracts, taking into account their technical characteristics.

Provided that the contracting authority decides to conclude a single contract for all items of mixed procurement, they shall apply the provisions, which regulate the procedures from Article 51 of this Law.

Provided that the contracting authority decides to conclude a single contract for mixed procurement, which also includes subjects of procurement from the field of defence and security, they shall apply the provisions of this Law governing procurement from the field of defence and security, provided that the subject of procurement represents a single entity in terms of its content.

Determining the Subject of Procurement

Article 79

Subject of procurement shall be determined by type and name, in such a way that it represents a technical, technological, functional or other entity and enables the preparation of an appropriate bid.

Determining the Subject of Procurement by Lots

Article 80

Subject of procurement may be divided into lots, according to the type, properties, purpose, place or time of execution of the contract, provided that the subject and value of each individual lot is determined, taking into account the possibility of participation of small and medium-sized economic operators in the public procurement procedure.

Provided that the contracting authority has not divided the subject of procurement into lots, it shall state the reasons for that decision in the tender documentation.

Bidder may submit a bid for one or more lots.

Provided that the tender documentation foresees the possibility of awarding several lots to the same bidder, the contracting authority may conclude a public procurement contract for each lot separately or by combining several or all lots of the subject of procurement.

Mandatory Use of the Common Procurement Vocabulary

Article 81

Contracting authority shall use the names and designations from the Common Procurement Vocabulary when determining the subject of procurement.

Estimated Value of the Subject of Procurement

Article 82

Contracting authority shall state the estimated value of the public procurement in the public procurement plan, tender documentation, decision on the selection of the most advantageous bid and decision on annulment of the procedure.

Contracting authority may not use a method of determining the estimated value of the procurement that avoids the application of this Law.

Estimated value of the public procurement shall be expressed in euros, excluding value added tax (hereinafter referred to as: VAT), including all costs, awards and possible contract renewals based on the framework agreement.

Estimated value of public procurement shall be determined based on the methodology prescribed by the Ministry.

VI. CONDUCTING A PUBLIC PROCUREMENT PROCEDURE

1. Launching of a Public Procurement Procedure

Conditions for Launching the Public Procurement Procedure

Article 83

Contracting authority may initiate the public procurement procedure only for procurements that are determined by the public procurement plan for the current year and for which financial resources are provided by the budget or otherwise in accordance with the law.

Financial resources referred to in paragraph 1 of this Article shall also include resources for VAT on the estimated value of the subject of procurement.

Provided that the public procurement lasts for several years, financial resources for the following years are provided in accordance with the law regulating the budget, or the regulation governing the financial operations of economic operators.

Public Procurement Plan

Article 84

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 17)

Contracting authority shall prepare and submit a public procurement plan to the Ministry by 31 January of the current financial year, for publication on the EPPS.

Public procurement plan shall be a preliminary information notice for the initiation of the public procurement procedure, containing:

- 1) information on the contracting authority;
- 2) code and name of the subject of procurement in accordance with the Common Procurement Vocabulary;
- 3) estimated procurement value for each subject of procurement individually;
- 4) VAT value;
- 5) total estimated value of the procurement for the duration of the framework agreement;
- 6) type of public procurement procedure;
- 7) budget position, or the position of the financial plan, where the means for procurement are planned.

Public procurement plan shall be adopted by the authorised person of the contracting authority.

Contracting authority may make changes, or supplement the procurement plan, no later than five days before the start of the public procurement procedure.

Contracting authority shall submit changes or additions to the public procurement plan to the Ministry for publication, within the deadline referred to in paragraph 4 of this Article.

Consent to the public procurement plan and amendments to the public procurement plan of users of the budget of Montenegro, except for the Parliament of Montenegro and judicial authorities, shall be given by the Ministry, and for users of the budget of local self-government, the competent body of local self-government, while for companies founded by the state or local self-government unit, consent shall be given by the management authorities, in accordance with the law.

Subject of procurement determined by the tender documentation and other acts of the contracting authority shall be in accordance with the established procurement plan.

Procurement plan shall be drawn up on the procurement plan form prescribed by the Ministry.

Market Research

Article 85

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 15)

Prior to preparing the procurement plan and initiating the public procurement procedure, the contracting authority may conduct market research for the purpose of determining the subject of procurement.

Contracting authority shall conduct market research for the purpose of determining the estimated value of the subject of procurement at least ten days prior to initiating a public procurement procedure for the procurement of goods and services with an estimated value equal to or exceeding EUR 150,000 or works with an estimated value equal to or

exceeding EUR 500,000, except for procurements in the field of defence and security and in the case referred to in Article 59 paragraph 1 item 3 of this Law.

Contracting authority shall publicly publish in the EPPS, as part of the procedure documentation, a report on the market research referred to in paragraph 2 of this Article. Report shall not contain business information or data enabling the identification of an economic operator that participated in the market research.

Contracting authority may request the opinion of independent experts, competent authorities or potential market participants on the subject of procurement.

Opinion referred to in paragraph 2 of this Article may be used in the planning and implementation of procurements, provided that it does not lead to a breach of the principles of competition, non-discrimination and transparency.

Method of Preparing Tender Documentation

Article 86

Contracting authority shall prepare the tender documentation in a clear, precise and comprehensible manner, which enables the submission of appropriate and comparable applications for qualification, or bids.

Tender documentation shall contain all the data on the basis of which the bidder shall be aware of all the costs that may occur with the subject of public procurement.

Technical Specification

Article 87

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 18)

Technical specifications shall determine the characteristics required for goods, services and works.

Contracting authority shall provide equal access to all economic operators in the procurement process with the technical specification without restricting market competition.

Technical specification, depending on the type of subject of procurement, shall contain a description, or the name of the subject of procurement as a whole, by lot and by item, essential characteristics of the subject of procurement (quality, dimensions, shape, safety, performance, labelling, expiration date, unit of measure, quantity etc.) and requirements regarding the manner of execution of subjects of procurement that are essential for making a bid and executing the contract, including requirements for environmental protection, energy efficiency, social protection and/or protection and transfer of intellectual property rights.

Technical specification of the subject of procurement shall be determined:

1) as a requirement related to performance or a functional requirement, in such a way that the required parameters are defined precisely enough so that the bidders may make a suitable bid, and the contracting authority makes a proper selection of the most advantageous bid;

2) by referring to Montenegrin standards, norms or related documents, technical regulations and technical specifications related to design, execution of works or use of goods, which are harmonised with European standards, technical regulations or

common technical specifications, with the mention of the word "or equivalent", and provided that such norms, technical regulations and technical specifications do not exist in Montenegro, by referring to European standards, technical regulations, common technical specifications, international norms and other technical reference systems established by European standardisation bodies;

In the case referred to in paragraph 4 item 1 of this Article, the contracting authority may not reject a bid for works, goods and services that correspond to the standard, technical regulation and technical specification referred to in paragraph 4 item 2 of this Article.

In the case referred to in paragraph 4 item 2 of this Article, the contracting authority may not reject a bid because the offered works, goods or services do not comply with the technical specification provided that the bidder proves, by evidence of quality (a test report, confirmation, certificate or other evidence), that the bid meets the requirements specified in the technical specification in an equivalent manner.

Provided that, due to the specific nature of the subject of public procurement, the exact quantity of the subject of procurement cannot be determined, the subject of procurement shall be determined by the unit of measure in relation to which the bid is submitted, taking into account the total estimated value of the procurement.

Use of Technical Characteristics

Article 88

Description and essential characteristics of the subject of procurement shall not be adapted to a specific economic operator or a specific product.

In the technical specification, the contracting authority may not use or refer to technical characteristics, trademark, patent or type, special origin or production that indicate goods, services or works, provided that such designation would give an advantage to a particular bidder or could unjustifiably exclude another bidder.

Notwithstanding paragraph 2 of this Article, provided that the subject of procurement cannot be described precisely and comprehensibly in accordance with Article 87 paragraph 4 of this Law, elements such as a trademark, patent, type or manufacturer may be specified, provided that such reference is accompanied by the words "or equivalent".

In the case referred to in paragraph 3 of this Article, the contracting authority shall specify in the tender documentation the criteria for determining the equivalence of the subject of procurement or specify the standard that the subject of procurement shall meet.

Requirements Concerning Execution of Subject of Procurement

Article 89

Requirements regarding the execution of the subjects of procurement shall be the requirements regarding: deadline and place of execution, quality control, testing and testing methods, warranty period, handover and commissioning, trial work and professional training, marking or labelling, packaging, terms and methods of payment.

Requirements regarding the performance of the works may also include the calculation of costs, construction techniques and methods, test work and acceptance conditions.

Special Requirements

Article 90

Contracting authority shall specify special requirements related to safety and protection of public interest in the technical specification.

Contracting authority may establish with the tender documentation that the bidder bears the costs of compensation for the use of patents, as well as the responsibility for the violation of the protected intellectual property rights of third parties.

Label Requirements

Article 91

Label is a proof (confirmation, certificate or other document) confirming that certain works, goods, services, processes or procedures meet certain requirements.

Provided that the contracting authority intends to procure goods, services or works with certain environmental or other characteristics, they may, in the technical specification, criteria for the selection of the most advantageous bid or conditions for the execution of the contract, also require proof that the goods, services or works have the characteristics of a certain label, provided that:

1) requirements for the label refer only to the criteria that are related to the subject of procurement and are suitable for determining its characteristics;

2) requirements for the label are based on criteria that may be objectively verified and that are not discriminatory;

3) label is established in a transparent procedure in which all interested entities, such as state authorities, consumers, social partners, producers, distributors and non-governmental organisations, may participate;

4) label is available to all economic operators;

5) requirements for the label are determined by a third party over whom the economic operator requesting the award of the label shall not exercise decisive influence.

Contracting authority may demand that the goods, services or works meet only the requirements of the label, which are necessary for the subject of procurement.

Contracting authority which requires a special label shall accept any equivalent label that confirms that the goods, services or works meet the requirements for the requested label.

Provided that the economic operator, for reasons not caused by its actions, is not able to obtain the label specified by the contracting authority or an equivalent label within certain deadlines, the contracting authority shall accept another way of proof, such as the technical documentation of the manufacturer, provided that the economic operator proves that the goods, services or works it bids meet the requirements for a specific label or the requirements specified by the contracting authority.

Provided that, in addition to the conditions referred to in paragraph 2 items 2 to 5 of this Article, the label also represents requirements that are not related to the subject of procurement, the contracting authority may not require that label, but shall determine the technical characteristics by referring to the detailed specifications of the label or, where necessary, the parts thereof that relate to the subject of procurement and are appropriate for determining the characteristics of the subject of procurement.

Test Report, Certificates and Other Means of Proof

Article 92

Contracting authority may request that the bidder submit evidence (report, confirmation, certificate, etc.) issued by an accredited certification body confirming compliance with the requirements or criteria established in the technical specifications and criteria for the selection of the most advantageous bid or conditions for the execution of the contract.

Publishing and Supplying Tender Documentation

Article 93

Contracting authority shall publish the tender documentation referred to in Article 86 of this Law on the EPPS, except for the tender documentation for conducting the negotiated procedure without prior publication of the invitation to tender, which is delivered directly to the economic operator.

Provided that part of the tender documentation contains confidential information, the contracting authority shall indicate in the part of the tender documentation that it publishes the manner economic operators may take over the part of the tender documentation that contains confidential information.

Amendments and Supplements to Tender Documentation

Article 94

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 19)

Contracting authority may make amendments and/or supplements to the tender documentation no later than 15 days before the deadline for submission of applications for qualification or bids expires, without the obligation to extend the deadline for submission of applications for qualification or bids.

Where the contracting authority amends and/or supplements the tender documentation after the deadline referred to in paragraph 1 of this Article has expired, it shall extend the deadline for submitting applications for qualification, or bids, in such a way to ensure a minimum of 15 days from the date of publishing the amendments and/or supplements to the tender documentation, until the deadline for submission of bids.

Notwithstanding paragraphs 1 and 2 of this Article, the contracting authority may amend and/or supplement the tender documentation for the negotiated procedure without prior publication of a call for tenders no later than eight days prior to the expiry of the time limit for the submission of bids and, in the case referred to in Article 59 paragraph 1 item 3 of this Law, no later than 24 hours prior to the expiry of the time limit for the submission of bids.

Economic operator may propose the contracting authority to amend and/or supplement the tender documentation, within eight days from the date of publication, or delivery of the tender documentation.

Proposal referred to in paragraph 4 of this Article shall contain reasons for eliminating irregularities, shortcomings or illegalities of the tender documentation or amendments to the tender documentation, but the proposal shall not contain specific amendments and/or supplements.

Within three days from the date of receipt of the proposal referred to in paragraph 4 of this Article, the contracting authority shall notify the person submitting the proposal

through the EPPS whether it will amend and supplement the tender documentation in the proposed part.

Extension of the deadline for submitting applications for qualification, or bids, shall not be considered an amendment or supplement to the tender documentation.

When making amendments and/or supplements to the tender documentation, the contracting authority shall provide an instruction on the means of legal protection.

Provisions of Article 93 of this Law shall apply to amendments and supplements to the tender documentation.

Clarifying Tender Documentation

Article 95

Economic operator shall have the right to ask the contracting authority for clarification of the tender documentation, or amendments and/or supplements to the tender documentation during the deadline for submission of applications for qualification or bids, and no later than ten days before the end of the deadline set for submission of applications for qualification or bids.

Contracting authority shall, depending on the type of public procurement procedure, publish the clarification of the tender documentation, or submit it through the EPPS with no delay, and no later than five days from the date of receipt of the request from paragraph 1 of this Article.

Clarification of tender documentation shall not be used as a means of amending the tender documentation.

2. Means of Financial Security

Obligations of Contracting Authority

Article 96

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 20)

For public procurement with an estimated value equal to or greater than EUR 40,000.00, the contracting authority shall require, by the tender documentation, the submission of a bid guarantee, a performance guarantee for a public procurement contract or framework agreement, and other means of financial security, in accordance with the law.

Notwithstanding paragraph 1 of this Article, the contracting authority shall not request a bid guarantee in the case referred to in Article 59 paragraph 1 item 3 of this Law.

Contracting authority may establish the obligation in the tender documentation to provide a guarantee and other means of financial security from paragraph 1 of this Article for public procurements whose estimated value is below EUR 40,000.00.

Contracting authority shall specify in the tender documentation the type, period of validity and conditions for activating the means of financial security referred to in paragraph 1 of this Article.

Contracting authority shall activate the means of financial security from paragraph 1 of this Article, provided that the case for which it is requested occurs.

Bid Guarantee

Article 97

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 21)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 16)

Bid guarantee is a means of protecting the contracting authority provided that the bidder:

- 1) withdraws its bid during the bid validity period; and/or
- 2) refuses to conclude a public procurement contract or framework agreement.

Bid guarantee shall be determined in the amount of 2% of the estimated value of the subject of public procurement, or the lot, provided that the subject of public procurement is divided into lots.

Provided that a framework agreement is concluded in the public procurement procedure, the percentage of the value of the bid guarantee shall be determined based on the estimated value of the subject of public procurement for the duration of the framework agreement as a whole, or the estimated value of the lot for which the bid is submitted, in accordance with the methodology for estimating the value of the subject public procurement.

Duration of the bid guarantee shall be determined in accordance with the validity period of the bid, including the deadline for possible activation, not shorter than five days, nor longer than 15 days from the date of expiry of the bid validity period.

In the case of an extension of the time limit for the submission of bids referred to in Article 94 paragraphs 3 and 7 and Article 115 paragraph 4 of this Law, a bid guarantee properly drawn up in relation to the previous bid validity period shall remain valid, provided that, after the opening of bids and at the request of the contracting authority, the bidder extends the validity of the guarantee until the required date.

Bidder may submit a bid guarantee with a validity period longer than the term referred to in paragraph 5 of this Article.

At the request of the bidder, the contracting authority shall return the bid guarantee to the bidder within ten days from the date of conclusion of the public procurement contract or framework agreement, and he shall keep a copy of the guarantee in the public procurement documentation.

Means of Financial Security of Public Procurement Contracts

Article 98

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 22)

Means of financial security of public procurement contracts are:

- 1) guarantee for the good performance of the contract, provided that the termination of the contract was due to non-fulfilment of contractual obligations caused by the actions or omissions of the bidder;
- 2) advance payment guarantee, where advance payment is foreseen;

3) guarantee for the elimination of irregularities within the guarantee period, in case that the selected bidder fails to fulfil the obligations to which the guarantee refers within the guarantee period;

4) professional liability insurance policy, in accordance with the law;

5) other types of guarantees in accordance with the law.

Guarantee referred to in paragraph 1 item 1 of this Article shall be determined in an amount that may not exceed 10% of the value of the contract.

3. Conditions for Participation in a Public Procurement Procedure and Grounds for Exclusion

Mandatory Conditions

Article 99

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 23)

Only an economic operator which fulfils the following may participate in the public procurement procedure:

1) has not been the subject of a conviction by final judgment, and the executive director of which has not been the subject of a conviction by final judgment for a criminal offence with the following elements:

a) criminal association;

b) creation of a criminal organisation;

c) active bribery;

č) passive bribery;

ć) active bribery in business sector;

d) passive bribery in business sector;

dž) evasion of taxes and contributions;

đ) fraud;

e) terrorism;

f) financing of terrorism;

g) terrorist association;

h) participation in foreign armed formations;

i) money laundering;

j) human trafficking;

k) trafficking in minors for the purpose of adoption;

l) establishment of slavery and transportation of persons in slavery;

2) has settled all due obligations on the basis of taxes and contributions for pension and health insurance, records of which are kept by the administrative authority responsible for the collection of tax revenues, i.e. the competent authority of the state in which the economic operator has its headquarters.

Proof of Compliance with Mandatory Requirements

Article 100

- deleted -

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 23)

Capacity Requirements of the Economic Operator

Article 101

In accordance with the subject of public procurement, the contracting authority may, in the tender documentation, require that the economic operator fulfils the following conditions:

- 1) for pursuing professional activities,
- 2) economic and financial standing, and/or
- 3) professional and technical ability.

Requirements referred to in paragraph 1 of this Article may be required at a minimum level that ensures the capacity of the economic operator to be able to successfully execute the public procurement contract in its entirety or partially, depending on whether the bid is submitted for the subject of procurement in its entirety or for a specific lot/s.

Capacity requirements for economic operators referred to in paragraph 1 of this Article shall be logically connected and proportionate to the subject of procurement.

Capacity to Pursue Professional Activity

Article 102

Contracting authority may, in the tender documentation, specify, as a condition referred to in Article 101 paragraph 1 item 1 of this Law:

- 1) registration in the Central Registry of Commercial Entities or another appropriate register in the country where the economic operator has its headquarters, and/or
- 2) possession of authorisation (permit, licence, approval or other act) in accordance with the law.

Proof of Compliance with the Requirements for Performing an Activity

Article 103

- deleted –

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 24)

Economic and Financial Standing

Article 104

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 25)

Tender documentation, as a condition referred to in Article 101 paragraph 1 item 2 of this Law, may determine the following:

- 1) minimum amount of turnover achieved in the previous two years;
- 2) ratio between the value of assets and liabilities and/or
- 3) another financial parameter, in accordance with the law.

Minimum amount referred to in paragraph 1 item 1 of this Article shall not be greater than twice the estimated value of the subject of procurement, unless it is necessary due to special risks associated with the subject of procurement, which the contracting authority shall explain in the tender documentation.

In the public procurement procedure with the conclusion of a framework agreement, which stipulates re-tendering, the minimum amount referred to in paragraph 2 of this Article shall be determined based on the expected maximum value of individual contracts that shall be concluded on the basis of the framework agreement or on the basis of the established value of the framework agreement.

In the public procurement procedure using a dynamic system, the maximum annual turnover referred to in paragraph 2 of this Article shall be calculated based on the expected maximum value of individual contracts that shall be concluded during the validity period of that system.

Provided that the subject of procurement is divided into lots, the conditions referred to in paragraph 1 of this Article shall be determined proportionally to the value of each lot individually.

Proof of Economic and Financial Standing

Article 105

- deleted -

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 26)

Professional and Technical Ability

Article 106

As a condition referred to in Article 101 paragraph 1 item 3 of this Law, the tender documentation may determine the following:

- 1) experience in high-quality and successful execution of the same or similar activities in the field of subject of procurement;
- 2) professional and personnel capacities required for the execution of the contract;
- 3) mechanical, technical equipment and/or other capacities required for the timely and high-quality execution of the contract;
- 4) established quality management system in the field of procurement;
- 5) established environmental protection system and/or
- 6) description and characteristics of subject of procurement.

Contracting authority may, with the tender documentation for mixed procurement, establish as prerequisite the professional and technical ability of the economic operator referred to in paragraph 1 of this Article for each part of the subject of procurement.

Proof of Technical and professional Ability

Article 107

- deleted –

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 26)

4. Grounds for Exclusion From the Procedure

Grounds for Mandatory Exclusion from the Public Procurement Procedure

Article 108

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 27)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 17)

Contracting authority shall exclude an economic operator from the public procurement procedure provided that it establishes that:

- 1) it exerted undue influence pursuant to Article 38 paragraph 2 item 1 of this Law;
- 2) it is in a conflict of interest referred to in Article 41 paragraph 1 item 2 or Article 42 of this Law;
- 3) it has failed to meet the requirement referred to in Article 99 of this Law;
- 4) it has failed to meet a requirement referred to in Articles 102, 104 or 106 of this Law that is provided for in the tender documentation;
- 5) it has failed to submit the statement of the economic operator or the submitted statement does not contain the information and data required by the tender documentation;
- 6) there is a reason based on which it is deemed that it abandoned the application, or the bid, stipulated by Article 120 paragraph 15 of this Law;
- 7) it failed to submit a bid guarantee or failed to submit it in the manner provided for in the tender documentation in accordance with Article 122 paragraphs 2, 3 or 4 of this Law, submitted a bid guarantee for an amount lower than required, or submitted an invalid bid guarantee; and/or
- 8) there is another reason prescribed by this Law.

Exception to Mandatory Exclusion

Article 109

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 28)

Notwithstanding Article 108 paragraph 1 items 2 and 3 of this Law, the contracting authority shall not be obliged to exclude an economic operator from the public procurement procedure, provided that there are important requirements related to the

public interest, such as public health or environmental protection, unless the economic operator is excluded by a final judgment from participation in a public procurement procedure, public-private partnership procedure or concession award procedure, for as long as that exclusion is in effect in the country in which the judgment was rendered.

Notwithstanding Article 108 paragraph 1 item 3 of this Law, the contracting authority shall not exclude from the public procurement procedure an economic operator due to outstanding tax and contribution obligations, which proves that, in accordance with the regulations, it is not obliged to pay taxes and contributions or that it has been granted a postponement of tax and contribution payments, which it executes in a timely manner.

Special Grounds for Exclusion from the Public Procurement Procedure

Article 110

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 29)

Contracting authority may provide in the tender documentation that it shall exclude an economic operator from the public procurement procedure, which:

- 1) is the subject of bankruptcy or liquidation proceedings;
- 2) has committed serious professional misconduct that calls into question their integrity, in accordance with the law;
- 3) has an established responsibility based on the decision of the competent authority for the protection of competition because they concluded an agreement or negotiated with other economic operators, for the purpose of distorting competition, in the three previous years until the deadline for submitting an application, or a bid;
- 4) has, during the three years preceding the expiry of the time limit for the submission of applications or bids, had a public procurement contract, public-private partnership contract or concession contract with that or another contracting authority terminated, or has had a means of financial security for the contract activated, damages collected or another sanction imposed in accordance with the law, due to significant and persistent deficiencies in the performance of key requirements under a previous public procurement contract, public-private partnership contract or concession contract;
- 5) has, in the period of three previous years until the deadline for submitting applications, i.e. bids in previous public procurement procedures, submitted false information to that contracting authority that is necessary to verify the fulfilment of the conditions for participation in the procedure, i.e. the absence of grounds for exclusion from the procedure, or has not submitted the required evidence.

Professional misconduct shall be an unjustified violation of the obligations established by the public procurement contract by the bidder, including the refusal to conclude a public procurement contract, as well as a violation of regulations in the areas of: environmental protection, social protection and labour relations, including collective agreements, competition protection or intellectual property rights.

Notwithstanding paragraph 1 item 1 of this Article, the contracting authority shall not be obliged to exclude an economic operator that proves that it shall be capable of executing a public procurement contract.

5. Method of Proving Compliance with Conditions

Statement of the Economic Operator

Article 111

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 30)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 18)

Statement of the economic operator shall be an updated formal statement of the economic operator serving as preliminary evidence in place of certificates issued by competent or other authorities and confirming that the economic operator:

- 1) is not in any of the situations for which an economic operator shall or may be excluded from the public procurement procedure;
- 2) fulfils the required conditions for participation in the public procurement procedure;
- 3) fulfils the conditions established for reducing the number of qualified bidders, where applicable.

Applicant for qualification or bidder shall provide complete, clear and accurate information in the statement of the economic operator.

Where a joint bid is submitted, the statement of the economic operator shall be provided by each member of the joint bid and, where the bid is submitted with a subcontractor, by each subcontractor.

Statement of the economic operator shall be drawn up in electronic form using the form prescribed by the Ministry.

Verification of the Accuracy of the Statement

Article 112

- deleted -

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 31)

Records of Registered Bidders in the EPPS

Article 113

Records of registered bidders in the EPPS shall contain consolidated information on bidders with whom the public procurement contracts were concluded.

Ministry shall, at the request of the competent authority of another country, provide access to the information from the records referred to in paragraph 1 of this Article, for the purpose of their registration in the corresponding list maintained in that country.

Form of the record referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

Quality Assurance and Environmental Protection

Article 114

Contracting authority may, through the tender documentation, request the submission of evidence, i.e. certificates, on the fulfilment of the conditions of quality of the subject of procurement and environmental protection, issued by accredited certification bodies.

Evidence issued by accredited certification bodies of foreign countries shall be recognised in accordance with the law governing technical requirements for products and conformity assessment.

Contracting authority shall accept other evidence of compliance with the quality and environmental protection requirements provided that the economic operator proves that it does not have access to the evidence referred to in paragraphs 1 and 2 of this Article or cannot obtain it within an appropriate time limit for justified reasons, provided that it proves that such evidence is equivalent to the evidence referred to in paragraphs 1 and 2 of this Article.

6. Deadlines in the Public Procurement Procedure

Method of Determining Deadlines

Article 115

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 32)

In order to undertake certain actions in the public procurement procedure, the contracting authority shall determine the deadlines, in accordance with this Law.

Deadlines referred to in paragraph 1 of this Article shall be determined by days (calendar or working), months and years, and may also be determined by hours and minutes.

Contracting authority shall set an appropriate deadline for the submission of applications for qualification, i.e. bids, taking into account the complexity of the subject of public procurement and the time required to prepare the application, i.e. bid, in accordance with the minimum deadlines prescribed by this Law.

In case of interruption of work or technical limitations in the work of the EPPS, the deadlines in the public procurement procedure shall be extended for the duration of the interruption, and at least 24 hours from the establishment of the work of the EPPS, and for the remaining part of the deadline provided that the interruption of work or technical limitation in the work of the EPPS lasted longer than the remaining part of the term.

Calculating Deadlines

Article 116

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 33)

Provided that the deadline is set to:

- calendar days, the beginning of the term shall be counted as of the next day,
- working days, the start of the term shall be counted from the next working day.

Time limit set in months or years shall expire at the end of the day of the month or year that corresponds numerically to the day on which notification was effected or to the day on which the event from which the time limit is calculated occurred; provided that there is no corresponding day in the last month, the time limit shall expire on the last day of that month.

Public holidays, Saturdays and Sundays shall not affect the start of the deadline, unless the deadline is set on working days.

Provided that the last day of the deadline falls on a national holiday, Saturday or Sunday, the deadline shall expire on the next working day.

Deadline set for a specific day, hour and minute shall expire at the end of the last scheduled minute.

Provided that the duration of the deadline is determined in hours and/or minutes, the deadline shall start from the moment of setting it and expire at the end of the last scheduled minute.

7. Criteria for Selecting the Most Advantageous Bid

Criteria for Selecting the Most Advantageous Bid

Determining the Criteria

Article 117

Contracting authority shall select the most economically advantageous bid in the public procurement procedure, applying the cost-effectiveness approach, based on the following criteria:

- 1) price,
- 2) price-quality ratio or
- 3) life-cycle cost.

Contracting authority shall specify the criteria and determine the methodology for the evaluation of bids in the tender documentation.

Criteria for choosing the most advantageous bid shall be described, scored, related to the subject of procurement and shall not be discriminatory.

Criteria for selecting the most advantageous bid shall be related to the subject of procurement provided that its parameters relate to the requirements of the subject of procurement in any respect and at any stage of its life cycle including factors related to a specific production process, execution of works, delivery or trading of goods or services or to a certain process of some other phase of their life cycle, even should these factors not be part of their material content.

Criteria for choosing the most advantageous bid shall not be deemed discriminatory provided that all its parameters are available to bidders under equal conditions.

Bid evaluation methodology shall contain the method and the maximum number of points that may be awarded to the bid according to the established criteria and according to each foreseen parameter.

Parameters of the criteria for the selection of the most advantageous bid and the bid evaluation methodology shall be defined in a way that provides an objective and accurate presentation of the number of points and the ranking of the bids.

Contracting authority may determine the price as a criterion for choosing the most advantageous bid in the negotiated procedure only, without prior publication of the call for tenders, in the process of concluding the contract based on the framework agreement in accordance with Article 69 paragraph 2 items 2 or 3 of this Law, electronic auction or dynamic procurement system, in the procedure for awarding contracts for social and other special services, in the case of public procurement for

the needs of defence and security or for the needs of diplomatic missions, consular missions and military-diplomatic representatives abroad, unless the price of the subject of procurement is determined in advance.

Methodology of bid evaluation shall be prescribed by the Ministry.

Price-Quality Ratio

Article 118

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 34)

Price-quality ratio shall be determined based on parameters that may include:

1) quality, including technical, aesthetic and functional characteristics, availability of solutions for all users, social, ecological and innovative characteristics of trade and trading conditions;

2) organisation, qualifications and experience of the person who shall be entrusted with the execution of the subject of procurement, when the experience of the person may have a significant influence on the level of success of the execution of the subject of procurement or

3) after-sales service and technical assistance, terms of delivery, such as delivery time, delivery process, delivery time or performance time.

As parameters referred to in paragraph 1 item 2 of this Article that relate to organisation, the contracting authority shall provide for the percentage of:

- women among the persons that the bidder will engage in the execution of the subject of procurement;

- women in the total number of employees of the bidder;

- women in the ownership structure of the bidder.

Number of points awarded on the basis of the parameters referred to in paragraph 2 of this Article shall not exceed 5% of the total maximum number of points established.

Provided that the price is determined in advance, the bids shall only be evaluated based on quality parameters.

Price-quality ratio shall be determined so that the number of points awarded on the basis of price does not exceed 90% of the total maximum number of points established.

Life-Cycle Cost

Article 119

Life cycle cost shall include all or part of the following costs:

1) costs borne by the contracting authority or other user, such as:

- acquisition or purchase costs;

- usage costs, such as consumption of energy and other resources;

- maintenance costs;

- costs associated with the end of the life cycle, such as collection and recycling costs;

2) costs of removing the impact of the subject of procurement during its life cycle on the environment, provided that their monetary value may be determined and verified, and which may include the costs of reducing the effects of gas emissions or emissions of other pollutants, as well as other costs of mitigating climate change.

Provided that the contracting authority uses the life cycle cost criterion, it shall specify in the tender documentation the data to be submitted by the bidders on the costs referred to in paragraph 1 item 2 of this Article and the methodology that shall be used to determine the life cycle costs based on that data.

Methodology referred to in paragraph 2 of this Article shall be based on objectively verifiable and non-discriminatory criteria and shall not unjustifiably favour or disadvantage certain bidders and all bidders shall be able to provide the requested data without major difficulties.

8. Bid and Qualification Application

Bid

Article 120

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 35)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 19)

Bid shall be a statement of the intention of the bidder to deliver goods, provide services or perform works for a certain price and under certain conditions, in accordance with the tender documentation.

Bid may be independent or joint.

Bidder may submit only one bid, in accordance with the tender documentation.

Following shall not participate in the same public procurement procedure as a member of a joint bid or a subcontractor:

- 1) bidder who submitted an independent bid;
- 2) economic operator as a member of another joint bid.

Bidder, or an economic operator that has not acted in accordance with paragraph 4 of this Article, shall be excluded from the public procurement procedure.

Price referred to in paragraph 1 of this Article includes all costs related to the subject of procurement which are determined by the tender documentation, excluding the amount of VAT.

Offered price shall be expressed numerically in euros.

Offered price shall be expressed for the entire subject of procurement in accordance with the tender documentation.

Notwithstanding paragraph 8 of this Article, provided that the subject of procurement is determined only by unit of measure in accordance with Article 87 paragraph 7 of this Law, the total bid price shall be expressed as a sum of unit prices by item

Bidder may change or withdraw the bid within the deadline set for submission of bids.

Provided that the bidder changes the bid within the deadline for submission of bids, the bid shall be deemed submitted at the time of submission of the last bid amendment.

Bid shall be binding until the expiration of its validity.

Bidder shall extend the validity period of the bid at the request of the contracting authority, provided that the request is submitted to the bidder via the EPPS no later than three days before the expiration of the bid validity period.

In the event of an extension of the validity period of the bid, the contracting authority shall request from the bidder an extension of the validity period of the bid guarantee.

Provided that the bidder does not act in accordance with the requirements of the contracting authority referred to in paragraphs 13 and 14 of this Article, it shall be deemed to have withdrawn the bid.

Along with the bid, the bidder shall submit the following:

- 1) statement of the economic operator;
- 2) bid guarantee;
- 3) evidence for the evaluation of the bid;
- 4) contract referred to in Article 126 paragraph 1 of this Law, in case of submission of a joint bid;
- 5) evidence of the quality of the subject of procurement and evidence of the fulfilment of other conditions stipulated in the tender documentation, which are not included in the statement of the economic operator.

Upon expiry of the time limit for the submission of bids, the following may not be changed and/or supplemented:

- 1) information about the bidder, except in the case of changes in accordance with a special law;
- 2) final bid, except in the case of elimination of a calculation error;
- 3) statement of the economic operator of the bidder, except in the event of replacement of a subcontractor or an economic operator whose capacities are relied upon;
- 4) joint performance contract;
- 5) evidence and data on the basis of which the bid is evaluated;
- 6) bid guarantee, except in the cases referred to in Article 97 paragraph 5 and Article 120 paragraph 14 of this Law.

Bid form and instructions for preparing the bid shall be prescribed by the Ministry.

Submission of the Bid Directly or by Post

Article 121

- deleted –

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 36)

Submitting of Bid

Article 122

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 37)

Bid shall be made and submitted electronically through the EPPS.

Statement of the economic operator and the bid guarantee shall be submitted in electronic form through the EPPS.

Notwithstanding paragraph 2 of this Article, provided that the bid guarantee is not submitted electronically, the bidder shall submit a copy of the bid guarantee through the EPPS and deliver the original bid guarantee to the contracting authority directly or by registered mail no later than the expiry of the time limit for the submission of bids.

Evidence referred to in Article 120 paragraph 16 items 3, 4 and 5 of this Law shall be submitted via the EPPS in electronic form or as a scanned copy of the original.

In the case referred to in paragraph 3 of this Article, the original of the bid guarantee in written form shall be submitted in an envelope, on which the following is stated: the name and headquarters of the contracting authority, the number of the tender documentation for which the guarantee is submitted, the name, headquarters and address of the bidder and the indication "bid guarantee" and "do not open before the bid opening deadline".

On the delivery of the bid guarantee, in accordance with paragraphs 3 and 5 of this Article, the contracting authority shall draw up a certificate and attach it as a scanned copy to the EPPS, along with the record of opening of bids, on the same day when the opening of bids took place.

Submission of Bids by Lots

Article 123

Bidder may submit a bid for one or more lots, in accordance with the tender documentation and shall indicate in the bid for which lots it is submitting the bid.

Provided that the bidder submits a bid for several lots, the bid shall be prepared in such a way that the bid may be evaluated for each lot separately.

Submission of Bid with Variants

Article 124

In the tender documentation the contracting authority may foresee the submission of bids with variants.

Variant bid offers a subject of procurement that meets the minimum technical and functional requirements, i.e. the standards established by the contracting authority in the tender documentation, with technical characteristics different from the characteristics given by the technical specification.

Contracting authority shall ensure that the criterion for selecting the most advantageous bid is also applied to the variants of the bid that meet the minimum requirements in accordance with paragraph 2 of this Article.

Timely Bid

Article 125

Bid submitted directly or by mail is deemed timely provided that it is delivered to the contracting authority before the deadline for submission of bids established by the tender documentation, i.e. the invitation to submit bids.

Bid in electronic form is deemed timely provided that it is submitted to the EPPS within the period specified in the tender documentation.

Untimely bid shall be the one delivered to the contracting authority, or submitted to the EPPS after the deadline from paragraphs 1 and 2 of this Article.

Submission of a Joint Bid

Article 126

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 38)

Joint bid may be submitted by two or more economic operators that have concluded a contract on joint participation.

Contract referred to in paragraph 1 of this Article shall regulate mutual rights and obligations, determine the holder of the joint bid, the part of the subject of procurement for which each of the members of the joint bid is responsible and their percentage participation in the total value of the bid.

In the case of submitting a joint bid, each member of the joint bid shall fulfil the mandatory conditions for participation in the public procurement procedure referred to in Article 99 of this Law.

Member of the joint bid shall fulfil the condition referred to in Article 102 paragraph 1 item 2 and the conditions referred to in Article 106 of this Law for the part of the subject of procurement for which it is in charge in accordance with the contract on joint performance, except for the part for which it hires a subcontractor.

Applicants of the joint bid meet the requirements referred to in Article 104 of this Law, provided that individually or cumulatively meet the economic and financial conditions.

Member of the joint bid may use the capacities of another member of the joint bid, which was made available to them in the joint performance contract, to prove the fulfilment of the conditions of professional and technical ability.

Contracting authority may not require that the submitters of the joint bid have a specific organisational form.

Contracting authority shall determine in the tender documentation how the submitters of the joint bid fulfil the condition referred to in Article 102 paragraph 1 item 1 of this Law.

Relying on Capacities of Other Entities

Article 127

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 39)

Provided that the conditions of economic-financial and professional-technical ability are required by the tender documentation, the bidder may, in order to fulfil those conditions, use the capacity of another entity.

Notwithstanding paragraph 1 of this Article, provided that the conditions referred to in Article 106 paragraph 1 items 1 and 2 are required by the tender documentation, the bidder, in order to fulfil those conditions, may use the capacity of another entity, provided that that entity performs works or provides services for which that capacity is required.

In the cases referred to in paragraphs 1 and 2 of this Article, during verification of the statement of the economic operator, the bidder shall provide evidence that the other entity will make the necessary capacities or resources available to it for the execution of the contract.

In accordance with Article 134 of this Law, the contracting authority shall verify whether the entity whose capacity is used by the bidder that submitted the most economically advantageous bid possesses the capacities that it makes available, meets the capacity requirements for the part of the subject of procurement that it will implement, and is subject to any ground for exclusion from the procedure provided for in the tender documentation.

Provided that the contracting authority determines that the entity referred to in paragraph 1 of this Article does not possess the capacity that the bidder intends to use or that grounds exist for excluding that entity from the procedure, it shall notify the bidder thereof through the EPPS and allow it, within eight days from the date of notification or publication of the notice, to replace that entity with another entity that possesses the required capacity and is not subject to any ground for exclusion from the procedure.

Provided that, within the time limit referred to in paragraph 5 of this Article, the bidder fails to notify the contracting authority of the new entity whose capacity it intends to use and fails to provide evidence that the entity possesses the capacity that it will make available or that no mandatory ground for exclusion exists, the contracting authority shall exclude that bidder from the public procurement procedure.

In the event that the bidder uses the economic and financial capacity of another entity, the contracting authority may, through the tender documentation, demand that the bidder and that entity be jointly and severally liable for the execution of the contract.

Provided that the execution of works, provision of services or procurement of goods also includes fitting or installation work, the contracting authority may require that certain work be performed exclusively by the bidder or a member of the joint bid.

Subcontracting

Article 128

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 40)

Bidder may assign a part of the subject of public procurement to a subcontractor in the bid, in accordance with this Law.

Contracting authority may not require the bidder to subcontract part of the subject of procurement or to hire certain subcontractors, nor may it limit them in doing so, unless otherwise determined by a special law or a ratified international agreement.

In order to participate in the public procurement procedure, the subcontractor shall meet the mandatory conditions for participation in the public procurement procedure referred to in Article 99 of this Law, the condition referred to in Article 102 paragraph 1 item 2 and the conditions referred to in Article 106 of this Law for the part of the subject of procurement assigned to them.

Bidder who intends to hire a subcontractor shall state in the bid and statement of the economic operator:

- 1) part of the subject of procurement that it intends to assign, including the name and description of that part and the precise percentage share thereof in the subject of procurement; and

- 2) information about the subcontractor (name, registered office, tax identification number, account number, name of the authorised person).

Provided that the bidder assigns part of the subject of procurement to a subcontractor, the data referred to in paragraph 4 of this Article shall be specified in the public procurement contract.

Economic operator may be engaged as a subcontractor only in the bid of one bidder, except in the case referred to in paragraph 10 items 1 and 2 of this Article and Article 120 paragraph 4 of this Law.

Provided that an economic operator participates as a subcontractor in the bid of two or more bidders, the contracting authority shall inform the bidders through the EPPS to replace that subcontractor with another, within eight days from the date of notification.

Provided that the contracting authority determines that there is a reason for the exclusion of a subcontractor, it shall submit to the bidder a request for the replacement of that subcontractor within eight days from the date of submission of that request.

Provided that, in the cases referred to in paragraphs 7 and 8 of this Article, the bidder fails to engage a new subcontractor within the prescribed time limit, the contracting authority shall exclude that bidder from the public procurement procedure.

During the performance of the public procurement contract, the bidder may submit a request for consent to the contracting authority, for the purpose of:

1) replacing a subcontractor for the part of the public procurement contract previously concluded with that subcontractor;

2) engagement of one or more new subcontractors whose total share shall not exceed 30% of the value of the public procurement contract without VAT;

3) taking over the execution of the part of the public procurement contract previously concluded with a subcontractor.

Along with the request from paragraph 10 of this Article, the bidder shall provide evidence of fulfilling the conditions from paragraph 3 of this Article for the new subcontractor, or for themselves, in accordance with this Law.

Contracting authority shall decide on the request within eight days from the day of receipt of the orderly request.

Receipt and Registration of the Bid

Article 129

- deleted –

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 41)

Opening of Bids

Article 130

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 42)

Opening of bids is carried out by the EPPS at the moment of expiry of the deadline for submission of bids, without the presence of the authorised representatives of the bidders.

Minutes on the Opening of Bids

Article 131

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 43)

Minutes of bid opening shall be generated by the EPPS immediately after bid opening and forwarded to all bidders, jointly or individually, depending on the type of public procurement procedure.

Minutes of bid opening shall be drawn up using the form prescribed by the Ministry.

Valid Bid

Article 132

Valid bid shall be a bid that does not contain any of the grounds for invalidity referred to in Article 133 of this Law.

Invalid Bid

Article 133

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 44)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 20)

Bid shall be considered invalid provided that it:

- 1) is not drawn up in the manner determined by the tender documentation in accordance with this Law;
- 2) does not comply with the technical specification or contains unclear requirements concerning the subject of procurement, and those deficiencies cannot be remedied by clarification of the bid referred to in Article 134 paragraph 4 of this Law;
- 3) contains an unrealistic price which the bidder did not justify in accordance with Article 139 of this Law;

Bid Review and Evaluation Procedure

Article 134

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 45)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 21)

Bid review and evaluation procedure shall be confidential until the contracting authority adopts its decision and shall be conducted without the presence of authorised representatives of the bidders.

In the bid review procedure, the commission shall determine whether:

- 1) all evidence referred to in Article 120 paragraph 16 of this Law has been submitted with the bid;
- 2) bid guarantee has been submitted in the manner provided for in the tender documentation in accordance with Article 122 paragraphs 2, 3 or 4 of this Law;
- 3) bid guarantee has been issued for the required amount and is valid;
- 4) statement of the economic operator has been properly drawn up and contains all required information and data;
- 5) content of the statement of the economic operator gives rise to grounds referred to in Articles 108 and 110 of this Law for excluding the bidder from the public procurement procedure.

After reviewing the bid referred to in paragraph 2 of this Article, the commission shall evaluate the validity of the bid in relation to the grounds referred to in Article 133 of this Law.

Where information or documentation submitted by the bidder is incomplete or incorrect or certain documents are missing, the contracting authority may, having regard to the public procurement principles, require that economic operator to supplement, clarify or complete the information or documentation or submit the necessary new information or documentation within a time limit set by the contracting authority, which may not be shorter than eight days, provided that this does not lead to negotiations concerning the criteria for the selection of the most advantageous bid or the offered subject of procurement.

Contracting authority shall state the reasons for not applying the possibility referred to in paragraph 4 of this Article.

Action referred to in paragraph 4 of this Article may not be taken more than once in relation to the same documentation or information.

Should the bidder referred to in paragraph 4 of this Article fail to submit the requested evidence within the prescribed time limit or submit inappropriate evidence, its bid shall be assessed as invalid in accordance with Article 133 paragraph 1 item 1 of this Law.

In the bid review and evaluation procedure, the Commission may engage a professional or an expert in the relevant field and/or request an opinion from a competent authority or organisation.

Evaluation of Bids

Article 135

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 46)

After reviewing and evaluating the bids, the commission for the implementation of the public procurement procedure evaluates and ranks the valid bids.

Each member of the commission from paragraph 1 of this Article performs a separate (individual) evaluation of valid bids based on the criteria established by the tender documentation.

Based on the evaluation results referred to in paragraph 2 of this Article, the average number of points awarded to the bids and the ranking list of bidders in descending order is determined.

Provided that two or more bids have the same number of points based on the criteria for selecting the most advantageous bid, the contracting authority shall call bidders whose bids have the same number of points and make the selection by lot.

Drawing of lots referred to in paragraph 4 of this Article is carried out by the president of the commission.

Verification of the Statement of the Economic Operator Article 135a

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 47)

After evaluating the bids, the commission checks the data contained in the statement of the economic operator of the bidder whose bid is the most economically advantageous, namely:

- 1) obtaining publicly available evidence;
- 2) by examining the evidence available to it, provided that relevant at the time of verification; or
- 3) by obtaining evidence from competent authorities, organisations or other legal entities.

Contracting authority shall attach the evidence obtained in the manner referred to in paragraph 1 of this Article to the EPPS.

Provided that a framework agreement is concluded with several bidders in the public procurement procedure, the contracting authority shall check the data contained in the statement of the economic operator of each bidder ranked within the number provided for concluding the framework agreement, before making a decision on the selection of the most advantageous bid.

Provided that the contracting authority cannot obtain the evidence in accordance with paragraph 1 of this Article, it shall request the bidder to submit, through the EPPS and within eight days from the date of receipt of the request, the original or a copy of the requested evidence, except evidence relating to the special grounds for exclusion from the public procurement procedure.

Provided that the bidder referred to in paragraph 4 of this Article fails to submit the requested evidence within the prescribed time limit or provided that the submitted evidence is unclear or incomplete, the contracting authority shall notify the bidder thereof through the EPPS and allow it an additional period of five days to submit appropriate evidence.

Provided that the bidder fails to act in accordance with paragraphs 4 and 5 of this Article, the contracting authority shall exclude it from the public procurement procedure, unless the bidder proves that the requested evidence is unavailable because it is not issued in the state in which the bidder has its registered office.

Provided that the contracting authority determines, by verifying the statement of the economic operator in the manner referred to in paragraphs 1 and 4 of this Article, that a ground exists for excluding the bidder from the procedure, or provided that the bidder is excluded from the procedure in accordance with paragraph 6 of this Article, the contracting authority shall verify the statement of the economic operator of the bidder whose bid is ranked next and, provided that there is no such bid, annul the public procurement procedure.

Contracting authority shall specify in the tender documentation the evidence that it will require in order to verify the statement of the economic operator whose bid is the most economically advantageous.

Contracting authority shall not be required to verify the statement of the economic operator in the case referred to in Article 59 paragraph 1 item 3 of this Law.

Evidence for Verifying the Accuracy of the Statement of the Economic Operator
Article 135b

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 47)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 22)

In the process of verifying the statement of the economic operator, the commission may request the submission of the following evidence, namely:

- 1) certificate, confirmation or other act of the competent authority issued on the basis of criminal records, in accordance with the regulations of the state in which the economic operator has its registered office or in which the authorised person of that economic operator resides, for the purpose of establishing compliance with the requirement referred to in Article 99 paragraph 1 item 1 of this Law;
- 2) certificate, confirmation or other act issued by the administrative authority responsible for collecting tax revenue or by the competent authority of the state in which the economic operator has its registered office, for the purpose of establishing compliance with the requirement referred to in Article 99 paragraph 1 item 2 of this Law;
- 3) proof of registration in the Central Register of economic operators or another appropriate register in the country where the economic operator has its headquarters, with data on the authorised person, i.e. the executive director of the economic operator, in order to determine the fulfilment of the conditions referred to in Article 102 paragraph 1 item 1 of this Law;
- 4) proof of authorisation to perform the activity that is the subject of procurement (permit, licence, approval or other act of the competent authority), in accordance with the law, in order to determine the fulfilment of the conditions referred to in Article 102 paragraph 1 item 2 of this Law;
- 5) financial statements for the two previous financial years, depending on the date of establishment or start of activity, with the report of the authorised auditor in accordance with the law regulating audit, which was accepted by the competent authority of the state in which the economic operator has its seat, in order to determine the fulfilment of the conditions referred to in Article 104 paragraph 1 of this Law;
- 6) certificate issued by the investor, i.e. the user, about the goods delivered, the services provided or the works performed, during the previous years but no longer than five years, including the year in which the public procurement procedure was started, which contains the description and value of the subject of procurement, the time of realisation of the contract and the statement that the contract was executed in a timely and quality manner, in order to determine the fulfilment of the conditions referred to in Article 106 paragraph 1 item 1 of this Law;
- 7) proof of the professional and personnel capacities of the engaged workforce, namely:
 - a) educational qualifications (a diploma, certificate, school-leaving certificate or other appropriate act of the competent authority or organisation);

- b) professional competence (a certificate, confirmation or other act of the competent authority or organisation);
 - c) professional experience related to the subject of procurement (certificate or other act of the competent authority, investor or user);
 - d) way of hiring the workforce (application for employee insurance, employment contract, agreement on hiring an employee, contract on using the capacity of another entity or other act in accordance with the law);
- 8) list of fixed assets and equipment owned or provided by relying on the capacity of another entity or provided in another way, in accordance with the law, for proof, in order to determine the fulfilment of the requirements referred to in Article 106 paragraph 1 item 3 of this Law;
 - 9) certificate or other act issued by the competent authority or authorised organisation on the established quality management system in the area of the subject of procurement, in order to determine the fulfilment of the conditions referred to in Article 106 paragraph 1 item 4 of this Law;
 - 10) certificate or other document issued by the competent authority or authorised organisation on the established system of environmental protection, in order to determine the fulfilment of the requirements referred to in Article 106 paragraph 1 item 5 of this Law;
 - 11) sample, catalogue or photo of the subject of procurement, the authenticity of which the bidder shall confirm, provided that requested by the contracting authority, in order to determine the fulfilment of the conditions referred to in Article 106 paragraph 1 item 6 of this Law.

Notwithstanding paragraph 1 item 6 of this Article, in order to ensure competition in the public procurement procedure, contracting authorities may take into account evidence of relevant works carried out more than five years previously, which they shall specify in the tender documentation.

Provided that the evidence referred to in paragraph 1 items 1 and 2 of this Article is not issued in the state of the registered office of the economic operator or the state in which the authorised person of the economic operator resides, or provided that that evidence does not contain all the information referred to in Article 99 of this Law, the requested evidence may be replaced or supplemented by an act of the competent authority of the state of the registered office of the economic operator or the embassy of that state in Montenegro confirming that the requested evidence is not issued or is not issued with all the required data.

Record of Review, Assessment and Evaluation of Bids

Article 136

Commission for the implementation of the public procurement procedure shall prepare a report on the review, assessment, comparison and evaluation of bids.

Member of the commission who does not agree with the conducted procedure of review, assessment, evaluation of bids or with the proposed decision on the selection of the most advantageous bid or the decision on the annulment of the public procurement procedure, has the right to separate his opinion.

In the case referred to in paragraph 2 of this Article, the separate opinion of the commission member is entered into the minutes after the proposal for making a decision on the selection of the most advantageous bid or a decision on the annulment of the public procurement procedure.

Form of minutes on the review, assessment and evaluation of bids shall be prescribed by the Ministry.

Appropriate Implementation

Article 137

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 48)

Provisions of Articles 120, 122, 126, 127, 128, 130, 131, 134, 135, 135a of this Law shall apply accordingly to the application for qualification, provided that this Law does not prescribe otherwise.

Notification of Non-participation in Further Proceedings

Article 138

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 49)

In a competitive negotiated procedure, competitive dialogue, innovation partnership, negotiated procedure with prior publication of a call for tenders or negotiated procedure without prior publication of a call for tenders, the contracting authority shall, in the notice informing a candidate or bidder that they will not be invited to further negotiations or dialogue, include an instruction that the right to legal protection may be exercised by filing an appeal against the decision on the selection of the most advantageous bid or the decision on the annulment of the public procurement procedure.

Unrealistic Bid

Article 139

Unrealistic bid shall be a bid of which the offered price is at least 30% lower than the average price of all valid bids, including that bid.

Contracting authority shall require a bidder that submitted an unrealistic bid to submit, within five days from the date of delivery of the request, an explanation of the offered price with regard to:

- 1) economics of the production process, procurement conditions, service provision technology and/or construction methods;
- 2) technical solutions and advantageous conditions for the delivery of goods, the performance of services or the performance of works;
- 3) originality of goods, licensing of services and their products, techniques and technology of performance of offered works;
- 4) compliance of obligations with subcontractors;
- 5) state aid and subsidies.

Provided that the bidder fails to submit an explanation of the unrealistically low bid within the time limit referred to in paragraph 2 of this Article, the bidder shall be excluded from further public procurement proceedings.

Contracting authority shall examine the explanation of the unrealistic bid in relation to the elements referred to in paragraph 2 of this Article and, provided that it determines that the reasons and evidence concerning the offered price are not justified, shall reject the bid as invalid.

Contracting authority shall reject an unrealistic bid provided that it determines that the offered price is exceptionally low because it does not comply with obligations in the fields of environmental protection, social and labour law, including collective agreements, in accordance with the law and ratified international agreements.

Reasons for Annulment of Public Procurement Procedure

Article 140

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 50)

Contracting authority shall annul the public procurement procedure provided that:

- 1) before the expiry of the deadline for submitting the application for qualification, i.e. bid, assess that it is necessary to significantly change the tender documentation;
- 2) no application for qualification has been submitted;
- 3) there is not a sufficient number of qualified candidates in accordance with the tender documentation;
- 4) no bids or no valid bids were submitted or bidders were excluded from the procedure;
- 5) stipulated number of bids was not submitted in the case of concluding a framework agreement, except in the case of Article 68 paragraph 8 of this Law;
- 6) before deciding on applications, i.e. bids, objective circumstances occur (organisational changes, rationalisation or provision of the subject of procurement on another basis), due to which the need for the subject of procurement has ceased, provided that, in that case, the contracting authority shall not perform the procurement in question in the current year;
- 7) is the subject of procurement as a whole or for the most part realised on the basis of a public procurement contract that was concluded on the basis of an enforceable decision on the selection of the most advantageous bid, provided that that decision was subsequently annulled by a final decision;
- 7a) provided that by using the EPPS the public procurement procedure was carried out in such a way that there were obstacles, limitations and actions of the contracting authority cannot subsequently be remedied or repeated;
- 8) there are other reasons established by this Law.

In the case referred to in paragraph 1 of this Article, the contracting authority may annul the public procurement procedure in its entirety or partially, provided that the subject of procurement is divided into lots.

Provision of this Article accordingly applies to the procedure of public procurement for social and other special services, as well as procurement by design competition.

9. Decisions of the Contracting Authority

Decision Making

Article 141

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 51)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 23)

Contracting authority shall:

- 1) make the decision on exclusion from the public procurement procedure within 30 days, from the day of the opening of applications for qualification and deliver it to the applicant within three days from the date of adoption,
- 2) adopt the decision on the selection of the most advantageous bid or the decision on the annulment of the public procurement procedure within 60 days from the date of opening of bids and publish it in the EPPS within three days from the date of its adoption.

Decision referred to in paragraph 1 of this Article shall be adopted by the authorised person of the contracting authority, on the proposal of the commission for conducting the public procurement procedure.

By publishing the decision in the EPPS, it is considered that it was delivered to all participants in the public procurement procedure on the day following its publication.

Decision referred to in paragraph 1 item 2 of this Article that has not been published does not produce legal effect.

Provided that certain data contained in the decision are classified in accordance with the law governing classified data, the decision shall be published in a manner that adequately protects such data.

Until the date on which the decision becomes enforceable, the contracting authority may amend the decision in order to rectify manifest errors relating to its content and lawfulness.

Decisions referred to in paragraphs 1 and 6 of this Article shall be deemed to have been delivered to all participants in the public procurement procedure on the day following their publication in the EPPS.

Decision on Exclusion from Public Procurement Procedure

Article 142

Decision on exclusion from the public procurement procedure shall contain:

- 1) information on the contracting authority;
- 2) data on the type of public procurement procedure, the name and description of the subject of procurement as a whole and by lots and the number of the tender documentation;
- 3) total estimated value of the subject of procurement as a whole and by lots;
- 4) name of the applicant for qualification who is excluded from the public procurement procedure and the reasons for exclusion;
- 5) instruction on legal protection;
- 6) date of the decision and the signature of the authorised person of the contracting authority.

Decision on exclusion from the public procurement procedure is enforceable upon the expiration of the deadline for submitting an appeal, provided that the appeal has

not been filed, or on the next day, from the day of publication of the decision rejecting the appeal.

Form of the decision referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

Decision on Choosing the Most Advantageous Bid

Article 143

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 52)

Decision on the selection of the most advantageous bid decides on the most advantageous bid, valid and invalid bids, the exclusion of bidders, as well as the exclusion of candidates and bidders who have been notified that they shall not be invited to further negotiations or dialogue, in accordance with this Law.

Decision on the selection of the most advantageous bid, which was made without a previously conducted public procurement procedure, shall be null and void provided that the contracting authority was obliged to conduct a public procurement procedure in accordance with this Law before its adoption.

Decision on the selection of the most advantageous bid, in particular, contains:

- 1) information on the contracting authority;
- 2) data on the type of public procurement procedure, the name and description of the subject of procurement as a whole and by lots and the number of the tender documentation;
- 3) total estimated value of the subject of procurement as a whole and by lots;
- 4) data on bidders, or candidates who were excluded from the public procurement procedure with reasons for exclusion;
- 5) data on the exclusion of candidates and bidders who were notified that they shall not be invited to further negotiations or dialogue, with the reasons for exclusion;
- 6) data on invalid bids and the grounds for their invalidity;
- 7) data on valid bids;
- 8) data on evaluation and ranking of bids;
- 9) data on the most advantageous bid, including bids in case of concluding a framework agreement with one or more bidders;
- 10) instruction on legal protection;
- 11) date of the decision and the signature of the authorised person of the contracting authority.

Provided that the subject of procurement is divided into lots, the contracting authority may reach a decision on choosing the most advantageous bid for each lot separately, for several lots or for all lots.

Form of the decision referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

Decision on Annulment of Public Procurement Procedure

Article 144

Decision on annulment of the public procurement procedure, depending on the reason for annulment, shall contain:

- 1) information on the contracting authority;

- 2) data on bidders;
- 3) reasons for exclusion from the public procurement procedure;
- 4) reasons for annulment of the public procurement procedure in its entirety or for a certain part of the public procurement;
- 5) data on the type of public procurement procedure, the name and description of the subject of procurement as a whole and by lots and the number of the tender documentation;
- 6) total estimated value of the subject of procurement as a whole and by lots;
- 7) instruction on legal protection;
- 8) date of adoption and signature of the authorised person of the contracting authority.

Form of the decision referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

Access to Public Procurement Procedure Documents

Article 145

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 53)

Contracting authority shall, following the publication of the decisions referred to in Articles 143 and 144 of this Law in the EPPS, until the expiry of the time limit for lodging an appeal, upon request of the concerned bidders and candidates submitted via the EPPS, enable access to the complete electronic documentation of the public procurement procedure, within two days from the date of submission of the request, for a period of no less than 24 hours, as well as direct access to the documentation which has not been submitted via the EPPS, within two days from the date of submission of the request, for a period which shall not be shorter than two hours.

Contracting authority shall draw up an official note on access to documentation not submitted through the EPPS, containing information on: the time of access, the person carrying out the access, the person in whose presence access was carried out, the parts of the documentation inspected, the reasons why the person carrying out the access refused to sign the official note, and other facts relevant to the credibility of the action.

Enforceability of Decision on Selection of the Most Advantageous Bid

Article 146

Decision to choose the most advantageous bid shall become enforceable:

- 1) upon expiry of the deadline for filing an appeal, provided that the appeal has not been filed;
- 2) on the following day from the date of publication of the appeal decision, which rejects the appeal or suspends the appeal proceedings, in accordance with this Law.

Contracting authority may not conclude a public procurement contract or a framework agreement before the enforceability of the decision on the selection of the most advantageous bid, unless:

- 1) only one bidder participated in the public procurement procedure;
- 2) public procurement contract is concluded on the basis of a framework agreement with one bidder or a dynamic procurement system with one bidder;

3) public procurement is conducted in accordance with Article 59 paragraph 1 item 3 of this Law.

Enforceability of Decision on Annulment of Public Procurement Procedure

Article 147

Decision on annulment of the public procurement procedure shall become enforceable:

- 1) on the day following its publication in the EPPS, provided that not a single application for qualification, i.e. bid, has been submitted;
- 2) upon expiry of the deadline for filing an appeal, provided that the appeal has not been filed;
- 3) on the following day from the date of publication of the appeal decision, which rejects the appeal or suspends the appeal proceedings, in accordance with this Law.

Ending the Decision-making Process on Applications for Qualification or Bids

Article 148

Public procurement procedure shall end with the adoption of a decision on the selection of the most advantageous bid or a decision on the annulment of the public procurement procedure.

Procedure for deciding applications for qualification shall be completed when the decision on exclusion from the public procurement procedure becomes enforceable.

Procedure for deciding on bids shall be completed when the decision on the selection of the most advantageous bid, or the decision on the annulment of the public procurement procedure, becomes enforceable.

Public Procurement Contract

Article 149

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 54)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 24)

Contracting authority shall conclude a public procurement contract in written or electronic form with the bidder whose bid was selected as the most advantageous after the decision on the selection of the most advantageous bid becomes enforceable.

Public procurement contract shall be concluded and implemented in accordance with the conditions established by the tender documentation, the selected bid and the decision on the selection of the most advantageous bid.

In the public procurement contract, the contracting authority shall declare the amount of VAT.

Contracting authority shall sign and deliver the public procurement contract to the bidder whose bid was selected as the most advantageous no later than 15 days from the

date on which the decision on the selection of the most advantageous bid becomes enforceable.

Bidder referred to in paragraph 4 of this Article shall sign and return the delivered contract to the contracting authority together with a guarantee for the good performance of the contract and/or other means of financial security required by the tender documentation, within 15 days from the date of delivery of the contract, except where the contracting authority sets a longer time limit, which may not exceed 60 days from the date of delivery of the contract.

Bidder referred to in paragraph 4 of this Article shall not be obliged to sign a public procurement contract that is not in accordance with paragraph 2 of this Article.

Bidder may start the implementation of the subject of procurement provided that he has submitted to the contracting authority a signed public procurement contract, a guarantee for the good performance of the contract and/or other means of financial security required by the tender documentation within the period referred to in paragraph 4 of this Article.

Provided that the bidder does not act in the manner referred to in paragraph 4 of this Article, it is considered that he has refused to conclude the public procurement contract.

In the case referred to in paragraph 7 of this Article, the contracting authority shall activate the bid guarantee of the bidder whose bid was selected as the most advantageous or, provided that the bid guarantee has expired, require compensation for damage in the amount of 10% of the bid amount, and the bidder shall compensate the contracting authority for such damage.

In the case referred to in paragraph 7 of this Article, the contracting authority may conclude a contract with the second-ranked bidder, provided that the price of his bid is not higher than 10% compared to the originally selected bid, or he may annul the public procurement procedure.

In the case referred to in paragraph 10 of this Article, the contracting authority shall check the accuracy of the statement of the economic operator of the bidder with whom it intends to conclude the contract before concluding the contract.

Price determined in the public procurement contract shall not be higher than the price specified in the decision on the selection of the most advantageous bid.

Provided that the tender documentation foresees a change in the price and variant, the contracting authority may foresee in the contract that the agreed price shall depend on the price of materials, work and other elements that may affect the amount of production costs in a certain period of time and on a certain market.

Contracting authority shall publish the public procurement contract in the EPPS within three days from the date of delivery of the concluded contract.

Contracting authority shall designate the person responsible for the implementation of the public procurement contract, or the framework agreement, within the period referred to in paragraph 14 of this Article.

Where the tender documentation stipulates the application of business customs (usages) in accordance with special regulations, the contracting authority may stipulate in the contract that business customs (usages) shall be applied during the implementation of the contract.

Provisions of the law governing contractual obligations shall apply *mutatis mutandis* to the performance of the public procurement contract and the liability of the contracting parties for fulfilling their obligations under that contract.

Termination of the Public Procurement Contract

Article 150

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 55)

Contracting authority shall terminate the public procurement contract, especially provided that:

1) circumstances arise that result in a significant change to the contract that requires the implementation of a new public procurement procedure;

2) there is a reason that is the basis for mandatory exclusion from Article 108 of this Law or from Article 110 of this Law, which is provided for in the tender documentation.

Change in the nature of a contract in substantive terms in relation to the contract originally concluded shall be considered a significant change to the contract referred to in paragraph 1 item 1 of this Article provided that one or more of the following conditions are met:

1) amendment introduces conditions that, provided that they had been part of the original public procurement procedure, would have enabled the inclusion of other economic operators in relation to the selected bidders or the acceptance of a different bid in relation to the accepted one or would have enabled greater competitiveness in the public procurement procedure that preceded the conclusion of the contract;

2) amendment changes the economic balance of the contract in favour of the economic operator with which the contract was concluded in a manner not provided for in the original contract;

3) amendment significantly increases the scope of the contract;

4) change of the economic operator with which the public procurement contract was concluded, except in the case referred to in Article 151 paragraph 1 item 4 of this Law;

5) when the bidder does not fulfil the contractual obligations and in other cases determined by the tender documentation in accordance with the law.

When terminating the contract, the contracting authority shall publish the notice of termination of the contract on the EPPS within ten days from the date of termination of the contract.

Amendments to Public Procurement Contracts

Article 151

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 56)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 25)

During its term, a public procurement contract may be amended without conducting a new public procurement procedure, provided that the financial resources have been allocated in the public procurement plan, where:

1) when the changes, regardless of their value expressed in money, are provided for in the tender documentation and the public procurement contract and include a change in the price or variant, with the established scope and nature of possible changes or variants, as well as the conditions under which the changes may be made, provided that the contract does not provide for changes that change the

overall nature of the public procurement contract, and that the increase in the value of the contract does not exceed 20% of the value of the original contract,

- 2) for the procurement of additional goods, services or works, which have become necessary, and which were not included in the original public procurement contract, provided that the change of the economic operator with which the contract was concluded is not possible for economic or technical reasons, such as compatibility requirements with the existing equipment, services or works procured as part of the original procurement and may cause significant difficulties or a significant increase in costs for the contracting authority and the increase in the value of the contract does not exceed 20% of the value of the original contract,
- 3) when the need to change the contract arose due to circumstances that the contracting authority could not foresee at the time of concluding the contract, and the change does not change the nature of the contract and the increase in the value of the contract does not exceed 20% of the value of the original contract,
 - 3a) when the need to change the contract arose due to circumstances that the contracting authority could not foresee at the time of concluding the contract, and the change does not change the nature of the contract, but only reduces the contracted value,
 - 3b) when the subcontractor is replaced, in accordance with Article 128 paragraphs 10, 11 and 12 of this Law,
- 4) provided that the economic operator, after restructuring, including takeover, merger, purchase or bankruptcy, is completely or partially replaced by a new legal successor, i.e. an economic operator that fulfils the originally determined conditions of the concluded public procurement contract, and the changes are provided for in the tender documentation, provided that they do not make other significant changes to the contract referred to in Article 150 paragraph 2 of this Law.

Provided that it is necessary to make significant changes in the public procurement contract referred to in Article 150 paragraph 2 of this Law, the contracting authority shall initiate a new contract award procedure.

Provided that several changes are made, the value of the public procurement contract shall be estimated based on the net cumulative value of all changes.

Contracting authority shall publish the amendment of the contract on the EPPS within three days from the date of conclusion of the amendment of the contract.

Provisions of paragraphs 1 to 4 of this Article shall also apply to changes to the framework agreement during its duration.

Control and Report on the Implementation of Public Procurement Contracts

Article 152

Contracting authority shall:

- 1) control the execution of the concluded public procurement contract;
- 2) prepare a report on the implementation of the contract and publish the report in the EPPS, within 30 days from the date of implementation of the public procurement contract.

Content of the report form referred to in paragraph 1 item 2 of this Article shall be prescribed by the Ministry.

VII. PARTICULAR FORMS OF SERVICE PROCUREMENT

1. Procurement of Social and Other Special Services

Procurement Procedure

Article 153

For the procurement of social and other special services, the value of which is equal to or greater than the value referred to in Article 26 paragraph 1 item 2 of this Law, the contracting authority shall publish the tender documentation in the EPPS, unless it conducts a negotiated procedure without prior publication of the call for tenders.

In the public procurement of services referred to in paragraph 1 of this Article, the contracting authority shall act in accordance with the principles of public procurement.

Applications for qualification and bids shall be submitted within a period not shorter than 15 days from the date of publication of the call for tenders.

In the process of procuring services referred to in paragraph 1 of this Article, the contracting authority is not obliged to apply the grounds for exclusion, nor to require that the application for qualification and the bid be submitted by electronic means of communication.

List of services referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

2. Reserved Procurements

Conditions for Applying Reserved Procurement

Article 154

Contracting authority may reserve the right to participate in the public procurement procedure for services referred to in Article 153 paragraph 1 of this Law that are identified by the following Common Procurement Vocabulary codes: 75121000-0, 75122000-7, 75123000-4, 79622000-0, 79624000-4, 79625000-1, 80110000-8, 80300000-7, 80420000-4, 80430000-7, 80511000-9, 80520000-5, 80590000-6, from 85000000-9 to 85323000-9, 92500000-6, 92600000-7, 98133000-4 and 98133110-8, for organisations:

- 1) which perform the tasks of providing public services;
- 2) profits of which are reinvested in order to achieve the objective of the organisation;
- 3) whose management or ownership structures are based on employee ownership or the participation of employees, users or interested persons; and
- 4) to which the contracting authority has not awarded a reserved contract for the services referred to in this paragraph during the previous three years.

Duration of individual reserved procurement for services referred to in paragraph 1 of this Article shall not be longer than three years.

In the contract notice, the contracting authority shall state that the public procurement procedure for the procurement of health, social or cultural services referred to in paragraph 1 of this Article is reserved exclusively for organisations that meet the conditions referred to in paragraph 1 items 1 to 4 of this Article.

3. Project Competition

Conditions for Implementation

Article 155

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 26)

For the purpose of procurement of services in the field of architecture, construction, engineering and IT, the contracting authority may conduct a project competition:

- 1) which precedes the conclusion of the public procurement contract of services;
- 2) with rewards or compensation to participants.

Public competition for a conceptual architectural design referred to in the law governing construction, conducted in accordance with this Law, shall also be considered a project competition referred to in paragraph 1 item 2 of this Article.

In the case referred to in paragraph 1 item 1 of this Article, the estimated value of the public procurement is based on the estimated value of the services, including possible awards, i.e. fees to the participants.

In the case referred to in paragraph 1 item 2 of this Article, the estimated value of the public procurement is based on the total amount of awards, i.e. fees to the participants, including the estimated value of the public procurement of services that may be subsequently awarded in the negotiated procedure referred to in Article 59 paragraph 1 item 8 of this Law, provided that the contracting authority foresaw this possibility in the notification on the launch of the project competition.

Contracting authority shall publish the notification about the launch of the project competition in the EPPS.

Contracting authority shall state in the project tender, when it intends to subsequently award a contract for the public procurement of services, that the negotiated procedure referred to in Article 59 paragraph 1 item 8 of this Law is applied.

Contracting authority who conducted the project competition shall publish a notification about the results of the project competition in the EPPS.

Implementation of the Project Competition and Selection of Participants

Article 156

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 27)

Contracting authority may not limit participation in the project competition:

- referring to the territory or part of the territory of the state,
- in such a way that a special form of organisation is required from the participants of the competition, unless otherwise determined by law.

Project competition may be conducted in an open or restricted procedure.

Provided that the number of participants in the competition is limited, the contracting authority shall determine clear and non-discriminatory criteria for the selection of participants.

Manner and procedure for announcing and conducting a project competition, including the relevant forms, shall be prescribed by the state administration authority responsible for spatial planning and construction, with the consent of the Ministry.

Composition and Work of the Jury

Article 157

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 28)

Project competition shall be conducted by an expert jury appointed by the contracting authority from among experts in the field covered by the project competition.

Jury shall consist of an odd number of members.

Provided that the participants of the project competition are required to have special professional qualifications or professional experience, at least one third of the jury members shall have the same or equivalent qualifications or professional experience.

Notwithstanding paragraph 3 of this Article, for the project competition referred to in Article 155 paragraph 2 of this Law, the composition and qualifications of the jury members shall be prescribed by the secondary legislation referred to in Article 156 paragraph 4 of this Law.

Members of the jury individually and together shall evaluate the received projects in accordance with the project competition.

Jury shall consider the projects while ensuring the anonymity of the participants and exclusively on the basis of the criteria specified in the project competition.

Jury shall draw up minutes on the ranking of projects according to the characteristics of each project, including observations on the elements requiring clarification, and shall thereafter draw up an opinion with a proposed decision.

Minutes referred to in paragraph 7 of this Article shall be signed by the members of the jury.

Jury shall submit the minutes and opinion with the proposed decision referred to in paragraph 7 of this Article to the contracting authority for further processing.

Contracting authority shall adopt a decision on the basis of the opinion of the jury and publish the decision on the results of the project competition in the EPPS within three days from the date of delivery of the opinion of the jury.

VIII. PUBLIC PROCUREMENT FOR THE PERFORMANCE OF SECTORAL ACTIVITIES

1. Procurement for Performing Sectoral Activities

Obligation to Apply in the Field of Sectoral Activity

Article 158

Sectoral contracting authority shall conduct public procurement of goods, services and works for the performance of sectoral activities referred to in Articles 159 to 166 of this Law in accordance with Articles 167 to 173 of this Law.

Sectoral Activity

Article 159

Sectoral activities, in terms of this Law, are activities in the fields of: electricity, gas and thermal energy, water management, transport, airports and seaports, postal services, research and production of oil, coal and other solid fuels.

Activity in the Field of Electricity

Article 160

Sectoral activity in the field of electricity, in the sense of this Law, shall include:

- 1) production, transmission or distribution and/or delivery for the sale of electricity;

2) provision of services for the use of fixed networks or management of fixed networks intended for the provision of public services in connection with the production, transmission or distribution of electricity;

3) delivery of electricity to networks referred to in item 2 of this paragraph.

Delivery of electricity by a sectoral contracting authority who is not a public contracting authority to fixed networks that provide a public service shall not be considered a sectoral activity referred to in paragraph 1 of this Article, provided that:

1) production of electricity by the sectoral contracting authority is carried out for consumption in the performance of an activity other than an activity referred to in paragraph 1 of this Article or Articles 161, 162 and 163 of this Law; and

2) delivery to the fixed network depends only on the own consumption of the sectoral contracting authority and does not amount to more than 30% of its total average electricity production for the last three years, including the current year, unless it has been producing electricity for less than three years when the production achieved is proven based on economic projections for the time since the establishment, i.e. the start of production.

Activity in Gas and Thermal Energy Fields

Article 161

Sector activity in the field of gas and thermal energy, in the sense of this Law, shall include:

1) provision of services for the use of public infrastructure (hereinafter referred to as: fixed networks) or management of fixed networks intended to provide services to the public in connection with the production, transmission or distribution of natural gas or thermal energy;

2) delivery of natural gas or thermal energy to networks from item 1 of this paragraph.

Delivery of gas or thermal energy by a sectoral contracting authority that is not a public contracting authority through fixed networks shall not be considered an activity from paragraph 1 of this Article, provided that:

- production of gas or thermal energy constitutes an activity of the sectoral contracting authority that is not covered by paragraph 1 of this Article or Articles 160 and 162 of this Law; and

- exclusive purpose of delivery to the fixed network is the commercial exploitation of production from sub-paragraph 1 of this paragraph, which does not amount to more than 20% of the average turnover of that sectoral contracting authority, taking into account the average production in the last three years, including the current year.

Activities in Water Management Field

Article 162

Sectoral activity in the field of water management in the sense of this Law shall include:

1) provision of services for the use of fixed networks or management of fixed networks intended for the provision of services related to the production, transmission or distribution of drinking water,

2) delivery of drinking water to the networks referred to in item 1 of this paragraph.

Provisions of this Law shall apply to public procurement procedures or project tenders carried out by a sectoral contracting authority that performs the activity referred to in paragraph 1 of this Article, which is related to:

- 1) hydraulic engineering projects, by irrigation or drainage of land, provided that the amount of water to be used for the delivery of drinking water represents more than 20% of the total amount of water obtained by the implementation of those projects or by means of irrigation or drainage installations,
- 2) disposal or processing of waste water.

Supply of drinking water by a sectoral contracting authority, who is not a public contracting authority, to fixed networks that provide service to the public shall not be considered an activity referred to in paragraph 1 of this Article, provided that:

- 1) production of drinking water by the sectoral contracting authority is carried out for the purpose of consumption required for the performance of activities that are not activities from paragraphs 1 and 2 of this Article or Articles 160, 163 and 164 of this Law,
- 2) delivery to the network depends only on the own consumption of the sectoral contracting authority and does not amount to more than 30% of the total average production of drinking water from the last three years, including the current year.

Activities in Traffic Service Field

Article 163

Sectoral activity in the field of transport in the sense of this Law shall be an activity related to the provision of services for the use of fixed networks or the management of networks that provide services to the public in the field of transportation by railway, automated systems, bus or cable car.

Network referred to in paragraph 1 of this Article shall be considered to be the services that are provided under the conditions established by the carrier in accordance with the law.

Activities in the Field of Airports and Seaports

Article 164

Sector activity in the field of airports and seaports in the sense of this Law shall be an activity related to the provision of airport services and services in seaports or other terminal equipment to carriers in air and sea traffic.

Activity of Postal Services

Article 165

Sector activity in the field of postal services in the sense of this Law shall include the provision of:

- 1) postal services,
- 2) other services, except postal services referred to in paragraph 2 item b of this Article provided that the sectoral activity is not directly exposed to market competition from Article 170 of this Law.

In terms of paragraph 1 of this Article:

a) postal item is an item addressed in the final form in which it is to be delivered, including letters, books, catalogues, newspapers, magazines and postal packages containing goods with or without commercial value, regardless of their weight,

b) postal services are services that include the reception, sorting, transfer and delivery of postal items, which include services covered and not covered by the universal service, in accordance with the regulation governing postal services,

c) other services, except postal services, are:

- postal service management services (both pre- and post-shipment services, including postal receiving service management services),
- services related to postal items that are not included in item a of this paragraph.

The Activity of Exploration and Production of Oil, Gas, Coal or Other Solid Fuels

Article 166

Activities of exploration and production of oil, gas, coal or other solid fuels shall include the exploitation of a certain geographical area for the purpose of:

- 1) oil or gas production,
- 2) exploration or exploitation of coal or other solid fuels.

2. Affiliated Companies and Joint Ventures

Procurement from an Affiliated Company or on the Basis of a Joint Venture

Article 167

Procurement from an affiliated company or on the basis of a joint venture of several sectoral contracting authorities shall mean procurement carried out by a sectoral contracting authority, for the purpose of performing a sectoral activity, from a company affiliated with one of those sectoral contracting authorities, namely procurement of:

- 1) goods, provided that at least 80% of the average total turnover of the affiliated company over the previous three years was generated by supplying goods to the sectoral contracting authority or other companies with which it is affiliated;
- 2) services, provided that at least 80% of the average total turnover of the affiliated company over the previous three years was generated by providing services to the sectoral contracting authority or other companies with which it is affiliated;
- 3) works, provided that at least 80% of the average total turnover of the affiliated company over the previous three years was generated by executing works for the sectoral contracting authority or other companies with which it is affiliated.

Provided that the affiliated company was founded or started to perform activities, i.e. to generate income in a period shorter than the period referred to in paragraph 1 of this Article, the realised turnover is proven on the basis of economic projections for the time since the establishment, i.e. the start of activities.

Provided that two or more companies, related to the sectoral contracting authority with which they form an economic community, provide the same or similar services, goods or works, the average total turnover referred to in paragraph 1 of this Article shall be calculated based on the sum of their total turnover from the provision of services, delivery of goods or execution of works.

Affiliated Company

Article 168

Affiliated company referred to in Article 167 of this Law shall be a company whose annual financial statements are consolidated into the annual financial statements of the sectoral contracting authority in accordance with the law governing accounting.

Provided that the obligation to consolidate annual financial statements with the annual financial statements of the sectoral contracting authority does not apply to the affiliated company referred to in paragraph 1 of this Article, an affiliated company shall be any company that:

- may be directly or indirectly under the dominant influence of the sectoral contracting authority, or
- may have a dominant influence on the sectoral contracting authority, or
- together with the sectoral contracting authority is under the dominant influence of another company on the basis of ownership, financial share or on the basis of the articles of incorporation of those companies.

Joint Venture

Article 169

Joint venture, in the sense of this Law, shall be an association of sectoral contracting authorities that was established with the aim of performing sectoral activities for a period of at least three years and whose act of establishment stipulates that each sectoral contracting authority that forms a joint venture shall be part of it at least for a period of three years.

3. Procurement for Carrying Out Sectoral Activities is Directly Subject to Market Competition

Sector Activity Directly Subject to Market Competition

Article 170

Sectoral activity shall be directly subject to market competition, provided that on the geographically relevant market several economic operators perform or have the possibility to perform that activity under equal conditions and access to the market is not limited.

Sectoral activity subject to market competition shall be determined in accordance with the law governing the protection of competition on the relevant market, taking into account the nature and characteristics of products or services, the existence of barriers to entry or consumer preferences, significant differences in the market shares of economic operators between that area and neighbouring areas, or significant price differences.

This Law does not apply to the awarding of contracts and the implementation of project tenders intended for the performance of sectoral activities provided that the competent state administration body that supervises the sectoral contracting authority or the sectoral contracting authority proves that the sectoral activity carried out in Montenegro is directly exposed to competition on the market in which access is not restricted.

Competent authority of the state administration that supervises the sectoral contracting authority or the sectoral contracting authority in the proof procedure referred to in paragraph 3 of this Article shall obtain the opinion of the independent regulatory authority responsible for the sectoral activity that supervises that sectoral activity and the authority responsible for competition affairs.

Sectoral activity referred to in paragraph 3 of this Article may be part of a larger sector or may be performed only in a certain area of Montenegro.

Assessment of market competition referred to in paragraph 3 of this Article shall be determined in accordance with this Law and the law regulating the protection of competition on the market.

Assessment of market competition shall be carried out in relation to the relevant product market of the activity in question and the relevant geographic market in accordance with paragraphs 7 to 10 of this Article.

Direct exposure of the activity to market competition shall be decided on the basis of criteria that are harmonised with the competition rules of the European Union.

Criteria referred to in paragraph 8 of this Article may include the characteristics of the products or services in question, the existence of alternative products or services that are considered substitutable on the supply or demand side, prices, as well as real or potential competition from more than one product supplier or service provider.

Relevant geographic market, on the basis of which the exposure to competition was assessed, represents the territory in which certain economic operators participate in the supply and demand of products or services, in which the conditions of market competition are sufficiently homogeneous and which may differ from other neighbouring territories, especially in that conditions of market competition in that territory are significantly different.

When assessing market competition, particular account shall be taken of the nature and characteristics of the products or services concerned, the existence of barriers to entry or consumer preferences, significant differences in the market shares of undertakings between the territory concerned and another neighbouring territory, or significant price differences.

Access to the market shall not be limited in the sense of paragraph 1 of this Article provided that the regulations regulating the sector activity are harmonised with the regulations of the European Union.

Provided that free access to a particular market cannot be established in accordance with paragraph 12 of this Article, the sectoral contracting authority shall provide evidence that access to that market is free in fact and in law.

Procedure for Determining the Direct Exposure of Sectoral Activities to Market Competition

Article 171

Provided that the competent state administration authority supervising the sectoral contracting authority or the sectoral contracting authority determines, on the basis of the criteria referred to in Article 170 paragraphs 7 to 10 of this Law, that a particular activity is directly exposed to competition in markets to which access is not restricted, it may submit a request to the European Commission for an assessment as to whether the sectoral activity performed in Montenegro is directly exposed to competition in a market to which access is not restricted.

In accordance with the law, the request referred to in paragraph 1 of this Article shall be accompanied by the opinion of the independent regulatory body responsible for the sectoral activity that supervises that sectoral activity.

Requirements referred to in paragraph 1 of this Article may refer to activities that are part of a larger sector or that are performed only in a certain area of Montenegro.

In the request referred to in paragraph 1 of this Article, the competent state administration body that supervises the sectoral contracting authority or the sectoral contracting authority shall inform the European Commission of all important facts, and

in particular of all laws, regulations, administrative acts or agreements related to compliance with the conditions referred to in Article 170 paragraphs 3 to 6 of this Law.

At the request of the European Commission, the competent body of the state administration that supervises the sectoral contracting authority and the sectoral contracting authority shall supplement the request referred to in paragraph 1 of this Article, provided that this request is not accompanied by the opinion of the regulatory authority that, in accordance with the law, supervises that sectoral activity, in accordance with Article 170 paragraphs 7 to 10 of this Law, which analyses in detail the conditions for the exclusion of sectoral activity from the application of this Law.

4. Selection of the Procedure, Techniques in the Public Procurement Procedure and the Application of the Qualification System

Selecting the Type of Procedure

Article 172

For public procurement for performing sectoral activities, the sectoral contracting authority may use:

1) open procedure, restricted procedure, negotiated procedure with prior publication of invitations to tender and competitive dialogue, for the procurement of each subject of procurement;

2) partnership for innovation, provided that it has a need for innovative goods, services or works not satisfied by the procurement of goods, services or works that are already available on the market;

3) negotiated procedure without prior publication of the call for tenders in accordance with Article 59 of this Law.

In the case referred to in paragraph 1 of this Article, the sectoral contracting authority may, as a means of initiating the public procurement procedure, use:

1) notification on the establishment of a qualification system, provided that it implements a restricted procedure, a negotiated procedure with prior publication of a call for tenders, a competitive dialogue or an innovation partnership;

2) tender documentation in all public procurement procedures.

Sectoral contracting authority may use the procedures referred to in paragraph 1 of this Article to conclude a framework agreement, a dynamic procurement system, an electronic auction and an electronic catalogue, in accordance with this Law.

Qualification system

Article 173

Sectoral contracting authority may establish and manage the qualification system of economic operators, with the obligation to publish a notification about this in the EPPS.

Sectoral contracting authority that establishes or manages the qualification system shall ensure that economic operators may request qualification at any time.

Qualification system may include different stages of qualification.

Qualification system shall be implemented on the basis of the mandatory and capacity requirements for economic operators established by the contracting authority for the qualification of economic operators, including the requirements for enrolment in the system and periodic updating of qualifications, provided that they exist.

Sectoral contracting authority shall make the conditions referred to in paragraph 4 of this Article available to economic operators and inform all economic operators about changes in the conditions.

Provided that the conditions referred to in paragraph 5 of this Article include technical specifications, Articles 87 to 92 of this Law shall apply.

Sectoral contracting authority shall keep written records of qualified economic operators.

Records may be divided into categories according to the type of subject of procurement to which the qualification applies.

Provided that a notice establishing a qualification system is used as a means of calling for tenders, contracts for goods, services or works covered by a qualification system shall be concluded by means of a restricted or negotiated procedure, in which bidders are selected from among candidates already qualified in accordance with that system.

Sectoral contracting authority that establishes and manages the qualification system shall inform the applicants for the qualification about the decision rejecting the applications for the qualification within six months from the date of submission of the application for the qualification.

Provided that it takes more than four months from the submission of the application for qualification to make a decision, the contracting authority shall inform the applicant within two months, from the submission of the application, of the reasons for extending the deadline for decision-making, as well as the date by which it shall decide on his application.

Sectoral contracting authority shall deliver the decision on the rejection of the application for qualifications with the explanation of the reasons for the rejection to the applicant, without delay, and no later than within 15 days from the date of adoption.

Sectoral contracting authority that establishes and manages the qualification system may exclude an economic operator from the qualification only for reasons based on the conditions for qualification referred to in paragraph 4 of this Article.

Contracting authority shall inform the economic operator about the intention to end the qualification no later than 15 days before the day set for deciding on the qualification, stating the reason for the end.

Costs charged in relation to submitting a qualification application or updating a qualification application in accordance with the system are determined in proportion to the actual costs.

Notification form referred to in paragraph 1 of this Article is prescribed by the Ministry.

PROCUREMENT IN THE FIELD OF DEFENCE AND SECURITY

Application Obligation in the Field of Defence and Security

Article 174

Public procurement in the field of defence and security shall be carried out in accordance with the provisions of this Law, except in the cases referred to in Articles 175, 176 and 177 of this Law.

Subject of Procurement

Article 175

Subject of public procurement in the field of defence and security, in terms of this Law, shall be:

- 1) military equipment, with all parts, components or subassemblies;
- 2) security-sensitive equipment, with all parts, components or subassemblies;
- 3) goods, services and works that are directly related to the equipment referred to in items 1 and 2 of this paragraph, during the whole or part of the life cycle;
- 4) services and works for military purposes only;

5) security-sensitive services.

List of military equipment and products referred to in paragraph 1 of this Article shall be prescribed by the Government.

Special Public Procurement in the Field of Defence and Security **Article 176**

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 57)

Special public procurements in the field of defence and security shall be the procurements:

1) which are governed by special procurement regulations, in accordance with an international agreement or contract concluded between Montenegro and one or more countries;

2) which are regulated by special procurement regulations, in accordance with an international agreement or contract related to the stationing of troops and refer to companies registered in Montenegro, a member state of the European Union or another state, which participate in the public procurement procedure;

3) which Montenegro shall allocate in accordance with the special rules of the international organisation;

4) in which the application of the provisions of this Law would oblige Montenegro to provide information, the disclosure of which is contrary to the vital interests of its security;

5) for the purposes of intelligence activities;

6) within cooperation programmes based on research and development of a new product jointly implemented by Montenegro and at least one member state of the European Union and, when necessary, for later stages of the entire or part of the life cycle of that product;

7) assigned in a third country, including those for civilian purposes, where forces are deployed outside the territory of the European Union, provided that operational needs require that contracts be concluded with economic operators located in the area of operations;

8) which are carried out by the state authorities of Montenegro with the state authorities of the member states of the European Union or third countries, and refer to:

a) procurement of military equipment or security-sensitive equipment;

b) works and services directly related to the equipment from sub-item a of this item;

or

c) works and services for expressly military purposes or security-sensitive works and security-sensitive services;

9) provided that the protection of the essential security interests of Montenegro cannot be ensured by determining the requirements in order to protect the secrecy of the data that the contracting authority makes available to bidders in the manner prescribed by this Law;

10) which have been declared secret or which shall be accompanied by special security measures in accordance with the law or an act of the competent authority or refer to the safety of the protected persons of Montenegro, provided that Montenegro has determined that essential security measures and interests cannot be protected by measures referred to in item 9 of this Article;

11) goods and services referred to in Article 175 of this Law whose estimated value is equal to or less than EUR 25,000.00, or works whose estimated value is equal to or less than EUR 40,000.00.

Implementation and Reporting Article 177

Implementation, reporting and record keeping of procurements referred to in Articles 175 and 176 of this Law shall be carried out in the manner and according to the procedure determined by the regulation adopted by the Government.

Verification of Fulfilment of the Conditions for Participation in Procurement for the North Atlantic Alliance Article 178

Procedure for verifying the fulfilment of the conditions for the participation of economic operators registered in Montenegro and issuing a certificate for participation in procurement for the needs of the North Atlantic Alliance shall be prescribed by the state administration body responsible for economic affairs.

PUBLIC PROCUREMENT RECORDS, REPORTING AND STORING OF DOCUMENTATION

Records of public procurement procedures Article 179

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 58)

Contracting authority shall keep records of the implemented public procurement procedure and simple procurement by entering it directly into the EPPS.

Records referred to in paragraph 1 of this Article, for each purchase, shall contain:

- 1) name and address of the contracting authority;
- 2) type of public procurement procedure;
- 3) date of publication of the tender documentation;
- 4) type of subject of procurement;
- 5) description of the subject of procurement;
- 6) estimated value of the procurement;
- 7) number of bids submitted;
- 8) name of the selected bidder;
- 9) date of conclusion of the public procurement contract;
- 10) contracted value.

Record Keeping Article 180

- deleted –

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 59)

Storage of Documentation

Article 181

Contracting authority shall keep the complete documentation created in public procurement procedures carried out in accordance with this Law.

Contracting authority shall keep the documentation referred to in paragraph 1 of this Article for at least four years from the date of execution of the public procurement contract or framework agreement.

Documentation referred to in paragraph 1 of this Article, which is recorded in the EPPS, is kept for at least five years from the conclusion of the public procurement contract or framework agreement in a way that allows preserving the integrity of the data.

Statistical Reporting on Public Procurement Article 182

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 60)

Contracting authority shall submit to the Ministry a report on the implemented public procurement procedures and concluded public procurement contracts, as well as a report on implemented procurements and concluded contracts/invoices for simple procurements, namely:

- 1) semi-annual report for the period from 1 January to 30 June of the current year, by 31 July of the current year;
- 2) annual report for the previous year, by 28 February of the current year.

Reports referred to in paragraph 1 of this Article shall be submitted through the EPPS.

Ministry shall publish instructions to contracting authorities on the content and method of submission of the statistical report on public procurement on its website.

Ministry shall prepare an annual statistical report on public procurement for the previous year, submit it to the Government no later than 31 May of the current year and, after its adoption, publish it on its website.

Ministry shall submit, upon request, a statistical report on public procurement to the European Commission.

Statistical report shall also contain other statistical data that are required in accordance with confirmed international agreements.

Ministry shall prepare and submit to the Government a semi-annual report on implemented public procurement procedures and concluded public procurement contracts, as well as a report on implemented procurements and concluded contracts/invoices for simple procurements.

Form of the report referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

XI. PROTECTION OF RIGHTS IN PUBLIC PROCUREMENT PROCEDURE

1. Rights Protection Procedure and Decision-making Authority

Provision of Protection

Article 183

Protection of the rights of participants in public procurement procedures, in accordance with this Law and the regulation governing public procurement in the field

of defence and security, shall be carried out before the Commission for the Protection of Rights in Public Procurement Procedures (hereinafter referred to as: Commission for the Protection of Rights).

Application of Regulations

Article 184

- deleted –

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 64)

Initiation of Rights Protection Procedure

Article 185

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 62)

Procedure for the protection of rights shall be initiated by an appeal submitted to the Commission for the Protection of Rights, through the contracting authority.

Appeal referred to in paragraph 1 of this Article shall be submitted through the EPPS.

Appeals may be filed against:

- 1) tender documentation;
- 2) amendments and/or supplements to the tender documentation;
- 3) decisions on exclusion from the public procurement procedure;
- 4) decisions on choosing the most advantageous bid,
- 5) decisions on annulment of the public procurement procedure.

With the appeal referred to in paragraph 3 items 1 and 2 of this Article, the legality of the tender documentation or amendments and/or supplements to the tender documentation, may be disputed.

Appeal against amendments and/or supplements to the tender documentation may not challenge the part of the tender documentation that has not been amended.

Appeal may not challenge the amendment to the tender documentation made by the contracting authority in the second phase of the competitive negotiated procedure, competitive dialogue and innovation partnership.

Appeal referred to in paragraph 3, item 3 of this Article may challenge:

- 1) procedure for receiving an application for a qualification;
- 2) procedure for opening an application for qualification;
- 3) procedure of assessment and evaluation of application for qualification;
- 4) legality of the decision to exclude the applicant from the qualification procedure.

Appeal referred to in paragraph 3 items 4 and 5 of this Article may dispute:

- 1) procedure for submitting invitations to submit bids, or invitations to dialogue;
- 2) procedure for receiving bids;
- 3) tender opening procedure;
- 4) content and method of submission of minutes on the opening of bids;
- 5) procedure for review and evaluation of bids;
- 6) negotiation and dialogue procedure;

- 7) bid evaluation procedure;
- 8) reasons for the exclusion of candidates, i.e. bidders from the procedure;
- 9) legality of the decision on the selection of the most advantageous bid;
- 10) legality of the decision on annulment of the public procurement procedure

Right to Appeal and Deadline for Appeal

Article 186

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 63)

Appeal referred to in Article 185 paragraph 3 items 1 and 2 of this Law may be filed by an economic operator:

1) within 20 days from the date of publication, i.e. delivery of tender documentation or amendment of tender documentation, provided that the deadline for submitting applications for qualification, i.e. bid is at least 30 days from the date of publication, i.e. delivery of tender documentation or amendment of tender documentation;

2) within ten days from the date of publication, i.e. delivery of tender documentation or amendments to tender documentation, provided that the deadline for submitting applications for qualification, i.e. bids is at least 15 days from the date of publication, i.e. delivery of tender documentation or amendments to tender documentation;

3) until half of the deadline for submitting applications for qualification, i.e. bids, provided that the deadline for submitting applications for qualification, i.e. bids is shorter than 15 days from the date of publication, i.e. delivery of tender documents or amendments to tender documents, and in the event that the last day of the deadline for submission of bids shorter than 24 hours, the deadline is considered to expire at the end of that day.

Appeal referred to in Article 185 paragraph 3 item 3 of this Law may be filed by the applicant for qualification within ten days from the date of delivery of the decision on exclusion from the public procurement procedure.

Appeal referred to in Article 185 paragraph 3 items 4 and 5 of this Law may be filed by a candidate or bidder within ten days from the date of publication of the decision on the selection of the most advantageous bid or the decision on the annulment of the public procurement procedure.

Provided that an economic operator fails to file an appeal referred to in Article 185 paragraph 3 items 1 and 2 of this Law no later than ten days prior to the date set for opening applications for qualification or bids, it shall not be entitled, as an applicant for qualification, candidate or bidder, to raise grounds concerning the unlawfulness of the tender documentation or amendments thereto in an appeal against a decision of the contracting authority referred to in Article 185 paragraph 3 items 3, 4 and 5 of this Law.

After the expiration of the period referred to in paragraphs 2 and 3 of this Article, the appeal shall not be amended or supplemented.

Effect of Appeal

Article 187

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 64)

Appeal shall interrupt further actions of the contracting authority in the public procurement procedure until the decision on the appeal is made, except in the case referred to in Article 59 paragraph 1 item 3 of this Law.

Content of the Appeal

Article 188

Appeal, depending on the stage of the public procurement procedure, shall contain:

- 1) information about the appellant (name and seat, or name and address);
- 2) name and registered office of the contracting authority;
- 3) number and date of publication, i.e. submission of tender documentation or amendments to tender documentation;
- 4) number and date of the decision on exclusion, the decision on the selection of the most advantageous bid or the decision on the annulment of the public procurement procedure;
- 5) reasons for appeal with explanation;
- 6) evidence;
- 7) appeal request;
- 8) signature of the authorised person.

Appellant that does not have a registered office in the territory of Montenegro shall appoint a proxy for the service of documents in the territory of Montenegro and provide all information necessary for communication with the authorised person, or designate another method of service of documents that will not delay the service procedure.

Appellant shall attach to the appeal proof of payment of the fee for initiating the appeal proceedings, in the amount of 1% of the estimated value of the public procurement, or submit such proof no later than the expiry of the time limit for filing the appeal.

Amount of compensation referred to in paragraph 3 of this Article shall not exceed EUR 20,000.00.

Provided that the appeal is decided in favour of the appellant, the Commission for the Protection of Rights shall return to the appellant the amount of the fee paid pursuant to paragraph 3 of this Article within 15 days from the date on which the decision on the appeal becomes final.

Provided that the appellant has submitted proof of the payment of compensation referred to in paragraph 3 of this Article in a smaller amount than prescribed, the Commission for the Protection of Rights shall return the amount of funds paid to the appellant.

Funds from compensation that were not returned to the appellant in accordance with paragraph 5 of this Article shall be the income of the budget of Montenegro.

Action of Contracting Authority Upon Appeal

Article 189

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 65)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 29)

Contracting authority shall publish in the EPPS a notice that the appeal has been filed and that further actions in the public procurement procedure have been suspended until the decision on the appeal is made, within three days from the date of the appeal.

Contracting authority may, within eight days from the date of filing the appeal, reject the appeal by a decision as:

- 1) inadmissible, provided that it concerns a decision or action of the contracting authority against which an appeal is not permitted or provided that it was not filed in accordance with Article 185 paragraph 2 of this Law;
- 2) untimely, provided that it was filed after the expiry of the prescribed time limit;
- 3) filed by an unauthorised person, provided that it was filed by a person not authorised to file an appeal in accordance with Article 186 of this Law, or by a bidder who failed to submit a bid guarantee with the bid, submitted a bid guarantee for an amount lower than required or an invalid bid guarantee, or failed to submit the bid guarantee in the manner provided for in the tender documentation in accordance with Article 122 paragraphs 2, 3 or 4 of this Law;
- 4) incomplete, provided that proof of payment of the fee for conducting the appeal procedure in accordance with Article 188 paragraph 3 of this Law was not submitted with the appeal or within the time limit for filing the appeal, or provided that the submitted proof of payment shows an amount lower than prescribed.

Contracting authority may, within 25 days from the date of filing the appeal, accept the appeal in its entirety and, depending on the stage of the public procurement procedure to which the appeal relates, annul the contested decision or replace it with another decision, amend and/or supplement the tender documentation in accordance with the request contained in the appeal, or annul the public procurement procedure in part or in its entirety.

Provided that several appeals are submitted, which are accepted as a whole, the contracting authority may use the right referred to in paragraph 3 of this Article.

Contracting authority that acted in accordance with paragraph 4 of this Article shall:

- 1) amend and/or supplement the tender documentation in accordance with the requirements contained in the appeal, state the reasons why the appeal allegations are well-founded, and adopt and publish a decision determining the costs of drafting the appeal provided that the appeal was drafted by an attorney;
- 2) adopt a new decision in accordance with all allegations and requests contained in the appeal, assess each appeal allegation in that decision, state the reasons for accepting the appeal, and decide on the costs of drafting the appeal provided that the appeal was drafted by an attorney.

Contracting authority shall publish the act referred to in paragraphs 2 and 5 of this Article in the EPPS within three days from the date of its adoption, unless the appeal was filed against the decision on exclusion from the procedure, in which case it shall deliver the decision to the applicant for qualification to whom it relates.

Acts referred to in paragraphs 2 and 5 of this Article shall be deemed to have been duly delivered to the appellant on the date of their publication in the EPPS.

Within three days from the date of publication or delivery of the act referred to in paragraphs 2 and 5 of this Article, the contracting authority shall inform the Commission

for the Protection of Rights that an appeal has been filed and that it has acted on that appeal.

Against the act referred to in paragraphs 2 and 5 of this Article, an appeal may be filed, in accordance with this Law.

Contracting authority shall not accept an appeal that is inadmissible or untimely, that is not accompanied by proof of payment of the fee for conducting the appeal procedure in accordance with Article 188 paragraph 3 of this Law, or that was filed by an unauthorised person.

Provided that the contracting authority does not exercise the right referred to in paragraphs 2 and 3 of this Article, it shall, within eight days from the date of filing the appeal, submit to the Commission for the Protection of Rights through the EPPS the appeal and all attachments submitted by the appellant with the appeal, as well as the documentation of the public procurement procedure in which the appeal was filed, except samples of the offered subject of procurement, which it shall deliver directly or by registered mail.

Along with the appeal, the contracting authority may also submit a response to the appeal and evidence disputing the allegations of the appellant.

Withdrawal of Appeal

Article 190

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 66)

Appellant may withdraw the appeal until the day of publication of the decision on the appeal, or until the day of delivery of the decision provided that the appeal was filed against the decision on exclusion from the public procurement procedure.

Submission concerning the withdrawal of the appeal shall be submitted in the manner prescribed by Article 185 paragraph 2 of this Law.

Provided that the appeal is filed by a bidder who submitted a joint bid, or application for qualification, the withdrawal of the appeal produces a legal effect provided that all members of the joint bid, or application, withdraw the appeal or provided that the member of the joint bid, or application who is authorised to submit the appeal, withdraws the appeal.

Appellant who withdrew the appeal shall not be entitled to a refund of the funds paid for the appeal handling fee, unless the submission concerning the withdrawal of the appeal was filed on the same day as the appeal.

Proceedings in Case of Non-submission of Documents

Article 191

Provided that the contracting authority does not submit complete documentation of the public procurement procedure with the appeal, within the time limit and in the manner prescribed by Article 189 of this Law, the Commission for the Protection of Rights shall warn the contracting authority and give them a deadline of five days to submit the documentation, with a warning that otherwise it shall accept the appeal and annul the procedure or part of the procedure to which the appeal refers.

Decision-making by the Commission for the Protection of Rights

Article 192

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 67)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 30)

In appeal proceedings, the Commission for the Protection of Rights shall issue a decision on:

- 1) suspension of the appeal procedure provided that the appellant withdraws the appeal;
- 2) rejection of the appeal as inadmissible provided that it concerns a decision or action of the contracting authority against which an appeal is not permitted or provided that it was not filed in accordance with Article 185 paragraph 2 of this Law;
- 3) rejection of the appeal as untimely provided that it was filed after the expiry of the prescribed time limit;
- 4) rejection of the appeal as filed by an unauthorised person provided that it was filed by a person not authorised to file an appeal in accordance with Article 186 of this Law, or by a bidder who failed to submit a bid guarantee with the bid, submitted a bid guarantee for an amount lower than required or an invalid bid guarantee, or failed to submit the bid guarantee in the manner provided for in the tender documentation in accordance with Article 122 paragraphs 2, 3 or 4 of this Law;
- 5) rejection of the appeal as incomplete provided that proof of payment of the fee for conducting the appeal procedure in accordance with Article 188 paragraph 3 of this Law was not submitted with the appeal or within the time limit for filing the appeal, or provided that the submitted proof of payment shows an amount lower than prescribed;
- 6) rejection of the appeal as irregular provided that the appellant fails to remedy, within the prescribed time limit, the defect preventing action on the appeal;
- 7) rejection of the appeal as unfounded provided that the appeal allegations are found to be unfounded in their entirety;
- 8) acceptance of the appeal in whole or in part and annulment of the decision, procedure or action of the contracting authority in the part in which unlawfulness was established.

Notwithstanding paragraph 1 item 7 of this Article, an appeal against the decision on the selection of the most advantageous bid shall be rejected as unfounded, without considering other allegations that cannot affect a different outcome of the procedure, provided that the appellant:

- 1) does not contest their exclusion from the public procurement procedure or the invalidity of their bid and does not prove that the first-ranked bidder should be excluded from the public procurement procedure or that all other bids are invalid;
- 2) does not prove that there are no grounds for their exclusion from the public procurement procedure and that their bid is the most advantageous.

- 3) does not contest the first-ranked bidder and/or other higher-ranked bidders according to the decision of the contracting authority and does not prove that its bid is the most advantageous.

Contracting authority shall act on the decision referred to in paragraph 1 item 8 of this Article within 15 days from the date of publication or delivery of the decision and shall inform the Commission for the Protection of Rights thereof within the prescribed time limit.

Provided that the contracting authority does not act in accordance with paragraph 3 of this Article, the Commission for the Protection of Rights shall inform the Ministry and the public procurement inspector.

In the decision adopted in the procedure for enforcement of the decision referred to in paragraph 3 of this Article, the contracting authority shall not state grounds for the invalidity of the bid of the appellant and/or for exclusion of the appellant from the procedure that were not stated in the annulled decision, but shall apply the orders and instructions for eliminating the identified irregularities in relation to each bid and each bidder in the public procurement procedure concerned.

Appellant in whose appeal proceedings the decision referred to in paragraph 3 of this Article was issued shall not be entitled, in an appeal against the decision issued in enforcement of that decision, to contest that decision in the part that is not factually different from the original decision.

Provided that the Commission for the Protection of Rights rejects an appeal against the tender documentation or suspends the procedure due to the withdrawal of the appeal by the appellant, the contracting authority shall publish a notice in the EPPS about setting a new deadline for submitting bids, not shorter than eight days.

Notification referred to in paragraph 7 of this Article does not constitute an amendment to the tender documentation.

Provided that the Commission for the Protection of Rights annuls the public procurement procedure, the contracting authority shall publish the notice of annulment of the procedure in the EPPS within five days from the date of delivery of the decision.

Deadlines for Reaching a Decision

Article 193

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 32)

Commission for the Protection of Rights shall issue:

- 1) decision referred to in Article 192 paragraph 1 item 1, within eight days from the date of receipt of the submission concerning the withdrawal of the appeal by the appellant;
- 2) decision referred to in Article 192 paragraph 1 items 2 to 6, within eight days from the date of delivery of the appeal and complete case files;
- 3) decision referred to in Article 192 paragraph 1 items 7 and 8, within 25 days from the date of delivery of the appeal and complete case files.

Time limit referred to in paragraph 1 item 3 of this Article may be extended by a maximum of ten days provided that it is necessary to engage an expert, obtain opinions from the competent authorities, or due to the volume of documentation in the public procurement procedure, of which the appellant and the contracting authority shall be informed.

Commission for the Protection of Rights shall publish the decision referred to in paragraph 1 of this Article in the EPPS and on its website within three days from the date of its adoption, unless the decision was issued on an appeal against the decision on exclusion of the applicant from the public procurement procedure, in which case it shall deliver the decision to the appellant and the contracting authority within three days from the date of its adoption.

On the day the decision is published in the EPPS, it shall be considered that the decision has been duly delivered to the parties in the proceedings.

Until the day of the establishment of the EPPS, it shall be considered that the decision has been duly delivered to the parties in the proceedings when it has been published on the Public Procurement Portal and the website of the Commission for the Protection of Rights.

Rules of Proof

Article 194

Appellant shall prove in the appeal the existence of the facts on which the appellant bases the appeal allegations.

Commission for the Protection of Rights may hire an expert to clarify a specific professional issue or request the opinion of a competent state administration body or an organisation that exercises public powers.

Significant Violations of the Rules of Procedure

Article 195

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 68)

Significant violation of the rules of the public procurement procedure shall exist provided that:

1) contracting authority carries out the public procurement procedure referred to in Article 59 of this Law that is not in accordance with the opinion of the Ministry, except in the case referred to in Article 59 paragraph 1 item 3 of this Law;

2) tender documentation does not contain mandatory conditions for participation in the public procurement procedure and/or mandatory grounds for exclusion from the public procurement procedure;

3) contracting authority continues the procedure before making a decision on the appeal, which is not in accordance with Article 187 paragraph 1 of this Law;

4) decision on the selection of the most advantageous bid did not decide on the submitted bids;

5) contracting authority does not act in accordance with Article 95 paragraphs 2 and 3 of this Law, provided that it has a significant impact on fulfilling the conditions for participation in the public procurement procedure, making a bid in accordance with the technical specification of the subject of procurement and/or executing the public procurement contract;

6) in the implementation of the public procurement procedure, the representative of the contracting authority from Article 41 paragraph 2 of this Law participated, who did not sign a statement on the absence of a conflict of interest or who had to be excluded from the public procurement procedure due to a conflict of interest;

7) contracting authority does not act in accordance with Article 145 paragraph 1 of this Law.

Provided that a significant violation of the rules of procedure referred to in paragraph 1 of this Article may subsequently be remedied, the Commission for the Protection of Rights shall examine the appeal allegations, decide on significant violations of law not stated by the appellant in the appeal, and annul the action, decision or part of the procedure to which the significant violation relates.

Where a significant violation of the rules of procedure referred to in paragraph 1 of this Article cannot subsequently be remedied and the appellant did not raise that violation in the appeal, the Commission for the Protection of Rights shall, when deciding on the appeal and without examining the appeal allegations, annul the public procurement procedure in its entirety or the procedure for the particular lot to which the appeal relates.

Acting Ex Officio

Article 196

Commission for the Protection of Rights, ex officio, shall take into consideration significant violations from Article 195 of this Law, irrespective of the part of the public procurement procedure an appeal has been filed against.

Judicial Protection

Article 197

Administrative dispute may be initiated against the decision of the Commission for the Protection of Rights.

Lawsuit filed against the decision of the Commission for the Protection of Rights shall have no suspensive character for the public procurement contract conclusion.

Commission for the Protection of Rights shall publish the notification on the initiated administrative dispute from paragraph 1 of this Article and the decision on the lawsuit on its website and on the EPPS.

Any person who has suffered damages due to violations of this Law has the right to file a lawsuit for damages before the competent court in accordance with the law.

2. Organisation and Status of the Commission for the Protection of Rights

Status of the Commission for the Protection of Rights

Article 198

Commission for the Protection of Rights shall be the authority responsible for the protection of rights in public procurement procedures and procedures for awarding public-private partnership contracts.

Seat of the Commission for the Protection of Rights shall be in Podgorica.

Commission for the Protection of Rights shall be autonomous and independent in performing the functions established by this Law.

Funds for the work of the Commission for the Protection of Rights shall be provided by the budget of Montenegro.

Composition of the Commission for the Protection of Rights

Article 199

Commission for the Protection of Rights shall have a president and six members, who perform their duties professionally.

President of the Commission for the Protection of Rights shall represent the Commission for the Protection of Rights, manage its work and perform other tasks in accordance with the law and the Rules of Procedure.

Commission for the Protection of Rights may have a deputy president, in accordance with the Rules of Procedure.

Appointment and Term of Office

Article 200

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 69)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 32)

President and members of the Commission for the Protection of Rights shall be appointed by the Parliament of Montenegro (hereinafter referred to as: the Parliament), on the proposal of the Government, following a public call.

President and members of the Commission for the Protection of Rights shall be appointed for a period of five years and may be reappointed.

Government or the Ministry shall initiate the procedure for determining the proposal for the appointment of the president or a member of the Commission for the Protection of Rights no later than six months prior to the expiry of their term of office, and the appointment shall be made no later than 15 days prior to the expiry of that term.

Terms of Appointment

Article 201

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 70)

Person with a completed VII1 level of the national qualifications framework, a law school and at least five years of work experience, of which at least three years of work experience in the field of public procurement, may be appointed as the president of the Commission for the Protection of Rights.

Two members of the Commission for the Protection of Rights shall have a bar exam and three years of work experience or a bar exam and at least three years of work experience in the field of public procurement.

Two members of the Commission for the Protection of Rights shall be persons with a completed VII1 level of the national qualifications framework, a law school, a passed exam for work in state bodies and two years of work experience in the field of public procurement.

Two members of the Commission for the Protection of Rights may be persons with a completed VII1 level of the national qualifications framework, two years of work

experience, of which at least one year of work experience in the field of public procurement and a passed exam for work in state bodies.

Prevention of Conflicts of Interest and Exemption

Article 202

President and member of the Commission for the Protection of Rights may not hold any other public function, nor a function in a political party.

President and member of the Commission for the Protection of Rights shall make no decisions in the procedure for the protection of rights provided that there are reasons that cast doubt on his impartiality in accordance with the law.

Termination of Office and Dismissal

Article 203

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 71)

Term of office of the president and member of the Commission for the Protection of Rights shall end:

- 1) upon expiry of the term for which he was appointed;
- 2) at their own request;
- 3) dismissal.

President and member of the Commission for the Protection of Rights shall be dismissed before the end of the mandate, provided that:

- 1) is convicted by a final judgment of a criminal offence and sentenced to an unconditional term of imprisonment of at least six months, or is convicted of a criminal offence rendering them unfit to hold office;
- 2) is deprived of legal capacity by a final decision;
- 3) performs another public function or professionally performs another activity;
- 4) fails to perform official duties or performs them negligently or untimely.

Provided that there is a reason for dismissal referred to in paragraph 2 of this Article, the president of the Commission for the Protection of Rights shall submit a proposal for the dismissal of a member of the Commission for the Protection of Rights to the Parliament of Montenegro, and for the dismissal of the president, a proposal for dismissal is submitted by the majority of the members of the Commission for the Protection of Rights to the Parliament of Montenegro.

Method of Operation of the Commission for the Protection of Rights

Article 204

Commission for the Protection of Rights shall operate and decide at sessions that are not public.

Method of work of the Commission for the Protection of Rights shall be governed by the Rules of Procedure.

Competences and Powers of the Commission for the Protection of Rights

Article 205

Commission for the Protection of Rights shall:

- 1) decide on appeals filed in public procurement and public-private partnership procedures;
- 2) inform inspection and other competent authorities about observed illegal actions in public procurement procedures;
- 3) cooperate and exchange information in the field of public procurement with competent authorities of other countries, international institutions and organisations;
- 4) adopts the Rules of Procedure;
- 5) perform other tasks in accordance with this and a special law.

Costs of Rights Protection Procedure

Article 206

Commission for the Protection of Rights shall decide on the costs of the appeal procedure.

Costs of the appeal procedure shall be expenses incurred during the rights protection procedure.

Each party shall bear the costs caused by its own actions.

Fee for the work of an attorney shall be determined in accordance with the Attorney Tariff applicable to the drafting of submissions in non-assessable cases in administrative proceedings and administrative disputes.

Award for other persons shall be determined in accordance with the laws governing administrative proceedings and administrative disputes.

When withdrawing from the appeal or rejecting the appeal, the appellant shall not be entitled to compensation for the costs of the appeal procedure.

Performance Report

Article 207

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 72)

Commission for the Protection of Rights shall submit to the Parliament a semi-annual performance report for the periods from 1 January to 30 June and from 1 July to 31 December of the current year within 30 days from the expiry of the six-month period.

Commission for the Protection of Rights shall submit to the Parliament of Montenegro, for adoption, an annual performance report for the previous year no later than 30 June of the current year.

Commission for the Protection of Rights shall submit an annual report on its work to the Government for review.

Professional Service of the Commission

Article 208

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 73)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 33)

Commission for the Protection of Rights shall have a professional service that performs professional and administrative-technical tasks necessary for the work of the Commission for the Protection of Rights.

Professional service shall be managed by the secretary of the Commission for the Protection of Rights.

Secretary of the Commission for the Protection of Rights shall be appointed by the Commission for the Protection of Rights, based on a public competition, on the proposal of the President of the Commission for the Protection of Rights, in accordance with the regulations on civil servants and state employees that refer to the appointment of senior management personnel.

Person who holds a law degree, has passed the professional examination for work in state authorities and the professional examination for work in public procurement, and has at least five years of work experience may be appointed secretary of the Commission for the Protection of Rights.

Secretary of the Commission for the Protection of Rights shall be appointed for a period of five years and may be re-appointed after the expiry of that term.

Organisation and systematisation of the professional service of the Commission for the Protection of Rights shall be regulated by the act on internal organisation and systematisation, which shall be adopted by the Commission for the Protection of Rights, with the consent of the Government.

Regulations on civil servants and state employees shall apply to employees of the professional service of the Commission for the Protection of Rights.

SUPERVISION

Authorities that Conduct Supervision

Article 209

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 74)

(Law on Amendments to the law regulating inspection supervision, Official Gazette of Montenegro 084/24 of 6 September 2024, Article 2)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 34)

Supervision over the implementation of this Law and secondary legislation adopted pursuant to this Law shall be conducted by the Ministry.

Inspection supervision over the legality and regularity of the expenditure of public funds in public procurement procedures and over the implementation of public procurement contracts shall be conducted by the budget inspection in accordance with this Law, the regulations governing the budget and fiscal responsibility and other regulations governing inspection supervision and the work of the budget inspection.

Manner of conducting supervision and detailed criteria for conducting the control referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

Subject of Supervision

Article 210

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 75)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 35)

Ministry shall supervise the work of contracting authorities in relation to:

- 1) drawing up and publishing market-analysis reports in the EPPS;
- 2) time limits for adopting, amending, supplementing and publishing procurement plans;
- 3) fulfilment of the conditions for performing the duties of an authorised public procurement officer and the commission for conducting the public procurement procedure;
- 4) fulfilment of the conditions for initiating a public procurement procedure;
- 5) obligation of the contracting authority to conduct market research for the purpose of determining the estimated value of the subject of procurement at least ten days prior to initiating a public procurement procedure for goods and services with an estimated value equal to or exceeding EUR 150,000 or works with an estimated value equal to or exceeding EUR 500,000;
- 6) simple procurement procedures, irregularities in simple procurements, compliance with recommendations of the Ministry issued in monitoring procedures and compliance with the limits for simple procurements prescribed by an act of the Ministry;
- 7) implementation of anti-corruption measures and measures for preventing conflicts of interest in public procurement procedures;
- 8) initiation of public procurement procedures under a competitive negotiated procedure, negotiated procedure without prior publication of a call for tenders, innovation partnership, competitive dialogue or negotiated procedure with prior publication of a call for tenders in accordance with the conditions prescribed by this Law, including whether the grounds for initiating the procedure are justified;
- 9) obligation of the contracting authority to require the submission of bid guarantees and means of financial security for public procurement contracts in accordance with this Law;
- 10) compliance with the prescribed time limits for adopting, delivering or publishing decisions of the contracting authority in the EPPS and for such decisions becoming enforceable;
- 11) compliance with the prescribed time limits for concluding and amending public procurement contracts and publishing them in the EPPS;
- 12) semi-annual report for the current year and the annual report on conducted public procurement procedures and concluded public procurement contracts, as well as the report on conducted procurements and concluded contracts/invoices for simple procurements for the previous year;

13) acting in accordance with decisions of the Commission for the Protection of Rights.

Where a control procedure establishes a violation of this Law or secondary legislation adopted for its implementation, the Ministry may, depending on the type of violation and the possibility of remedying its consequences:

- 1) order the contracting authority to remedy the identified deficiencies within a specified time limit;
- 2) order the bid review, assessment and evaluation procedure in a simple procurement to be repeated;
- 3) order the annulment of the simple procurement procedure;
- 4) prohibit an authorised public procurement officer who does not fulfil the prescribed conditions from performing public procurement tasks until those conditions are fulfilled;
- 5) submit a request for the initiation of misdemeanour proceedings against the perpetrator of a misdemeanour;
- 6) report the offence to the state prosecutor where a criminal offence is suspected to have been committed in the public procurement procedure;
- 7) notify the authority responsible for the prevention of corruption of identified violations of anti-corruption rules and conflict-of-interest rules.

PENAL PROVISIONS

More Serious Offences

Article 211

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 76)

Legal entity shall be fined in the amount of EUR 5,000.00 to EUR 20,000.00 for a misdemeanour provided that it:

- 1) does not implement procurement referred to in Article 26 paragraph 1 items 4, 5 and 6 of this Law according to the procedure prescribed by this Law (Article 27, paragraph 2);
- 2) divides subjects of procurement in a way that avoids the application of this Law (Article 27 paragraph 3);
- 3) does not register the cases referred to in Article 38 paragraph 2 item 1 of this Law, does not make an official note and does not submit a report to the competent state authorities in order to take measures in accordance with the law and does not notify the Ministry (Article 38 paragraph 2 item 2);
- 4) concludes a contract in violation of the anti-corruption rule (Article 38 paragraph 3);
- 5) does not take appropriate measures to effectively prevent, recognise and remove conflicts of interest in connection with the public procurement procedure (Article 40);
- 6) fails to initiate a public procurement procedure under a competitive negotiated procedure, a negotiated procedure without prior publication of a call for tenders, an innovation partnership, a competitive dialogue or a negotiated procedure with prior publication of a call for tenders in the cases prescribed by this Law (Articles 57 to 64);
- 7) before starting the negotiated procedure without prior publication of the call for tenders, does not obtain a positive opinion from the Ministry, except in the case referred to in Article 59 paragraph 1 item 3 of this Law (Article 65 paragraph 1);
- 8) concludes a framework agreement contrary to Article 69 of this Law;

9) fails to require, in the tender documentation for public procurement with an estimated value equal to or greater than EUR 40,000.00, the submission of a bid guarantee, a guarantee for the good performance of a public procurement contract and a framework agreement or other means of financial security, in accordance with the law (Article 96 paragraph 1);

10) does not specify the type, period of validity and conditions for activating the means of financial security in accordance with Article 96 paragraph 1 of this Law, in the tender documentation for public procurement (Article 96 paragraph 4);

11) does not activate the means of financial security referred to in Article 96 paragraph 1 of this Law, and a case occurred for which security was requested (Article 96, paragraph 5);

12) adopts a decision on the selection of the most advantageous bid without previously conducting a public procurement procedure, and was obliged to conduct a public procurement procedure in accordance with this Law before its adoption (Article 143 paragraph 2);

13) before the enforceability of the decision on the selection of the most advantageous bid, concludes a public procurement contract or a framework agreement, except in cases prescribed in Article 146 paragraph 2 of this Law;

14) fails to conclude the public procurement procedure by adopting a decision on the selection of the most advantageous bid or a decision on the annulment of the public procurement procedure (Article 148 paragraph 1);

15) concludes and implements a public procurement contract that is not in accordance with the conditions established by the tender documentation, the selected bid and the decision on the selection of the most advantageous bid (Article 149 paragraph 2);

16) does not keep documentation of public procurement procedures within the time limits established by this Law (Article 181);

17) fails to comply with the decision referred to in Article 192 paragraph 1 item 8 of this Law within 15 days from the date of publication of the decision, i.e. delivery of the decision and does not notify the Commission for the Protection of Rights within the prescribed period (Article 192 paragraph 3).

For misdemeanours referred to in paragraph 1 of this Article, a responsible person in a legal entity, in a state body, state administration body, local self-government body and local administration body shall be fined in the amount of EUR 250.00 to EUR 2,000.00.

Minor Offences Article 212

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 77)

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 36)

Legal person shall be liable to a fine from EUR 2,000.00 to EUR 10,000.00 for a misdemeanour provided that it:

1) fails to conduct simple procurements, fails to act on recommendations issued by the Ministry in monitoring procedures or exceeds the value limits for simple procurements in accordance with Article 23 of this Law;

- 2) fails to record every suspected case of corruption or initiated procedure for examining a case of corruption, fails to draw up an official note, fails to submit a report to the competent state authorities for the purpose of taking measures in accordance with the law, fails to notify the Ministry, or fails to conduct risk analysis and risk control in public procurement procedures (Article 39 paragraph 3 items 2 and 3);
- 3) fails to designate at least one person to perform the duties of a public procurement officer from among employees or a person engaged for public procurement tasks in accordance with the law, or designates a public procurement officer who has not attained at least Level VI of the national qualifications framework and does not hold a certificate of having passed the professional examination for performing public procurement tasks (Article 47 paragraphs 1 and 2);
- 4) fails to establish the commission for conducting the public procurement procedure in accordance with the law and the prescribed criteria (Article 48);
- 5) fails to draw up and submit the public procurement plan to the Ministry for publication in the EPPS by 31 January of the current financial year (Article 84 paragraph 1);
- 6) fails to submit amendments to the public procurement plan to the Ministry no later than five days prior to initiating the public procurement procedure (Article 84 paragraphs 4 and 5);
- 7) fails to conduct market research for the purpose of determining the estimated value of the subject of procurement at least ten days prior to initiating a public procurement procedure for goods and services with an estimated value equal to or exceeding EUR 150,000 or works with an estimated value equal to or exceeding EUR 500,000, except for procurements in the field of defence and security and in the case referred to in Article 59 paragraph 1 item 3 of this Law (Article 85 paragraph 2);
- 8) fails to adopt the decision on exclusion from the public procurement procedure within 30 days from the date of opening of applications for qualification and fails to deliver it to the applicant within three days from the date of adoption (Article 141 paragraph 1 item 1);
- 9) fails to adopt the decision on the selection of the most advantageous bid or the decision on the annulment of the public procurement procedure within 60 days from the date of opening of bids and fails to publish it in the EPPS within three days from the date of its adoption (Article 141 paragraph 1 item 2);
- 10) fails to provide access to the complete electronic documentation of the public procurement procedure, at the request of bidders and candidates to whom the decision relates submitted through the EPPS, after publication in the EPPS of the decisions referred to in Articles 143 and 144 of this Law and prior to expiry of the time limit for filing an appeal, within two days from the date of submission of the request and for a period of at least 24 hours, or fails to provide direct access to documentation not submitted through the EPPS, within two days from the date of submission of the request and for a period of at least two hours (Article 145 paragraph 1);
- 11) fails to publish the public procurement contract in the EPPS within three days from the date of delivery of the concluded contract (Article 149 paragraph 14);
- 12) amends a public procurement contract during its term contrary to Article 151 paragraph 1 of this Law;
- 13) fails to publish a contract amendment in the EPPS within three days from the date of conclusion of the contract amendment (Article 151 paragraph 4);

- 14) fails to draw up and publish in the EPPS a report on contract implementation within 30 days from the date of implementation of the public procurement contract (Article 152 paragraph 1 item 2);
- 15) fails to keep records of public procurement procedures in accordance with this Law (Article 179 paragraph 1);
- 16) fails to submit the semi-annual report for the period from 1 January to 30 June of the current year by 31 July of the current year (Article 182 paragraph 1 item 1);
- 17) fails to submit the annual report for the previous year by 28 February of the current year (Article 182 paragraph 1 item 2).

For the misdemeanours referred to in paragraph 1 of this Article, a responsible person in a legal person, state authority, state administration authority, local self-government authority or local administration authority shall be liable to a fine from EUR 150.00 to EUR 1,000.00.

TRANSITIONAL AND FINAL PROVISIONS

Deadline for adoption of secondary legislation

Article 213

Secondary legislation based on the authorisations established by this Law shall be adopted within six months from the date of entry into force of this Law.

Contracting authorities shall align their public procurement plans with this Law within 15 days from the date of commencement of application of this Law.

Passing secondary legislation

Article 213a

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 78)

Secondary legislation for the implementation of this Law shall be adopted within six months from the date of entry into force of this Law.

Time Limit for Adoption of Secondary Legislation

Article 213b

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 37)

Secondary legislation for the implementation of this Law shall be adopted within six months from the date of entry into force of this Law.

Initiated Procedures

Article 214

Public procurement procedures initiated prior to the commencement of application of this Law shall be completed pursuant to the regulations under which they were initiated.

Framework agreement concluded following a public procurement procedure initiated prior to the commencement of application of this Law shall be completed pursuant to the regulations under which that procedure was initiated.

Contract Validity

Article 215

Public procurement contracts concluded before the beginning of the application of this Law shall remain in force until the end of the term for which they were concluded.

Concluded Contracts
Article 215a

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 79)

Public procurement contracts concluded prior to the date of entry into force of this Law may be amended or terminated in accordance with Articles 150 and 151 of this Law.

Continuation of the work of the Commission for the Protection of Rights
Article 216

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 003/23 of 10 January 2023, Article 80)

Parliament, or the competent working body, shall appoint the president and members of the Commission referred to in Article 200 paragraph 3 of this Law within 90 days from the date of entry into force of this Law.

Mandate of the president and members of the Commission, elected in accordance with the Law on Public Procurement (Official Gazette of Montenegro 074/19) shall be terminated on the day of appointment of the president and members of the Commission in accordance with this Law.

Time Limit for the Appointment of the Commission for the Protection of Rights

Article 216a

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 38)

Public call for the appointment of the president and members of the Commission referred to in Article 200 paragraph 1 of this Law shall be published within three months from the date of entry into force of this Law.

On the date of appointment of the president and members of the Commission in accordance with this Law, the term of office of the president and members of the Commission appointed in accordance with the Law on Public Procurement (Official Gazette of Montenegro 074/19, 003/23 and 011/23) shall cease.

Deadline for establishment of the EPPS
Article 217

EPPS shall be established within 18 months from the date of entry into force of this Law.

Until the day of establishment of the EPPS, the public procurement portal shall be used, and communication in the public procurement procedure shall be done directly in writing or by mail.

Statement of the economic operator, up to the day of establishment of the EPPS, shall be submitted in written or electronic form and shall be submitted in electronic form as of the day of establishment of the EPPS.

Interconnection of the Electronic Public Procurement System for the Provision of Evidence

Article 217a

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 39)

Within 12 months from the date of commencement of application of this Law, the electronic public procurement system shall be interconnected with the state administration authority responsible for judicial affairs.

Time Limit for Recertification

Article 217b

(Law on Amendments to the Law on Public Procurement, Official Gazette of Montenegro 098/26 of 9 July 2026, Article 39)

Person holding a certificate in the field of public procurement shall undergo recertification within 12 months from the date of entry into force of this Law.

Cease of Effect Article 218

Law on Public Procurement (Official Gazette of Montenegro 042/11, 057/14, 028/15 and 042/17) shall cease to be valid on the date of commencement of application of this Law.

Entry into Force Article 219

This Law shall enter into force on the eighth day from the day of its publication in the "Official Gazette of Montenegro" and shall apply six months after the date of its entry into force.