



TESIM

Technical support to the implementation and management of ENI CBC programmes

Overview on procurement by ENI CBC beneficiaries in CBC Partner Countries

March 2021

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It does not necessarily reflect the views of the European Commission on the topic, and is presented to programme practitioners **for illustrative purposes only**.

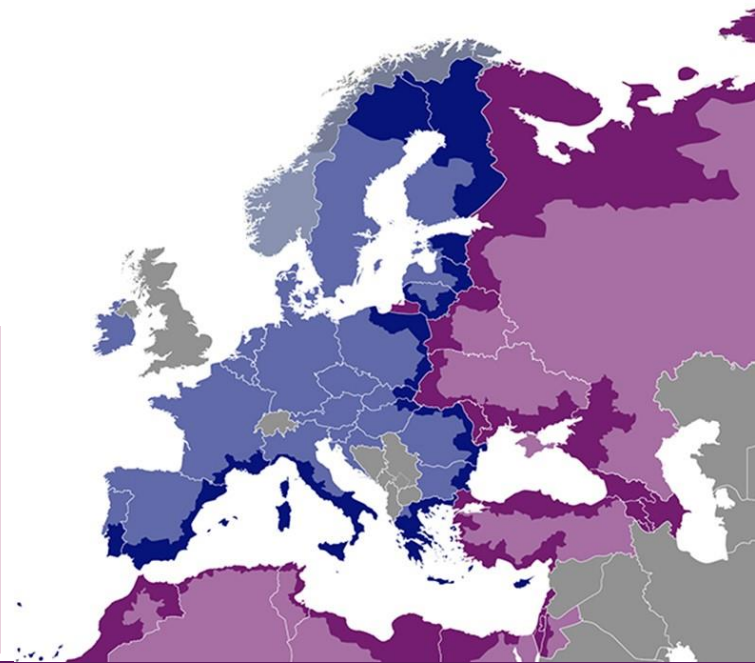


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1. Introduction

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 project beneficiaries were obliged to use the procedures of the Practical Guide to Contract procedures for EC external actions (PRAG). This obligation is not included in the ENI CBC Implementing Rules (EC Regulation 897/2014), hereinafter ENI CBC IR.

Therefore, the current regulatory framework allows 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 and (3) not by all programmes, as shown in chapter 3.

The present document aims to give an overview of the procurement requirements in the CBC Partner Countries, depending on the type of beneficiary, the outcome of the analysis of national legislation carried out by TESIM with the support of the national authorities, and of the subsequent recommendations in TESIM documents.



2. Provisions in the ENI CBC Implementing Rules

2.1. Overview of applicable articles

Section 1 of the chapter 4 of the ENI CBC IR regulates procurement. The articles relevant to beneficiaries of CBC Partner Countries¹ are the following:

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

2.2. 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;*

¹ EU Member States, international organisations and Russia are regulated in article 52.1.

- 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.).

2.3. 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. The possibility of use of other languages than the national one is accepted by the national legislation of all CBC countries for which TESIM carried out an analysis².

As can be seen from the table, apart of the principles that are applicable in all cases (best value for money or, as appropriate, the lowest price), there is no specific reference in the ENI CBC IR about the procedures to be followed for contracts with a value **below 60.000€**. Also in these cases, beneficiaries need to refer to the **national legislation and, where relevant, to the internal**

² The only country for which there is no TESIM factsheet for public beneficiaries is Israel.

rules of the entity, unless otherwise stated in the Financing Agreement or the programme documents.

Low-value contracts (below 60.000€)

Public beneficiaries may use the provisions of national legislation for such contracts, where the grant contracts do not require the use of PRAG.

The rules for **private beneficiaries** vary from programme to programme, as some of them require the use of PRAG and PRAG thresholds, while others define its own rules or simply apply the stipulations in the annex of the Financing Agreements with Russia:

Programme	Only annex to Financing Agreement	Programme rules and thresholds	PRAG rules and thresholds	PRAG rules and programme thresholds
Kolarctic		X		
Karelia		X		
South-East Finland-Russia		X		
Estonia-Russia		X		
Latvia-Russia	X			
Lithuania-Russia	X			
Latvia-Lithuania-Belarus				X
Poland-Russia	X			
Poland-Belarus-Ukraine			X	
Hungary-Slovakia-Romania-Ukraine			X	
Romania-Ukraine			X	
Romania-Republic of Moldova			X	
Black Sea Basin			X	

Mediterranean Sea Basin			X	
Italy-Tunisia			X	

Where PRAG is the reference, the thresholds on low-value procurement for services, supplies and works are the following:

	Award on the basis of a single tender (invitation to tenderers)	Payment against invoices without prior acceptance of a tender
Services	20.000€	2.500€
Supply	20.000€	2.500€
Works	20.000€	2.500€

Since PRAG 2019, contracts between 20.000€ and 60.000€ should use the competitive negotiated procedure, which is now called “simplified procedure”.

The programmes not using PRAG thresholds have stipulated the following ones for services, supplies and works:

	Award on the basis of a single tender (invitation to tenderers)	Payment against invoices without prior acceptance of a tender
Kolarctic	60.000€	3.000€
Karelia	60.000€	4.000€
South-East Finland Russia	60.000€	4.000€
Estonia-Russia	60.000€	5.000€
Latvia-Lithuania- Belarus	10.000€	3.000€

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.

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. “Negotiated procedures” **should not be confused** with the “Competitive negotiated procedure” mentioned in articles 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.

2.4. 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 the CBC Partner Countries 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.

Concerning the **rule of origin**, 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. 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 legislation applied in all EU Member States, no restrictions regarding origin are foreseen, so there is no restriction on the origin of supplies.

Nevertheless, **most of the 15 ENI CBC programmes have decided to keep the rules of nationality and origin for procurement procedures over 100.000€**. The table below shows the programmes without involvement of Russia, as the later have specific rules, which are described in chapter 5 of this document.

The situation in each of the programmes not involving Russia, both for public and private beneficiaries is the following:

Programme	No restriction of origin	Restrictions over EUR 100.000
Latvia-Lithuania-Belarus		X
Poland-Belarus-Ukraine		X
Hungary-Slovakia-Romania-Ukraine	X	
Romania-Ukraine	X	
Romania-Republic of Moldova	X	
Black Sea Basin	X	
Mediterranean Sea Basin		X
Italy-Tunisia		X

The lack of restriction in the origin of goods and nationality of tenderers may be in contradiction to the preference rules included in some of the analysed legislation, such as the Tunisian one. The Financing Agreements allow the ENI CBC public beneficiaries to make an exception to the preference rule. The private ones are not affected by the preference rules.

3. Overview of procurement rules

3.1. Rules for private beneficiaries

There are no specific rules for procurement by private beneficiaries, neither in the ENI CBC IR nor in most national legislations. Therefore, with the exception of the programmes with Russia, the ENI CBC programmes have opted for requiring the use of PRAG to their private beneficiaries in CBC Partner Countries. In some cases, this requirement is also applicable for the beneficiaries located in EU Member States with no specific national legislation on the matter. The specific rules applicable to Russian beneficiaries is tackled in the chapter devoted to this country in this document.

This approach brought several challenges for the beneficiaries:

- The length and complexity of PRAG, which is a document not addressed to grant beneficiaries,
- Annexes not adapted to the needs of grant beneficiaries in the context of ENI CBC, which need important changes to be usable,
- The absence of detailed procedures for contracts below 20.000€, which may constitute the core of the procurement plan for most private beneficiaries.

TESIM supported the programmes and the project beneficiaries by providing comprehensive guidelines, which included a reference to the legal framework and principles, a description of the procedures and adapted annexes. The guides also include recommendations and proposed procedures and template for contracts below 60.000€ not regulated in the ENI CBC IR.

The following TESIM guides can be found in the programmes' websites and also in [TESIM's library](#):

- Mediterranean Sea Basin and Italy-Tunisia
- Hungary-Slovakia-Romania-Ukraine
- Poland-Belarus-Ukraine and Latvia-Lithuania-Belarus
- Black Sea Basin

3.2. Rules for public beneficiaries

The approach for public beneficiaries differs from the private ones, as both the ENI CBC IR and PRAG open a door for the use of national legislation, even though some programmes and countries opted for using PRAG, as in the case of private beneficiaries.

The use of national legislation is only possible if a full compliance with the ENI CBC IR and the Financing Agreements is respected. For this reason, with the support of national experts with deep knowledge of the procurement legislation, TESIM carried out an analysis of the **compliance of each legislation with the article 52.2** of the above-mentioned regulation.

As a result of this review, factsheets are available for the following countries in [TESIM's library](#):

- Belarus
- Ukraine (updated with the latest changes in the national legislation)
- Republic of Moldova
- Georgia
- Armenia
- Turkey
- Lebanon
- Jordan
- Palestine
- Egypt
- Tunisia

The factsheet for Tunisia is available only in French. All the factsheets for Arab-speaking countries include a translation to this language of the Declaration on honour. The factsheet for Egypt is also available in Arabic.

The national legislation is accepted by most programmes for most countries, but it is highly recommended to take into consideration the findings included in TESIM's factsheets and briefly described in the next chapter, in order to be fully compliant with the ENI CBC IR and prevent potential ineligibility of expenditure. The case of the Russia is different from the other CBC Partner Countries, as described in chapter 5 of this document.



Country	Applicable rules
Russia	National legislation
Belarus	Programme rules (in the case of LLB, the rules mirror PRAG requirements; in the case of PBU, programme rules must be followed)
Ukraine	National legislation
Republic of Moldova	PRAG
Georgia	PRAG
Armenia	PRAG
Turkey	PRAG
Lebanon	National legislation
Jordan	National legislation
Palestine	National legislation
Israel	PRAG
Egypt	National legislation
Tunisia	National legislation

Even though national legislation is accepted in some countries, public beneficiaries may use PRAG, which is accepted by all programmes.

3.3. Additional guidance for both public and private beneficiaries

TESIM published two documents in its library for beneficiaries using PRAG:

- Questions and answers on procurement in ENI CBC programmes using PRAG (in English and in Romanian), which collects information from seminars on procurement and Q&A sections in the programmes' websites,
- Glossary in Romanian to the guide on procurement, developed in collaboration with the Moldovan National Authority

Finally, TESIM developed a video and written materials on procurement within the e-modules for financial management in its online training platform goforenicbc, addressed to project beneficiaries.

4. Main findings for public beneficiaries

The lack of compliance of the national legislation with article 52.2 of the ENI CBC IR can be found in three main aspects:

- Composition of the evaluation committee,
- Exclusion criteria for tenderers,
- Tender documents drafted according to best international practices.

This conclusion comes from the thorough comparison of the legislation through the checklists in annex of this document. TESIM developed three annexes:

- Global checklist with all criteria of the ENI CBC IR (annex1),
- Specific checklist on the compliance of tender documents with best international practices, using PRAG key templates as a reference (annex 2)
- Specific checklists on the exclusion criteria for tenderers during evaluation and contracting phases, with a detailed list of the situations leading to exclusion included in the EU legal framework (annexes 3 and 4)

The result of the global checklist clearly shows the previously mentioned three main weaknesses³:

³ In the case of Belarus, programme rules prevail on national legislation. The analysis is included for illustrative purposes. Israel has not been included in the table since not covered by the corresponding factsheet.

Question	BY	UA	MD	GE	AM	LB	JD	PS	EG	TU
Contracts awarded to best value for money or lowest price?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Mechanisms to avoid conflict of interest?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Evaluation committees over 60.000?	Yes	Partially	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tenders assessed on criteria published in advance?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Evaluation committees with compulsory odd number of members?	No	No	No	No	No	No	Yes	No	No	No
Committee members possess adequate capacities?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Adequate ex-ante publicity endured?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Equal treatment, proportionality and non-discrimination ensured?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Deadlines for submission reasonable?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tender documents drafted according to best international practices?	Partially	Partially	Partially	Partially	Partially	Partially	Partially	Partially	Partially	Yes
Tenderers excluded if they fall under situations in Financial Regulation?	Partially	Partially	Partially	Partially	Partially	Partially	Partially	Partially	Partially	Partially
Contracts not awarded to tenderers if they fall in exclusion criteria?	Partially	Partially	Partially	Partially	Yes	Yes	Yes	Yes	Yes	Yes

4.1. Composition of the evaluation committee

Article 52.2(b)(i) stipulates that “[...] *The committee must have an odd number of members [...]*”. The analysed national legislations only set a minimum number of members, that is, an even number is possible in all countries, except Jordan. Only one country, Ukraine, allowed for an alternative to the evaluation committee. Therefore, as **all CBC Partner Countries** must take this obligation into account, we highlighted this obligation in the respective factsheet.

ENI CBC beneficiaries must set up evaluation committees with an odd number of members. This is compliant with their legislation in all cases.

4.2. Exclusion criteria for tenderers

Article 52.2(b)(vi) stipulates that “*Candidates or tenderers shall be excluded if they fall within one of the situations described in article 106(1) of Regulation 966/2012⁴*”. None of the analysed legislations fulfils all the exclusion criteria mentioned in this article of the Financial Regulation, which are listed in the checklists in annexes 3 and 4 of this document, as shown below:

⁴ The exclusion criteria are identical in the new Financial Regulation (Regulation 2018/1046).

Checklists #3 & #4

Document	BY	UA	MD	GE	AM	LB	JD	PS	EG	TU
Bankruptcy	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes
No payment of taxes or social security	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Grave professional misconduct	Partially	Partially	Partially	Partially	Partially	No	Partially	Yes	Yes	Yes
Fraud, corruption, criminal organisation, etc.	No	Partially	Partially	No	Partially	No	Yes	Yes	Yes	Yes
Significant underperformance of contracts	Yes	No	Yes	Partially	Partially	Yes	Yes	Yes	Yes	Yes
Irregularities (article 1 (2) of Regulation 2988/95)	No	No	No	No	No	No	No	No	No	No
Misrepresented information required for participating in tender	Yes	Partially	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Involvement in the preparation of procurement documents	Yes	No	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes

Three of the countries only missed the irregularities in the use of EU funds (Palestine, Egypt and Tunisia) but, as **all CBC Partner Countries** must take this obligation into account, we suggested in the factsheets either to adapt their usual criteria to the regulation or use the templates provided by TESIM.

TESIM factsheets include a Declaration on honour adapted from PRAG including all the situations stipulated in the EU legislation, which is compulsory in the CBC Partner Countries through the Financing Agreement. The factsheet for Arab-speaking countries include a translation of the Declaration to this language.

4.3. Tender documents according to best international practices

Article 52.2(b)(iv) stipulates that “tender documents must be drafted according to best international practice”. TESIM compliance analysis used the tender documents in **PRAG as a best international practice** and compared its templates with the compulsory ones in each national legislation.

The result of the analysis is very different from country to country. Only one of them, Tunisia, can be considered as fully compliant, even though a couple of recommendations are indicated in TESIM’s document. For the rest, some of the countries had a high level of compliance, such as Georgia, Armenia or Palestine, while others were far away from the international standards, like Belarus or Lebanon, as shown in the following table:



Document	BY	UA	MD	GE	AM	LB	JD	PS	EG	TU
Prior information notice	No	No	No	Yes	Yes	No	No	Yes	Yes	Yes
Contract notice	Partially	Yes	Yes	Yes	Yes	No	Yes	Yes	Partially	Yes
Declaration of honour on exclusion and selection criteria	No	Yes	Yes	Yes	Yes	Partially	No	No	Yes	Yes
Instructions to tenderers	Partially	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Terms of reference	Partially	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Draft contract	Partially	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Administrative compliance grid	No	No	No	No	Yes	No	No	Yes	Yes	Yes
Evaluation grid	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tender submission form	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Partially	Yes
Tender opening checklist	No	No	No	No	No	No	Yes	Yes	Partially	Yes
Tender opening report	No	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Evaluators grid	No	No	No	Yes	Yes	No	No	Yes	Yes	Yes
Evaluation report	No	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Contract award notice	No	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes

In some cases, the content of some tender documents may be considered as insufficient, or certain categories of documents did not exist in a specific country. Therefore, TESIM's factsheets include specific recommendations for each country on which documents should extend their content or which documents should be added to the standard ones.

We strongly recommend that ENI CBC public beneficiaries make a careful revision of the tender documents used, adapt them to the PRAG standards and add some key documents, if they do not exist in the usual practice of their country.

The recommendations and highlights of compulsory legislation are shown in the following table:

Recommendation/Highlight	BY	UA	MD	GE	AM	LB	JD	PS	EG	TU
Ensure odd number of members in evaluation committees	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes
Use adapted declaration on honour attached to factsheet	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Add templates to the usual tender dossier and evaluation procedure	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Add content to currently used templates	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Some of the factsheets included a significant number of new templates to add (marked in red), while in other cases, only a few additional documents were recommended (marked in orange).

5. The specific case of the Russian Federation

5.1. Russian public beneficiaries

Article 52.1(c) of the ENI CBC IR stipulates a specific provision for the beneficiaries located in CBC Partner Countries transferring co-financing at programme level. Only the Russian Federation is doing so in the current programming period. The provision is as follows:

where the beneficiary is a public authority of a CBC partner country whose co-financing is transferred to the Managing Authority, it may apply national laws, regulations and administrative provisions, provided that the financing agreement allows it and the general principles set out in point (a) of paragraph 2 are respected.

The general principle stipulated in point (a) of article 52.2 is

the contract is awarded to the tender offering best value for money, or as appropriate, to the tender offering the lowest price, while avoiding any conflict of interests;

On top of the ENI CBC IR, we can find these same provisions in article 6.2 of the General Conditions of the Financing Agreements between the Russian Federation and the European Commission.

The Russian public beneficiaries are the only ones from a CBC Partner Country to fully apply their own national legislation, with only one exception.

5.2. Russian private beneficiaries

These beneficiaries also have a unique legal framework compared with the other CBC Partner Countries, as the Financing Agreement includes a specific provision in article 6.1 of the General Conditions and an annex.

Annex II of the Financing Agreements sets general principles and procurement procedures with similar provisions to article 52 of the ENI CBC IR, but it also includes some specific ones in the following topics:

- Same rules of nationality and origin as the Russian public beneficiaries (see section 5.3),

- Detailed grounds for exclusion from participation in procurement procedures and award of contracts.

Therefore, the thresholds for contracts over 60.000€ are the same than in the Regulation, while the programmes have set in some cases additional thresholds for low-value contracts (see section 2.3).

5.3. Rules of nationality and origin

The Financing Agreements stipulate an **exception** to the national legislation in article 7 of the General Conditions, concerning the rules of nationality and origin:

National preferences are prohibited, except for contracts with a value not exceeding EUR 20.000 in order to promote local capacities, markets and purchases. Failure to comply with this principle shall render the related expenditure ineligible.

While the Financing Agreements for the other CBC Partner Countries refer to the article 8 and 9 of the EU Regulation 236/2014, the programmes with Russia have a specific clause in the General Conditions of the Financing Agreement detailing the rule:

7.1. Participation in procurement procedures [...] is open on equal terms to all natural and legal persons effectively established in countries eligible under the applicable legislation of Parties.

7.2. All supplies purchased under a procurement contract [...] shall originate from an eligible country in accordance with the paragraph 7.1 of this article, except when the cost of the supplies is below EUR 100 000. In this case, supplies may originate from any country.

Neither the legislation from EU Member States nor the one from the Russian Federation stipulate any restriction on the country of origin of supplies. Nevertheless, **all programmes except Karelia have a specific mention on the limitation to eligible countries of the supplies above a cost of EUR 100.000.**

Annexes on verification of compliance of national legislation

Annex 1. Check-list on compliance of national legislation with criteria in art. 52.2(b)

Question	YES/ NO	Legal reference
Are contracts awarded to the best value for money, or as appropriate, to the tender offering the lowest price?		
Are there mechanisms to avoid conflict of interest?		
Are evaluation committees set up to evaluate tenders? Are they compulsory over 60.000€?		
Are the tenders over 60.000€ assessed on the basis of exclusion, election and award criteria published in advance in the tender documents?		
May the evaluation committee have an odd number of members?		
Are all members of the committee required to possess all the technical and administrative capacities to give an informed opinion on the tenders?		
Are sufficient transparency, fair competition and adequate ex-ante publicity ensured?		
Are equal treatment, proportionality and non-discrimination ensured?		
Are tender documents drafted according to best international practice?		See specific check-list

<p>Are deadlines for submission of tenders long enough to give interested parties a reasonable period to prepare their tenders?</p>		
<p>Are tenderers excluded if they fall within one of the situations described in article 106(1) of Regulation (EU, Euratom) N° 966/2012? Do candidates certify that they are not in one of these situations?</p>		<p>See specific check-list</p>
<p>Are contracts not awarded to tenderers which, during the procurement procedure, fall within one of the situations referred to in article 107 of Regulation (EU, Euratom) N° 966/2012?</p>		<p>See specific check-list</p>

Annex 2. Check-list on tender documents in compliance with best international practices

Even though “Procurement and Grants for European Union external actions – A Practical Guide” (PRAG) is not compulsory any more in ENI CBC, it may be a source for determining if the tender documents are drafted according to best international practices.

Document	Is there a template? YES/NO	Is it in line with PRAG template? YES/NO
Prior information notice		
Contract notice		
Declaration of honour on exclusion and selection criteria		
Instructions to tenderers		
Terms of reference		
Draft contract		
Administrative compliance grid		
Evaluation grid		
Tender submission form		
Tender opening checklist		
Tender opening report		
Evaluators grid		
Evaluation report		
Contract award notice		

Annex 3. Check-list on exclusion criteria

Shall the contracting authority exclude an economic operator from participating in procurement procedure where:

Criterion	YES/ NO	Legal reference
It is bankrupt, subject to insolvency or winding-up procedures, where its assets are being administered by a liquidator or by a court, where it is in an arrangement with creditors, where its business activities are suspended, or where it is in analogous situation arising from a similar procedure provided for under national laws or regulations?		
It has been established by a final judgement or a final administrative decision that the economic operator 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 performance of the contract?		
it has been established by a final judgment or a final administrative decision that the economic operator is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the economic operator		

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;
- (ii) entering into agreement with other economic operators with the aim of distorting competition;
- (iii) violating intellectual property rights;
- (iv) attempting to influence the decision-making process of the contracting authority during the procurement procedure;
- (v) attempting to obtain confidential information that may confer upon it undue advantages in the procurement procedure;

it has been established by a final judgment that the economic operator is guilty of any 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;

- (ii) corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, 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 corruption as defined in the law of the country where the contracting authority is located, the country in which the economic operator is established or the country of the performance of the contract;
- (iii) participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA;
- (iv) money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council;
- (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

<p>such offences, as referred to in Article 4 of that Decision;</p> <p>(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;</p>		
<p>the economic operator has shown significant deficiencies in complying with main obligations in the performance of a contract financed by the 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 an authorising officer, OLAF or the Court of Auditors</p>		
<p>it has been established by a final judgment or final administrative decision that the economic operator has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95</p>		

Annex 4. Check-list on rejection from a given procedure⁵

Shall the contracting authority not award a contract for a given procurement procedure to an economic operator who:

Criterion	YES/ NO	Legal reference
Is in exclusion situation established in the previous check-list?		
Has misrepresented the information required as a condition for participating in the procedure or has failed to supply that information?		
Was previously involved in the preparation of procurement documents where this entails a distortion of competition that cannot be remedied otherwise?		

⁵ See article 107 of Regulation (EU, Euratom) N° 966/2012.

Annex 5 Overview of applicable thresholds per country

The countries included in this annex are:

- Russian Federation
- Belarus
- Ukraine
- Republic of Moldova
- Georgia
- Armenia
- Turkey
- Israel
- Palestine
- Jordan
- Egypt
- Tunisia
- Lebanon



Russian Federation⁶

Public	Selection principle
Tenders	Article 24.3 of FZ-44
Open tender (открытый конкурс) (mandatory in electronic form)	For tenders, the selection principle is best value for money (Под конкурсом понимается способ определения поставщика (подрядчика, исполнителя), при котором победителем признается участник закупки, предложивший лучшие условия исполнения контракта).
Tender with limited participation (конкурс с ограниченным участием) (mandatory in electronic form)	
Two-stage tender (двухэтапный конкурс) (mandatory in electronic form)	
Restricted tender (закрытый конкурс)	
Restricted tender with limited participation (закрытый конкурс с ограниченным участием)	
Restricted two-stage tender (закрытый двухэтапный конкурс)	
Auctions	Article 24.3 of FZ-44
Electronic auction (электронный аукцион) (mandatory in electronic form)	For auctions, the selection principle is lowest price (total price; price per unit; etc).
Closed auction (закрытый аукцион)	...победителем признается участник закупки, предложивший наиболее низкую цену контракта, наименьшую сумму цен единиц товаров, работ, услуг...
Request of quotations (запрос котировок)	Article 72.1 of FZ-44
Value of the request of quotation should not exceed RUB 500 000 (5,533,92€) (and per-annum, the total sum of requests of quotations should not exceed 10% of all procurements of the entity and not exceed RUB 100millions/1,1 M€). (mandatory in electronic form)	For request of quotations, the selection principle is lowest price (total price; price per unit; etc).
начальная (максимальная) цена контракта не превышает пятьсот тысяч рублей. При этом годовой объем закупок, осуществляемых путем проведения запроса котировок, не должен превышать десять процентов совокупного годового объема закупок заказчика и не должен составлять более чем сто миллионов рублей	
Request of offers (запрос предложений)	Article 83.1 of FZ-44
Mandatory in electronic form.	признается участник закупки, направивший окончательное предложение, которое наилучшим образом соответствует установленным заказчиком требованиям к товару, работе или услуге.

⁶ Conversion from RUB to € using Inforeuro of March 2021.



Private	MSB
Services	
<2.500€	Direct award or order
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)
20.000 - 300.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
>300.000€	International restricted tender
Supplies	
<2.500€	Direct award or order
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)
20.000 - 100.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
100.000 - 300.000€	Open tender in programme area
>300.000€	International open tender
Works	
<2.500€	Direct award or order
2.500 - 20.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
20.000 - 300.000€	Competitive negotiated procedure (at least three offers evaluated)
300.000 - 5.000.000€	Open tender in programme area
>5.000.000€	International open tender

Belarus

Public & private	PBU	LLB
Services		
Direct award or order	<2.500€	<3.000€
Award on the basis of a single tender (at least two offers evaluated)	2.500 - 20.000€	3.000 - 10.000€
Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)	20.000 - 300.000€	10.000 - 300.000€
International restricted tender	>300.000€	>300.000€
Supplies		
Direct award or order	<2.500€	<3.000€
Award on the basis of a single tender (at least two offers evaluated)	2.500 - 20.000€	3.000 - 10.000€
Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)	20.000 - 100.000€	10.000 - 100.000€
Open tender in programme area	100.000 - 300.000€	100.000 - 300.000€
International open tender	>300.000€	>300.000€
Works		
Direct award or order	<2.500€	<3.000€
Award on the basis of a single tender (at least two offers evaluated)	2.500 - 20.000€	3.000 - 10.000€
Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)	20.000 - 300.000€	10.000 - 300.000€
Open tender in programme area	300.000 - 5.000.000€	300.000 - 5.000.000€
International open tender	>5.000.000€	>5.000.000€



Ukraine⁷

Public	PBU	HSRU	ROUA	BSB
Services				
<50.000 UAH (1.466 €)	Direct award (acceptance of invoice, publication of procurement report in Prozorro)			
50.000 - 200.000 UAH (1.466 - 5.864 €)	Direct award (publication of award in Prozorro)			
> 200.000 UAH (5.864 €)	Tender in Prozorro			
>300.000€	International restricted tender			
Supplies				
<50.000 UAH (1.466 €)	Direct award (acceptance of invoice, publication of procurement report in Prozorro)			
50.000 - 200.000 UAH (1.466 - 5.864 €)	Direct award (publication of award in Prozorro)			
> 200.000 UAH (5.864 €)	Tender in Prozorro			
100.000 - 300.000€	Open tender in programme area			
>300.000€	International open tender			
Works				
<50.000 UAH (1.466 €)	Direct award (acceptance of invoice, publication of procurement report in Prozorro)			
50.000 - 1.500.000 UAH (1.466 - 43.978 €)	Direct award (publication of award in Prozorro)			
> 1.500.000 UAH (43.978 €)	Tender in Prozorro			
>5.000.000€	International open tender			
For certain economic activities as per article 1.4 of the Law of Procurement, the threshold for supplies and services is 1 Million UAH (29.321 €) and for works 5 Million UAH (146.607€)				

⁷ Conversion from UAH to € using Inforeuro of March 2021.



Private	PBU	HSRU	ROUA	BSB
Services				
<2.500€	Direct award or order			
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)			
20.000 - 300.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)			
>300.000€	International restricted tender			
Supplies				
<2.500€	Direct award or order			
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)			
20.000 - 100.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)			
100.000 - 300.000€	Open tender in programme area			
>300.000€	International open tender			
Works				
<2.500€	Direct award or order			
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)			
20.000 - 300.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)			
300.000 - 5.000.000€	Open tender in programme area			
>5.000.000€	International open tender			



Republic of Moldova, Georgia, Armenia and Turkey

Public & private	ROMD	BSB
Services		
<2.500€	Direct award or order	
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)	
20.000 - 300.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)	
>300.000€	International restricted tender	
Supplies		
<2.500€	Direct award or order	
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)	
20.000 - 100.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)	
100.000 - 300.000€	Open tender in programme area	
>300.000€	International open tender	
Works		
<2.500€	Direct award or order	
2.500 - 20.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)	
20.000 - 300.000€	Competitive negotiated procedure (at least three offers evaluated)	
300.000 - 5.000.000€	Open tender in programme area	
>5.000.000€	International open tender	



Jordan⁸

The default procedure for public bodies is open tender. Other procurement procedures may be selected in accordance with bylaw 28 of 2019.

Public	MSB
Services	
>300.000€	International restricted tender
<500.000 JOD (576.868 €)	Tender evaluated by local procurement procedure
> 500.000 JOD (576.868 €)	Tender evaluated by Special Procurement Committee
Supplies	
100.000 - 300.000€	Open tender in programme area
>300.000€	International open tender
<500.000 JOD (576.868 €)	Tender evaluated by local procurement procedure
> 500.000 JOD (576.868 €)	Tender evaluated by Special Procurement Committee
Works	
<500.000 JOD (576.868 €)	Tender evaluated by local procurement procedure
> 500.000 JOD (576.868 €)	Tender evaluated by Special Procurement Committee
>5.000.000€	International open tender

⁸ Conversion from JOD to € using Inforeuro of March 2021.



Private	MSB
Services	
<2.500€	Direct award or order
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)
20.000 - 300.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
>300.000€	International restricted tender
Supplies	
<2.500€	Direct award or order
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)
20.000 - 100.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
100.000 - 300.000€	Open tender in programme area
>300.000€	International open tender
Works	
<2.500€	Direct award or order
2.500 - 20.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
20.000 - 300.000€	Competitive negotiated procedure (at least three offers evaluated)
300.000 - 5.000.000€	Open tender in programme area
>5.000.000€	International open tender

Palestine⁹

Public	MSB
Services	
<3.000 USD (2.454 €)	Direct award
3.000 - 100.000 USD (2.454 - 81.800 €)	Open tender published in a newspaper
> 100.000 USD (81.800 €)	National restricted tender
>300.000€	International restricted tender
Supplies	
<3.000 USD (2.454 €)	Direct award (Low-value public procurement regulations)
3.000 - 50.000 USD (2.454 - 40.900 €)	Demand of price offer (simplified procedure)
> 50.000 USD (40.900 €)	National open tender
100.000 - 300.000€	Open tender in programme area
>300.000€	International open tender
Works	
<5.000 USD (4.090 €)	Direct award (Low-value public procurement regulations)
5.000 - 20.000 USD (4.090 - 16.360 €)	Demand of price offer (simplified procedure)
> 20.000 USD (16.360 €)	National open tender
>5.000.000€	International open tender

⁹ Conversion from USD to € using Inforeuro of March 2021.



Private	MSB
Services	
<2.500€	Direct award or order
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)
20.000 - 300.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
>300.000€	International restricted tender
Supplies	
<2.500€	Direct award or order
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)
20.000 - 100.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
100.000 - 300.000€	Open tender in programme area
>300.000€	International open tender
Works	
<2.500€	Direct award or order
2.500 - 20.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
20.000 - 300.000€	Competitive negotiated procedure (at least three offers evaluated)
300.000 - 5.000.000€	Open tender in programme area
>5.000.000€	International open tender

Egypt

There are no specific thresholds in the Egyptian national legislation, even though the default procedure is open tender.

Public and private	MSB
Services	
<2.500€	Direct award or order
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)
20.000 - 300.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
>300.000€	International restricted tender
Supplies	
<2.500€	Direct award or order
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)
20.000 - 100.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
100.000 - 300.000€	Open tender in programme area
>300.000€	International open tender
Works	
<2.500€	Direct award or order
2.500 - 20.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
20.000 - 300.000€	Competitive negotiated procedure (at least three offers evaluated)
300.000 - 5.000.000€	Open tender in programme area



Tunisia¹⁰

Public	IT	MSB
Studies		
<50.000 TND (15.150 €)	Single tender with consultation	
50.000 - 100.000 TND (15.150 - 30.300 €)	Open tender (simplified procedure)	
> 100.000 TND (30.300 €)	Open tender	
>300.000€	International restricted tender	
Studies, services and supplies in IT sector		
<100.000 TND (30.300 €)	Single tender with consultations	
100.000 - 200.000 TND (30.300 - 60.600 €)	Open tender (simplified procedure)	
> 200.000 TND (60.600 €)	Open tender	
100.000 - 300.000€	Open tender in programme area (supplies)	
>300.000€	International restricted tender (studies & services) / International open tender (supplies)	
Services and supplies in the other sectors		
<100.000 TND (30.300 €)	Single tender with consultations	
100.000 - 300.000 TND (30.300 - 90.900 €)	Open tender (simplified procedure)	
> 300.000 TND (90.900 €)	Open tender	
100.000 - 300.000€	Open tender in programme area (supplies)	
>300.000€	International restricted tender (services) / International open tender (supplies)	
Works		
<200.000 TND (60.600 €)	Single tender with consultations	
200.000 - 500.000 TND (60.600 - 151.501 €)	Open tender (simplified procedure)	
> 500.000 TND (151.501 €)	Open tender	
>5.000.000€	International open tender	

¹⁰ Conversion from TND to € using Inforeuro of March 2021.



Private	IT	MSB
Services		
<2.500€	Direct award or order	
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)	
20.000 - 300.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)	
>300.000€	International restricted tender	
Supplies		
<2.500€	Direct award or order	
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)	
20.000 - 100.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)	
100.000 - 300.000€	Open tender in programme area	
>300.000€	International open tender	
Works		
<2.500€	Direct award or order	
2.500 - 20.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)	
20.000 - 300.000€	Competitive negotiated procedure (at least three offers evaluated)	
300.000 - 5.000.000€	Open tender in programme area	
>5.000.000€	International open tender	

Lebanon¹¹

There is no public procurement law in Lebanon but a set of regulations found in various Lebanese laws. Public administration and institutions abide by a set of regulations found in various Lebanese laws and decrees, mainly the Public Accounting Law of 1963 and the Tender Regulations of 1959. Municipalities, public enterprises and autonomous agencies may follow their own set of procurement rules and regulations in a number of cases.

Public	MSB
Services (no thresholds in Public Accounting Law)	
< 300.000€	National open tender
>300.000€	International restricted tender
Supplies	
<3.000.000 LBP (1.627,85€)	Direct award or order
3.000.000 - 100.000.000 LBP (1627,85€ - 54.261,75 €)	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
100.000.000 LBP (54.261,75€) - 100.000€	National open tender
100.000 - 300.000€	Open tender in programme area
>300.000€	International open tender
Works	
<3.000.000 LBP (1.627,85€)	Direct award or order
3.000.000 - 100.000.000 LBP (1627,85€ - 54.261,75 €)	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
100.000.000 LBP (54.261,75€) - 300.000€	National open tender
300.000 - 5.000.000€	Open tender in programme area
>5.000.000€	International open tender

¹¹ Conversion from LBP to € using Inforeuro of March 2021.



Private	MSB
Services	
<2.500€	Direct award or order
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)
20.000 - 300.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
>300.000€	International restricted tender
Supplies	
<2.500€	Direct award or order
2.500 - 20.000€	Award on the basis of a single tender (at least two offers evaluated)
20.000 - 100.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
100.000 - 300.000€	Open tender in programme area
>300.000€	International open tender
Works	
<2.500€	Direct award or order
2.500 - 20.000€	Competitive negotiated procedure / Simplified procedure (at least three offers evaluated)
20.000 - 300.000€	Competitive negotiated procedure (at least three offers evaluated)
300.000 - 5.000.000€	Open tender in programme area
>5.000.000€	International open tender

