

Factsheet on procurement by beneficiaries with use of public budgetary funding in Belarus

Applicable rules, tips and recommendations
March 2019

DISCLAIMER

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In case the document is endorsed by an ENI CBC programme and renders it compulsory for use by project beneficiaries, **neither TESIM experts nor the TESIM consortium members shall be held liable for its contents**, in particular as far as audit findings on the eligibility of expenditure are concerned.

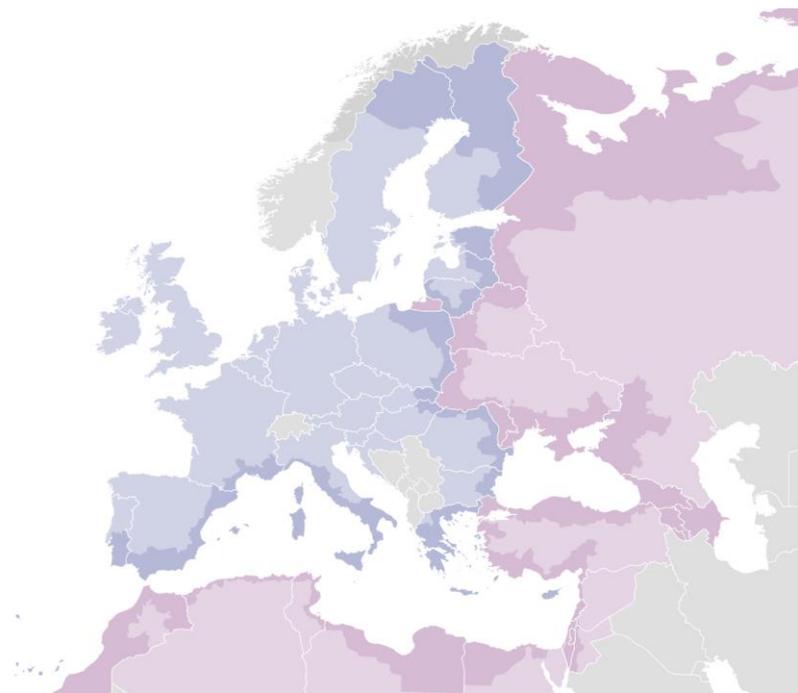


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1. Introduction

The implementation of projects in the framework of ENI CBC requires the procurement of works, supplies and/or services by the beneficiaries in nearly all of them.

During the programming period 2007-2013 ENPI CBC projects were obliged to use the procedures of the Practical Guide to Contract procedures for EC external actions (PRAG). This obligation has not been included in the ENI CBC Implementing Rules (EC Regulation 897/2014), hereinafter ENI CBC IR.

The new regulatory framework allows therefore for the use of national legislation and procedures in CBC Partner Countries. However, national rules will be applied (1) under certain conditions and (2) only for certain types of beneficiaries. The present factsheet aims to describe the applicable rules of awarding contracts related to works, supplies and services for Belarusian beneficiaries with use of public budgetary funding, deriving from the applicable legislation, but also from the programmes' specific rules and the respective Financing Agreements.



2. Applicable legal provisions

2.1. Provisions in the ENI CBC Implementing Rules

Section 1 of the chapter 4 of the ENI CBC IR regulates procurement. The articles relevant to Belarusian beneficiaries are as follows:

Article	Content
52.2	General principles
52.3	Rules of nationality and origin
53	Procedures and thresholds for service contracts
54	Procedures and thresholds for supply contracts
55	Procedures and thresholds for work contracts
56	Use of negotiated procedure

General principles

Article 52.2 stipulates that:

- a) *The contract is awarded to the tender offering the best value for money, or as appropriate, to the tender offering the lowest price, while avoiding any conflict of interest;*
- b) *For contract with a value of more than 60.000€, the following rules shall apply:*
 - i. *An evaluation committee shall be set up to evaluate applications and/or tenders on the basis of the exclusion, selection and award criteria published by the beneficiary in advance in the tender documents. The committee must have an odd number of members with all the technical and administrative capacities necessary to give an informed opinion on the tenders/applications;*
 - ii. *Sufficient transparency, fair competition and adequate ex-ante publicity must be ensured;*
 - iii. *Equal treatment, proportionality and non-discrimination shall be ensured;*
 - iv. *Tender documents must be drafted according to the best international practice;*
 - v. *Deadlines for submitting applications or tenders must be long enough to give interested parties a reasonable period to prepare their tenders;*
 - vi. *Candidates or tenderers shall be excluded if they fall within one of the situations described in article 106(1) of Regulation 966/2012 [...] (bankruptcy, etc.).*

The Belarusian beneficiaries, in accordance with the provisions of the Financing Agreement **need to comply with the rules stipulated in the ENI CBC IR**. A specific check-list for the verification of the compliance has been prepared. The identified potential incompliances are indicated in this guide.

Rules of nationality and origin

Article 52.3 stipulates that *“In all cases, the rules of nationality and origin set forth in articles 8 and 9 of Regulation 236/2014 shall apply.”* This rule is also included in article 5 of the General Conditions of the Financing Agreements signed between the European Union and Belarus for the ENI CBC programmes.

What does it mean in practice?

The **rule of nationality**, that is, the eligibility conditions for the participation of tenderers in procurement procedures, is the same as the one applied in the Member States. Therefore, there is **no restriction on nationality of tenderers**.

The Common Implementing Rules (EC Regulation 236/2014) make reference to the threshold of the competitive negotiated procedure, which corresponds to EUR 100 000. This indeed means that when the value of the supplies to be purchased is below EUR 100 000 per purchase, the supplies do not have to originate from an eligible country (full untying). It shall also be mentioned that this Regulation provides that in the case of actions implemented under shared management with a Member State, as it is the case in the ENI CBC Programmes, **countries that are eligible under the rules of that Member State are also eligible**. According to the Polish and Lithuanian legislations, no restrictions regarding origin are foreseen, so there is **no restriction on the origin of supplies**. No restrictions regarding origin are foreseen in the above-mentioned legal framework, but a different approach is followed by the two programmes:

- there is **no restriction on the origin of supplies** for **Poland-Belarus-Ukraine**
- the **restriction of origin for supplies** of an amount over 100.000€ for **Latvia-Lithuania-Belarus¹**

¹ See the related section in Annex II to the Guidelines for Applicants and Beneficiaries

Any **preferential rule** established in the [Law on Procurement of Belarus](#) (Law 419-3 of 13th July 2012) concerning the origin of the goods (*Национальный режим в отношении товаров (работ, услуг)*), **cannot be applied**, as no exception to the EU rule on nationality and origin has been established in the financing agreements between the Republic of Belarus and the European Commission for these programmes.

Procurement procedures and thresholds

Articles 53 to 55 of the ENI CBC IR define the type of procedure and thresholds for services, supplies and works, as follows:

Article 53	Service contracts
> 60.000€ < 300.000€	Competitive negotiated procedure without publication
≥ 300.000€	International restricted tender

Article 54	Supply contracts
> 60.000€ < 100.000€	Competitive negotiated procedure without publication
≥ 100.000€ < 300.000€	Open tender procedure published in the programme area
≥ 300.000€	International open tender

Article 55	Work contracts
≥ 60.000€ < 300.000€	Competitive negotiated procedure without publication
≥ 300.000€ < 5.000.000€	Open tender procedure published in the programme area
≥ 5.000.000€	International open tender

In the cases where the tender needs to be published in the programme area, the beneficiary might need to go beyond the obligations of the national legislation, that is, whatever the threshold stipulated at national level, the publication should be in English.

Moreover, there is no specific reference in the ENI CBC IR on the procedures with a value **below 60.000€**. Also in these cases, beneficiaries need to refer to the **national legislation and, where allowed, to the internal rules of the organisation**.

Note that contracts must not be split artificially to circumvent the procurement thresholds.

Irrespective the amounts concerned, all procurements must respect the **general principles** of avoidance of conflict of interest, transparency, fair competition, equal treatment, proportionality and non-discrimination.

Conversion of thresholds from Euro to Belarusian Ruble (BYN)

The amounts indicated in the ENI CBC IR and in the programme rules are all in EUR, while in the actual procurement procedures BYN will be used. **Which exchange rate should be used to verify if the procedure is above or below the threshold?**

Article 8 of the General Conditions of the Financing Agreements stipulates that “[...] in case of procedures in currencies other than Euro, the amount shall be converted to Euro using the exchange rate method mentioned in the Programme (Annex II).”

The exchange rate shall be “monthly accounting rate of the Commission”, which can be found in the [Inforeuro website](#).

Additional fluctuations may take place during the project implementation, once the procurement contracts are awarded.

Please take into account that the **rate used to check the compliance with the thresholds for the type of procedure will NOT be the same as the one to be applied for reporting of the expenditure.**

For **Poland-Belarus-Ukraine**, the exchange will be “done at the rate published on the InforEuro for the month during which the payment was done”.

For **Latvia-Lithuania-Belarus**, “expenditure incurred in a currency other than Euro shall be converted into Euro by the Beneficiaries using the monthly accounting exchange rate of the EC in the month during which that expenditure was incurred (invoiced)”.

For more details, please refer to grant contract templates.

Use of negotiated procedure

Article 56 of the ENI CBC IR stipulate that “*The beneficiary may decide to use negotiated procedure on the basis of a single tender in the cases referred to in Article 266 of Delegated Regulation (EU) No 1268/2012.*” This article provides a list of reasons for justified use of the negotiated procedure and need to be complemented with the instructions and thresholds stipulated in articles 265, 267 and 269 of the above-mentioned Regulation.

“*Negotiated procedures*” **should not be confused** with the “*Competitive negotiated procedure*” mentioned in article 53 to 55.

A non-exhaustive list of the cases referred in Article 56 of ENI CBC IR is:

- Extreme urgency,
- Extension of contracts already started (with respect of certain conditions),
- Additional delivery of original supplies as replacement of normal supplies,
- Contract following a contest,
- The tender procedure has been unsuccessful,
- Where for technical reasons, or for reasons connected with the protection of exclusive rights, the contract can be awarded only to a particular provider,
- Where a new contract has to be concluded after early termination of an existing contract.

The use of negotiated procedure is **exceptional** and there are specific provisions in national legislation. Please **check very carefully** article 50 of the **Law of the Republic of Belarus No 419-3** on public procurement to assess the convenience of using this procedure.

2.2. Overview on applicable Belarusian legislation

The list of applicable legal acts is as follows:

Legal reference	Content
Framework Agreement between Belarus and The Commission of the European Communities of 18 th December 2008	Activities and contracts, financed from the Community, are not subject to taxes (VAT), customs

	and other duties (Article 3 Taxes and customs)
<p>Decree of the President of the Republic of Belarus of 10.22.2003 N 460 (Ed. 08/17/2016) "On the international technical assistance provided to the Republic of Belarus" (Указ Президента Республики Беларусь от 22.10.2003 N 460 (ред. от 17.08.2016) "О международной технической помощи, предоставляемой Республике Беларусь"),</p> <p>Resolution of the Council of Ministers of the Republic of Belarus of 21.11.2003 N 1522 (ed. 11/21/2017) "On some measures to implement the Decree of the President of the Republic of Belarus of October 22, 2003 N 460"</p>	<p>Requires all international technical assistance projects (including CBC projects) to mandatory state registration at the Ministry of Economy. This registration entitles projects to receive tax, custom fee and other privileges, envisaged by the national law and international treaties of Belarus</p>
<p>The Law of the Republic of Belarus No 419-3 on Public Procurement (Закон Республики Беларусь 13 июля 2012 г. N 419-3 о государственных закупках товаров (работ, услуг))</p>	<p>Establishes a mandatory legal framework for procurement by any economic operator by the means of budget funds of the Republic of Belarus or by the means equaled by legislation of the Republic of Belarus to budget.</p>
<p>Financing Agreements on CBC 2014-2020 Special Conditions and its Annex I-General Conditions, ratified by the laws of the Republic of Belarus of October 17, 2017 №№ 54-3 and 55-3</p>	<p>Requirement for Beneficiaries in CBC countries to follow procurement procedures and rules of nationality and origin as per Articles 52-56 of the Implementing Regulation (EU) No 897/2014 (Articles 4 and 5 of the Annex I)</p>

The practical implications of this legislation are explained in the next chapter.

3. Requirements on procurement for Belarusian bodies with use of public budgetary funding

3.1. General principles

The “**Law of Belarus on public procurement**” (see reference in the previous section of this document) shall apply to the beneficiaries concerned by the law, that is, the bodies using funds for the public budget. Article 3 of the law allows to use procurement provisions of the ratified international treaties of Belarus, if different from the law.

The general procurement principles, as stated in article 4, are in line with the ENI CBC IR: fair competition, economy and efficiency, transparency, non-discrimination, objectivity and fight against corruption and fraud.

3.2. Language requirements

The procurement announcements and documents have to be published in Belarusian or Russian, even though **other languages may be used**, if required, as stated in article 23 of the Law. Therefore, we recommend to use English for procedures other than single tender. Whatever the language of these documents, the offers must be submitted in Belarusian or Russian.

3.3. Type of procurement procedures

The law defines the following types of procedure, which are described in detail in chapter 4 of the Law. Its article 17 stipulates the following types of procedure:

- Open tender,
- Restricted tender,
- Electronic auction,
- Acquisition procedure with price offer (competitive negotiated procedure with lowest price only award criterion)
- Negotiated procedure with single supplier, as an exception for arts, intellectual property, architectural, no competition, urgency, etc.

4. Compliance with ENI CBC Implementing Rules

Even though the Law of Belarus on Procurement is mostly compliant with the requirements of articles 52.2 to 56 of the ENI CBC IR, there are some few points of attention, which might imply ineligibility of expenditure if not taken into account:

- Composition of the tender committee;
- Exclusion criteria for tenderers;
- Tender documents in accordance with best international practices.

4.1. Composition of tender committee

The Annex to the resolution 778 of the Council of Ministers dated 22nd August 2012 (*Постановление Совета Министров Республики Беларусь 22 августа 2012 г. № 778 О некоторых мерах по реализации Закона Республики Беларусь «О государственных закупках товаров (работ, услуг)»*) stipulates that at **least 5 persons** should be included in the evaluation committee.

The beneficiaries must consider the requirement of the ENI CBC IR of an **odd number of members**, which is **compatible** with the provision in the Law of Belarus if there are 5 or more.

4.2. Exclusion criteria for tenderers

Even though the Law stipulates exclusion criteria for tenderers, they are not fully compliant with the requirements of the ENI CBC IR.

Not including specific provisions in the tenders, which fully comply with the eligibility criteria, may lead to the full or partial ineligibility of expenditure. Therefore, it is necessary to add **a declaration on honour** fully compliant with the ENI CBC IR. A template for such declaration is included as **annex A** of this document

4.3. Tender documents in accordance with best international practices

There are no specific templates under the Belarusian legislation, but the minimum content of the compulsory documents is stipulated in the **Law on public procurement**, in particular in articles 20, 21 23, 25, 33, 43, 49 and 50.

In the following check-list we compare the main documents in PRAG with the compulsory ones indicated in the Law on Procurement. As there are no templates, we analyse if the minimum information in the Law is in line with the equivalent documents in PRAG. When the **information is not fully in line with PRAG**, it should be complemented.

Document	Is the document (or analog) mentioned in the law ² ?	Is the content in line with PRAG template?
Prior information notice	No	-
Contract notice	Yes	Yes, partially
Declaration of honour on exclusion and selection criteria	No	-
Instructions to tenderers	Yes	Yes, partially
Terms of reference	Yes	Yes, partially
Draft contract	Yes	Yes, partially
Administrative compliance grid	No	-
Evaluation grid	Yes	No content included
Tender submission form	Yes (art. 35, 36,45,49)	Yes, partially
Tender opening checklist	Yes (art. 45(3))	Yes, partially
Tender opening report	Yes (art. 37, 46, 49)	Yes, partially
Evaluators grid	No	-
Evaluation report	Yes (art. 39, 48)	Yes, partially
Contract award notice	Yes (art. 28)	Yes, partially

² See articles of the Law on procurement mentioned in the grid

4.3.1. Complementary content to the documents mentioned in the law

We recommend to add the following content in your usual documents linked to the tender documents, such as **information to tenderers and terms of reference**, as this complementary information is not mentioned in articles 20, 21 and 33 of the Law:

- Source of financing, that is, EU through ENI CBC;
- Eligibility of tenderers, origin of goods and no application of preferential regime;
- Nature of contract for services (global price or fee-based³);
- Maximum number of applications or tenderers (or the decision to put no limitation);
- Tender validity;
- Grounds for exclusion, following the criteria in the annex to this document with the declaration on honour;
- Acceptance or not of subcontracting and eventual limitations to it;
- Clearly identified selection criteria, that is, economic and financial capacity, professional capacity and technical capacity;
- Clearly identified award criteria;
- Date for the tendering opening session;
- Application of standard formats.

In the case of **contracts**, the complementary information to the content stipulated in article 25 of the Law should be:

- Source of financing, that is, EU through ENI CBC;
- Acceptance or not of the assignment to third parties;
- Acceptance or not of subcontracting and eventual limitations to it;
- Data protection;
- Administrative sanctions;
- Acceptance of verifications and checks by EU and programme bodies.

We strongly recommend:

- to adapt (and translate) [PRAG templates](#) or

³ Global price would be used for contracts with a lump sum amount linked to the delivery of a described service, while the fee-based will indicate a number of days or hours and a daily or hourly fee, linked to the delivery of timesheets by the service provider

- to ensure that its content is included in your usual templates, in case your **procurement documents ARE NOT FULLY compliant** with these instructions. The non-inclusion of these additional content may result in the full or partial **ineligibility of the expenditure**.



The concerned PRAG templates are the following:

Document	PRAG reference
Instructions to tenderers	b8o5_itt_simp_en.doc; c4b_itt_en.doc (supplies); d4b_itt_en.doc (works)
Contract notice	b8o3_contractnotice_simp_en.doc (services); c2_contractnotice_en.doc (supplies); d2_contractnotice_en.doc (works)
Draft contract (services)	b8c_contract_en.doc b8d_annexigc.pdf
Draft contract (supplies)	c4c_contract_en.doc c4d_specialconditions_en.doc c4e_annexigc.pdf
Draft contract (works)	d4n_contract_en.doc d4o_specialconditions_en.doc d4p_annexgc.pdf

4.3.2. Additional templates

Some of the documents stipulated in PRAG are not usual in the Belarusian procedures or there is no specific mention on its content on the law. You may find **use and adapt** if necessary, **your own templates** or **translate** the [PRAG ones](#):

The **additional templates** to use are:

Document	PRAG reference
Prior notice	b1_priorinfo_en.doc (services); c1_priorinfo_en.doc (supplies); d1_priorinfo_en.doc (works)
Declaration of honour on exclusion and selection criteria	Adapted version in Annex A of this document
Administrative compliance grid	b8o1_admingrid_simp_en.doc (services); c4j_admingrid_en.doc (supplies); d4l_admingrid_en.doc (works)
Evaluation grid	B8m1_evalgrid_fees_en.doc (services fee-based); B8m2_evalgrid_global_en.doc (services global price); c4k_evalgrid_en.doc (supplies); d4m_evalgrid_en.doc (works)
Tender submission form (services)	b8o7_tenderform_simp_en.doc; b8g_annexiiom_en.doc; b8h_annexivexperts_en.doc; b8i1_budgetglobal_en.doc or b8i2_budgetfee_en.doc
Tender submission form (supplies)	c4f_annexiitechspeciitechoffer_en.doc
Tender submission form (works)	d4e_techofferquestion_en.doc d4g_techofferform_4dot2_en.doc d4h_techofferform_4dot3_en.doc d4i_techofferform_4dot4_en.doc d4u_techspec_en.doc

	d4y_designdrawing_en.doc
Tender opening check-list	b9_openchecklist_en.doc (services); c5_openchecklist_en.doc (supplies); d5_openchecklist_en.doc (works)
Tender opening report	b10_openreport_en.doc (services); c6_openreport_en.doc (supplies); d6_openreport_en.doc (works)
Evaluators grid (services)	b12a_evaluatorsgrid_fees_en.doc or b12b_evaluatorsgrid_global_en.doc
Evaluation report	b11_evalreport_en.doc (services); c7_evalreport_en.doc (supplies) d7_evalreport_en.doc (works)
Negotiation report for single tenders	a10b_singeltenderreport_en.doc
Contract award notice	b14b_awardnotice_en.doc (services); c9b_awardnotice_en.doc (supplies); d9b_awardnotice_en.doc (works)

“Tender documents must be drafted according to best international practice” This is an essential requirement for the eligibility of expenditure.

Despite the alignment of Belarusian legislation with best international standards, the **absence of harmonized templates** obliges the Belarusian public beneficiaries to a thorough verification of the compliance of its usual templates.

DO NOT PROCURE AS USUAL!!

CHECK THE COMPLIANCE OF THE TENDER TEMPLATES BEFORE LAUNCHING ANY PROCUREMENT PROCEDURE.

ANNEX A: declaration of honour on exclusion and selection criteria

Declaration on honour on exclusion criteria and selection criteria

The undersigned [*insert name of the signatory of this form*], representing:

<i>(only for natural persons)</i> himself or herself	<i>(only for legal persons)</i> the following legal person:
ID or passport number: (‘the person’)	Full official name: Official legal form: Statutory registration number: Full official address: VAT registration number: (‘the person’)

I – Situation of exclusion concerning the person

(1) declares that the above-mentioned person is in one of the following situations:	YES	NO
(a) it is bankrupt, subject to insolvency or winding up procedures, its assets are being administered by a liquidator or by a court, it is in an arrangement with creditors, its business activities are suspended or it is in any analogous situation arising from a similar procedure provided for under national legislation or regulations;	<input type="checkbox"/>	<input type="checkbox"/>
(b) it has been established by a final judgement or a final administrative decision that the person is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the law of the country in which it is established, with those of the country in which the contracting authority is located or those of the country of the performance of the contract;	<input type="checkbox"/>	<input type="checkbox"/>
(c) it has been established by a final judgement or a final administrative decision that the person is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the person belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:		
(i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract;	<input type="checkbox"/>	<input type="checkbox"/>
(ii) entering into agreement with other persons with the aim of distorting competition;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) violating intellectual property rights;	<input type="checkbox"/>	<input type="checkbox"/>

(iv) attempting to influence the decision-making process of the contracting authority during the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
(v) attempting to obtain confidential information that may confer upon it undue advantages in the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
(d) it has been established by a final judgement that the person is guilty of the following:		
(i) fraud, within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995;	<input type="checkbox"/>	<input type="checkbox"/>
(ii) corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of EU Member States, drawn up by the Council Act of 26 May 1997, and in Article 2(1) of Council Framework Decision 2003/568/JHA, as well as defined in Article 14 of the General Conditions of the Financing Agreement for ENI CBC between Belarus and the European Commission in the legal provisions of Belarus;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
(v) terrorist-related offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA, respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision;	<input type="checkbox"/>	<input type="checkbox"/>
(vi) child labour or other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
(e) the person has shown significant deficiencies in complying with the main obligations in the performance of a contract financed by the Union's budget or by the Belarusian public budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by the Belarusian competent authorities, the Delegation of the European Union in Belarus, any Managing Authority of ENPI CBC or ENI CBC, Audit Authorities of ENI CBC, the European Commission, OLAF or the European Court of Auditors;	<input type="checkbox"/>	<input type="checkbox"/>
(f) it has been established by a final judgment or final administrative decision that the person has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95;	<input type="checkbox"/>	<input type="checkbox"/>
(g) for the situations of grave professional misconduct, fraud, corruption, other criminal offences, significant deficiencies in the performance of the contract or irregularity, the applicant accepts to be subject to:	<input type="checkbox"/>	<input type="checkbox"/>

<p>i.facts established in the context of audits or investigations carried out by the European Court of Auditors, OLAF, or any other check, audit or control performed under the responsibility of an authorising officer of the European Commission, Managing Authority or Audit Authority, the competent Belarusian authorities or any other competent body;</p> <p>ii.non-final administrative decisions, which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics;</p> <p>iii.decisions of the Managing Authority, the Belarusian National Authority (identified in the Financing Agreement for ENI CBC programmes between the European Commission and Belarus) or the European Commission relating to the infringement of the competition rules stipulated in the Framework Agreement between the European Union and Belarus or of a national competent authority relating to the infringement of national competition law; or</p> <p>iv.decisions of exclusion by an authorising officer of the Contracting Authority.</p>		
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II – Situations of exclusion concerning natural persons with power of representation, decision-making or control over the legal person

<p>(2) declares that a natural person who is a member of the administrative, management or supervisory body of the above-mentioned legal person, or who has powers of representation, decision or control with regard to the above-mentioned legal person (this covers company directors, members of management or supervisory bodies, and cases where one natural person holds a majority of shares) is in one of the following situations:</p>	YES	NO
<p>Situation (c) above (grave professional misconduct)</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Situation (d) above (fraud, corruption or other criminal offence)</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Situation (e) above (significant deficiencies in performance of a contract)</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Situation (f) above (irregularity)</p>	<input type="checkbox"/>	<input type="checkbox"/>

III – Situations of exclusion concerning natural or legal persons assuming unlimited liability for the debts of the legal person

<p>(3) declares that a natural or legal person that assumes unlimited liability for the debts of the above-mentioned legal person is in one of the following situations:</p>	YES	NO
<p>Situation (a) above (bankruptcy)</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Situation (b) above (breach in payment of taxes or social security contributions)</p>	<input type="checkbox"/>	<input type="checkbox"/>

IV – Grounds for rejection from this procedure

(4) declares that the above-mentioned person:	YES	NO
(h) has distorted competition by being previously involved in the preparation of procurement documents for this procurement procedure.	<input type="checkbox"/>	<input type="checkbox"/>

V – Remedial measures

If the person declares one of the situations of exclusion listed above, it must indicate measures it has taken to remedy the exclusion situation, thus demonstrating its reliability. This may include e.g. technical, organisational and personnel measures to prevent further occurrence, compensation of damage or payment of fines. The relevant documentary evidence which illustrates the remedial measures taken must be provided in annex to this declaration. This does not apply for situations referred in point (d) of this declaration.

VI – Evidence upon request

Upon request and within the time limit set by the Contracting Authority the person must provide information on the persons that are members of the administrative, management or supervisory body. It must also provide the following evidence concerning the person itself and concerning the natural or legal persons which assume unlimited liability for the debt of the person:

For situations described in (a), (c), (d) or (f), production of a recent extract from the judicial record is required or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of establishment of the person showing that those requirements are satisfied.

For the situation described in point (a) or (b), production of recent certificates issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the person is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions. Where any document described above is not issued in the country concerned, it may be replaced by a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.

The person is not required to submit the evidence if it has already been submitted for another procurement procedure. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

Document	Full reference to previous procedure
<i>Insert as many lines as necessary.</i>	

VII – Selection criteria

(5) declares that the above-mentioned person complies with the selection criteria applicable to it individually as provided in the tender specifications:	YES	NO
(a) It has the legal and regulatory capacity to pursue the professional activity needed for performing the contract as required in section [insert] of the tender specifications;	<input type="checkbox"/>	<input type="checkbox"/>
(b) It fulfills the applicable economic and financial criteria indicated in section [insert] of the tender specifications;	<input type="checkbox"/>	<input type="checkbox"/>
(c) It fulfills the applicable technical and professional criteria indicated in section [insert] of the tender specifications.	<input type="checkbox"/>	<input type="checkbox"/>

The contracting authority must adapt the table above to the criteria indicated in the tender specifications (i.e. insert extra rows for each criterion or delete irrelevant rows).

(6) if the above-mentioned person is the sole tenderer or the leader in case of joint tender, declares that:	YES	NO
(d) the tenderer, including all members of the group in case of joint tender and including subcontractors if applicable, complies with all the selection criteria for which a consolidated assessment will be made as provided in the tender specifications.	<input type="checkbox"/>	<input type="checkbox"/>

VIII – Evidence for selection

The signatory declares that the above-mentioned person is able to provide the necessary supporting documents listed in the relevant sections of the tender specifications and which are not available electronically upon request and without delay.

The person is not required to submit the evidence if it has already been submitted for another procurement procedure. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

Document	Full reference to previous procedure
<i>Insert as many lines as necessary.</i>	

The above-mentioned person may be subject to rejection from this procedure and to administrative sanctions (exclusion or financial penalty) if any of the declarations or information provided as a condition for participating in this procedure prove to be false.

Full name

Date

Signatur