

**DECREE**  
of 26 November 2010

**on Publication of Notifications for the Purposes of the Act on Public Contracts**

Pursuant to § 159(3) of Act no. 137/2006 Coll., on Public Contracts, as amended by Act no. 179/2010 Coll. (hereinafter referred to as “the Act”), the Ministry for Regional Development, to implement § 38(3), § 108 and § 146(3) and § 146(6) of the Act, lays down as follows:

§ 1

**Scope**

In pursuance to the directly applicable regulation of the European Union<sup>1</sup> this Decree provides for:

- a) access to the published notifications,
- b) procedures in publishing the notifications,
- c) compulsory information to be published in the notifications, which are to be made known in the Information System on Public Contracts (hereinafter referred to as “the Information System”),
- d) standard forms by means of which the notifications are published in the Information System,

§ 2

**Manner of Publication**

All information from the notifications delivered pursuant to § 5, shall be published on the Internet address of the operator of the subsystem of the Information System (hereinafter referred to as “the operator”). The notifications published and modifications thereof pursuant to § 7 shall be accessible for the general public free of charge for the period of time of not less than 5 years as from the date of publication thereof.

§ 3

**Standard Forms for Publication**

- (1) The contracting entity shall make use of the standard form pursuant to § 4 to publish the notification in the Information System.
- (2) For publication the contracting entity shall make use of
  - a) the standard form of the Notice of Setting Aside the Award Procedure or the Design

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<sup>1</sup> Commission Regulation (EC) No 1564/2005 of 7 September 2005 establishing standard forms for the publication of notices in the framework of public procurement pursuant to Directives 2004/17/EC and 2004/18/EC of the European Parliament and of the Council, as amended by Commission Regulation (EC) No 1792/2006 and by Commission Regulation (EC) No 1150/2009.

Contest referred to in Annex no. 1 to this Decree to publish the notice of setting aside of an award procedure or of a design contest,

- b) the standard form of the Grouped Notices of the Award of Contracts Based on a Framework Agreement referred to in Annex no. 2 to this Decree to publish grouped notices of the award of contracts based on a framework agreement,
- c) the standard form of the Notice of the Contracting Entity Profile referred to in Annex no. 3 to this Decree to publish the notice of the contracting entity profile,
- d) the standard form of the Notice of Cancellation of the Contracting Entity Profile referred to in Annex no. 4 to this Decree to publish the notice of cancellation of the contracting entity profile.

§ 4

**Types of Standard Forms to Publish Notifications**

(1) The contracting entity shall make use of

- a) the standard form of the Notice on the Buyer Profile provided for in the directly applicable regulation of the European Union<sup>1</sup> to publish the notice on the contracting entity profile,
- b) the standard form of the Simplified Contract Notice on a Dynamic Purchasing System provided for in the directly applicable regulation of the European Union<sup>1</sup> to publish the simplified notice,
- c) the standard form of the Design Contest Notice provided for in the directly applicable regulation of the European Union<sup>1</sup> to publish the design contest notice,
- d) the standard form of the Results of Design Contest provided for in the directly applicable regulation of the European Union<sup>1</sup> to publish the notice of results of a design contest,
- e) the standard form of the Voluntary Ex Ante Transparency Notice provided for in the directly applicable regulation of the European Union<sup>1</sup> to publish the notice expressing the intention to conclude a contract pursuant to § 146(2) of the Act.

(2) The contracting authority shall make use of

- a) the standard form of the Prior Information Notice provided for in the directly applicable regulation of the European Union<sup>1</sup> to publish the prior information notice,
- b) the standard form of the Contract Notice provided for in the directly applicable regulation of the European Union<sup>1</sup> to publish the notice of the initiation of an award procedure,
- c) the standard form of the Contract Award Notice provided for in the directly applicable regulation of the European Union<sup>1</sup> to publish the notice of the result of an award procedure.

(3) The sector contracting entity shall make use of

a) the standard form of the Periodic Indicative Notice – Utilities provided for in the directly applicable regulation of the European Union<sup>1</sup> to publish the periodic indicative notice,

b) the standard form of the Contract Notice – Utilities provided for in the directly applicable regulation of the European Union<sup>1</sup> to publish the notice of the initiation of an award procedure,

c) the standard form of the Contract Award Notice – Utilities provided for in the directly applicable regulation of the European Union<sup>1</sup> to publish the notice of the result of an award procedure.

## § 5

### **Manners of Delivery of Notifications**

- (1) The contracting entity shall furnish the notifications to be published or requirements upon modifications of such notifications to the operator pursuant to § 7:
  - a) in paper form,
  - b) by fax,
  - c) by a data message through the data box under separate legal regulation<sup>2</sup> or
  - d) by electronic means
    1. signed with valid advanced electronic signature based on a qualified certificate<sup>3</sup>, namely by means of electronic mail, or
    2. by means of a remote access with direct filling in the notification in the information system; filling the notification in shall entail the information signed with valid advanced electronic signature based on a qualified certificate.
- (2) The notification furnished to the operator in a manner pursuant paragraph (1)(a) or (1)(b), which is not signed by an authorized person or by persons of the contracting entity, shall not be published. The notification furnished to the operator in a manner pursuant to paragraph (1)(c) and (1)(d), which is not signed with valid advanced electronic signature based on a qualified certificate and made out to an authorized person or persons of the contracting entity, shall not be published either.

## § 6

### **Defects of Notification**

- (1) Unless the notification furnished to the operator contains essentials pursuant to § 5(2) and information pursuant to § 8, it shall not be published.
- (2) The operator shall dispatch to the contracting entity the advice note on the fact that the notification shall not be published on account of defects pursuant to § 6(1), due statement of reasons included, within 3 working days as from the date of delivery of such a notification. The operator shall simultaneously invite the contracting entity to rectify defects of the notification.

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<sup>2</sup> Act no. 300/2008 Coll., on Electronic Acts and Authorized Conversion of Documents, as amended.

<sup>3</sup> Act no. 227/2000 Coll., on Electronic Signature and on Amendments to Certain Other Acts (the Electronic Signature Act), as amended.

## § 7

### **Modification of Information in Published Notification**

- (1) Where the contracting entity in compliance with § 147(8) of the Act requests the modification of the published notification, it shall act by analogy pursuant to § 3 and § 4 and, at the same time, shall refill in the relevant standard form and alter the information therein, which it requests to modify.
- (2) In the case of publication of such a modified notification, the operator shall simultaneously arrange for the indication of the original information in such a notification and citation of invalidity thereof.

## § 8

### **Compulsory Information to be Published**

The information, which shall be indicated in relevant standard forms are set out by regulations of the European Union<sup>4</sup>. The obligation of the contracting entity to publish information where the obligation of publication thereof is imposed by the Act shall not be prejudiced thereby. The option not to publish certain information where it is laid down by the Act or by separate legal regulation shall not be prejudiced thereby either.

## § 9

### **Repealing Provisions**

1. Decree no. 330/2006 Coll., on Publication of Notifications for the Purposes of the Act on Public Contracts,
  2. Decree no. 16/2010 Coll., amending Decree no. 330/2006 Coll., on Publication of Notifications for the Purposes of the Act on Public Contracts
- shall be repealed.

## § 10

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<sup>4</sup> Annexes XIII, XV A, XV B, XVI to Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport, as amended by Commission Directive 2005/51/EC of 7 September 2005 amending Annex XX to Directive 2004/17/EC and Annex VIII to Directive 2004/18/EC of the European Parliament and of the Council on Public Procurement.

Annexes VII A, VII B, VII C, VII D to Directive 2004/18/EC of the European Parliament and of the Council on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, as amended by Commission Directive 2005/51/EC of 7 September 2005 amending Annex XX to Directive 2004/17/EC and Annex VIII to Directive 2004/18/EC of the European Parliament and of the Council on Public Procurement.

**Entry into Effect**

This Decree shall enter into effect on 15 December 2010

Minister