



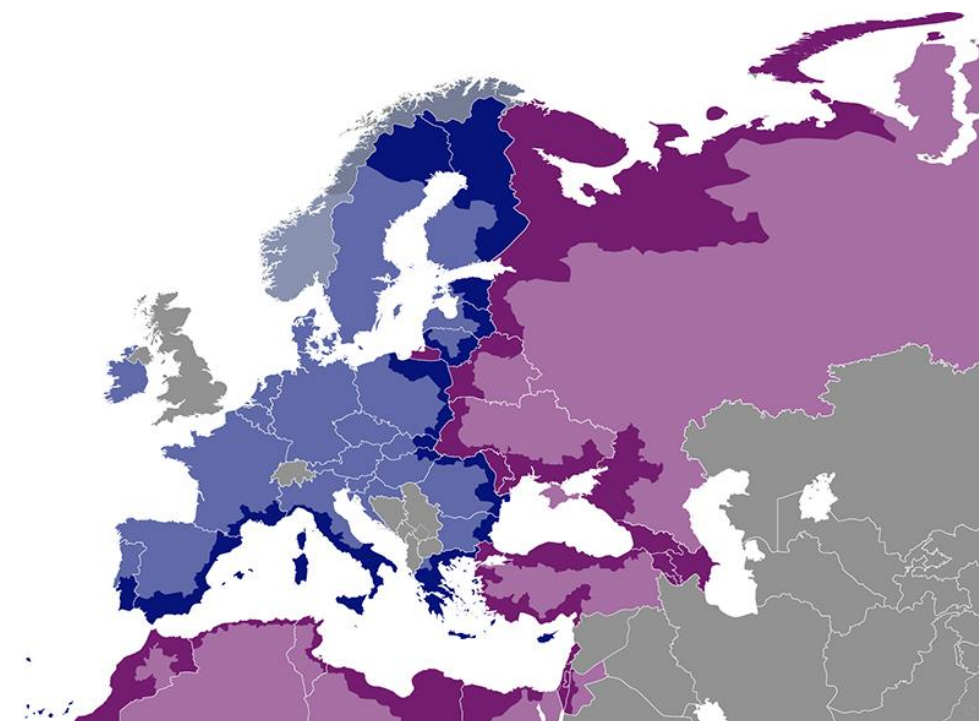
Technical support to the implementation
and management of ENI CBC programmes



MAIN RULES ON PROCUREMENT PROCEDURES

Online Training for Lead Beneficiaries

24 February 2021



A project funded by the European Union



Implemented by a consortium led by



**Procurement procedures
are different than the previous procedures
under the ENPI CBC 2007-2013**



Irregularities because of mistakes in procurements spotted while examining expenditure proved to be **one of the main reasons for declaring costs as ineligible** in 2007-2013

Article 71.3.a of the ENI CBC Implementing Rules (Regulation 897/2014):

“The contribution cancelled in accordance with paragraph 1 (by the Managing Authority) may not be reused for the project that was the subject of a financial correction [...]

Five main principles ought to be respected in any procurement procedure regardless of its value

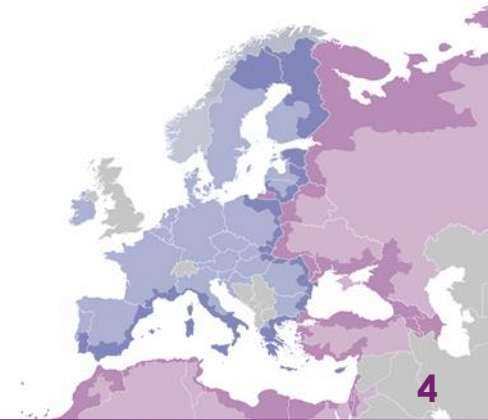
Transparency

Fair
competition

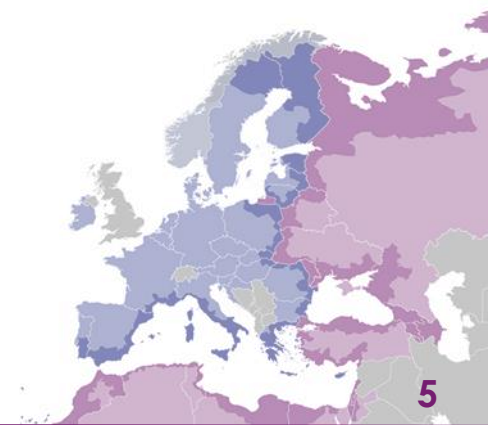
Equal
treatment

Proportionality

Non-
discrimination



- ❖ **Only general references** to articles 52-56 of the ENI CBC Implementing Rules
- ❖ **No specific provisions** regarding procurement for private bodies in Financing Agreements
- ❖ **Generic provisions** in grant contract



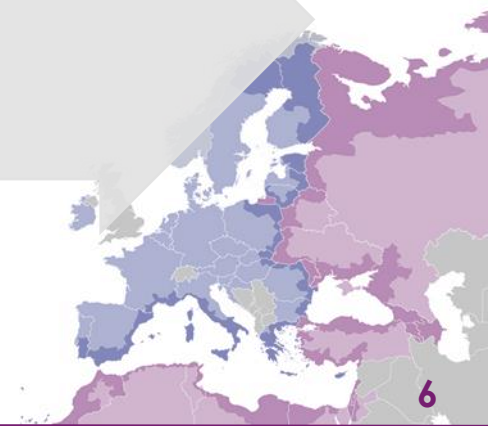
Nationality

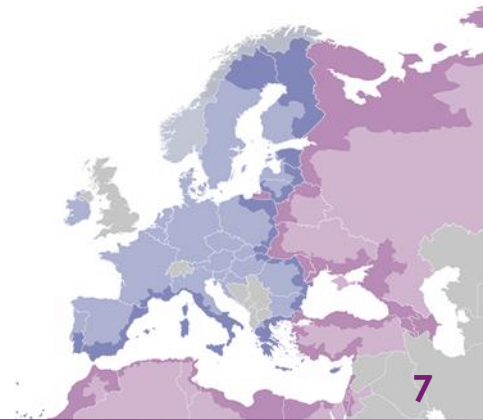
- No restriction

Origin of goods

- No restriction below 100.000€

Be careful with
applicable restrictions
due to sanctions





Which procedure is to be chosen?



What is your legal status?



Public body in EU
Member State

- Use national legislation

Public body in
Mediterranean
Partner Country

- Use national legislation with additional requirements (see TESIM's factsheets)

Private body

- Use Annex to PIM "Procurement by private project partners" and additional requirements in TESIM's Guide

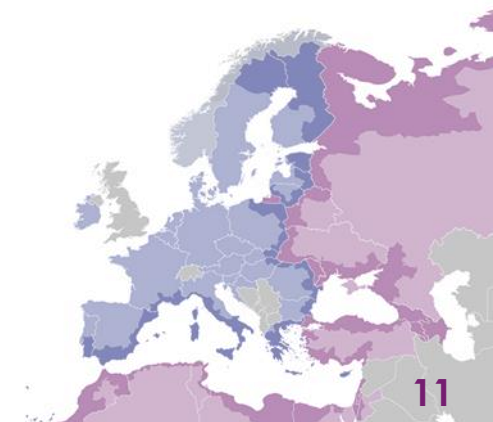
The Factsheets & the Guide



Available factsheets:

- Jordan
- Lebanon
- Tunisia
- Palestine
- Egypt

- ❖ Key principles
- ❖ Eligibility, exclusion, selection and award criteria
- ❖ Grounds for exclusion
- ❖ Administrative and financial penalties
- ❖ Use of language
- ❖ Procedures with a suspension clause
- ❖ Cancellation of procurement procedures
- ❖ Complaints
- ❖ Modifying contracts
- ❖ Procurement plan
- ❖ Failure in procurement procedure



Which type of the procedure?

- ❖ Main procedures identified in the ENI CBC IR **are thoroughly described in PRAG** and the proposed guide is only giving some **tips and indications** on where to find the details and the **templates**
- ❖ **The types of procedures** applied in ENI CBC projects (also defined in the guide) are:
 - Open tender procedure
 - Restricted tender procedure
 - Competitive negotiated procedure without publication
 - Single tender
 - Direct award
- ❖ **Tips/ recommendations on the publication procedures** presented in the guide



Procurement Procedures and thresholds (I)

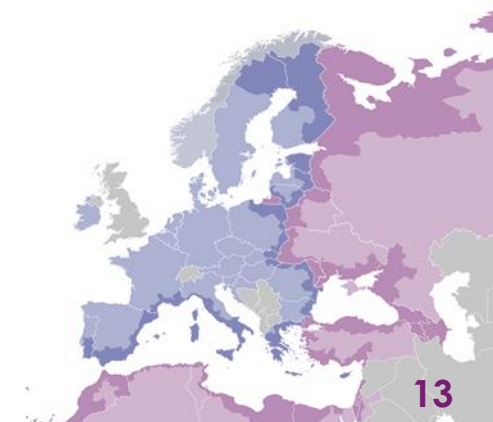
SERVICES

Range of amounts	Type of procedure	Main features
Up to 2.500€	Direct award or order	Payment against invoice without prior acceptance of a tender
More than 2.500€ to 20.000€	Award on the basis of single tender	Invitation to tenderers with clear pre-set requirements. At least two offers must be evaluated
More than 20.000€ to 300.000€	Competitive negotiated procedure	Invitation to tenderers with clear pre-set requirements. At least three offers must be evaluated
More than 300.000€	International restricted tender	Two-steps procedure with international publication of tender

For private bodies only!!

[1] All amounts do not include VAT.

[2] Please note that, the competitive negotiated procedure is also requested for service contracts from 60.001 to 300.000 (see article 53)



Procurement Procedures and thresholds (II)

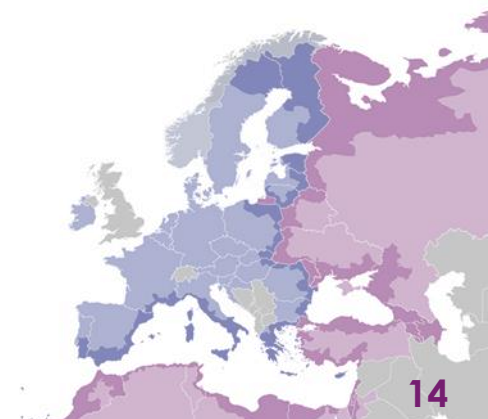
SUPPLIES

Range of amounts	Type of procedure	Main features
Up to 2.500€	Direct award or order	Payment against invoice without prior acceptance of a tender
More than 2.500€ to 20.000€	Award on the basis of single tender	Invitation to tenderers with clear pre-set requirements. At least two offers must be evaluated
More than 20.000€ to 300.000€	Competitive negotiated procedure	Invitation to tenderers with clear pre-set requirements. At least three offers must be evaluated
More than 300.000€ to 5.000.000€	Open tender procedure in programme area	Tender must be published not only in the country of the beneficiary, but in the whole programme area
More than 5.000.000€	International open tender	One-step procedure with international publication of tender

For private bodies only!!

^[1] All amounts do not include VAT.

^[2] Please note that, the competitive negotiated procedure is also requested for works from 60.001 to 300.000 (see article 55)



Procurement Procedures and thresholds (III)

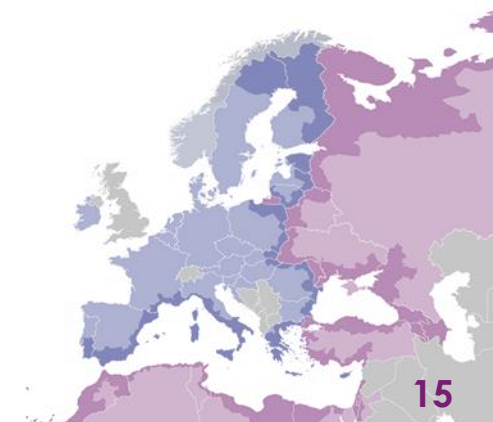
WORKS

Range of amounts	Type of procedure	Main features
Up to 2.500€	Direct award or order	Payment against invoice without prior acceptance of a tender
More than 2.500€ to 20.000€	Award on the basis of single tender	Invitation to tenderers with clear pre-set requirements. At least two offers must be evaluated
More than 20.000€ to 300.000€	Competitive negotiated procedure	Invitation to tenderers with clear pre-set requirements. At least three offers must be evaluated
More than 300.000€ to 5.000.000€	Open tender procedure in programme area	Tender must be published not only in the country of the beneficiary, but in the whole programme area
More than 5.000.000€	International open tender	One-step procedure with international publication of tender

For private bodies only!!

^[1] All amounts do not include VAT.

^[2] Please note that, the competitive negotiated procedure is also requested for works from 60.001 to 300.000 (see article 55)



- ❖ **Any procurement below 20.000€** is considered by PRAG as a type of single tender => negotiation report for single tenders
- ❖ **PRAG does not** elaborate on the procedure for single tender and only stipulates that:
 - *'The Contracting Authority may award service contracts of a value of EUR 20.000 or less on the basis of a single tender.'*
 - *The specific annexes for simplified tenders must be used (administrative compliance grid, contract, contract notice, invitation letter, instructions to tenderers, and tender form) for this procedure. They can be adjusted to the procedure, including deleting non-relevant sections, without this requiring derogation'*

It can be expected that the ENI CBC projects will have a **significant number of procedures below the threshold of 20.000€**, so it is of utmost importance to set clear rules and instructions!



- **Single procedure**, as described in PRAG allows **inviting only one tenderer** but at the same time article 52.2(a) of the ENI CBC obliges that the contract is awarded to the **tender offering best value for money, or as appropriate, to the tender offering the lowest price**. Having two offers would allow the contracting authority to **justify more easily** either best value for money or the lowest price was chosen and:
 - ❖ Increase openness of the procedure by increasing competition
 - ❖ Increase the possibility to get a better value for money
- If some invited tenderer is not able to submit an offer in time and you only have one tender, extend the deadline and **invite other tenderers, so you can evaluate two offers**.
- The tenderers should be given **sufficient time for submission of their offers**. A reasonable period would be at least **10 working days for supply and services** and **15 working days for works**

Possible content of tender dossier for single tender together with evaluation documents and reports described in the draft guide



- ❖ Even though it is possible **to accept payments up to 2.500€ against invoice without prior formal acceptance of a tender**, the beneficiary will follow some internal procedures, which need to prove that the basic principles are respected
- ❖ Since any procurement has to either demonstrate **the best value for money, or as appropriate, the lowest price** (article 52.2(a) of ENI CBC IR), whenever possible, **have more than one offer, even if only by e-mail**. It is not compulsory, but **highly recommended**
- ❖ If you have only one offer or even no offer at all, please **provide an explanation of the reasons for the choice and how 'best value for money' or 'the lowest price' principles were observed**



- ❖ Each organisation has its **own procedure for acquisition of services/supplies/works**, even for very low value ones. **Keep the documents describing this procedure**
- ❖ Ensure the compliance **with internationally accepted standard for internal control**
- ❖ Sometimes, the description of low-value invoices **may not be project-specific (e.g. the acquisition of a computer) => attach a short memo describing the relationship with the project** (e.g. acquisition of a computer for the project manager recruited for the project)



- ❖ **Tender dossier** for services, supplies and works
- ❖ **Evaluation process** for competitive negotiated procedure/ restricted tender/ open procedure
- ❖ A detailed description of the **nature of the contracts**
- ❖ **Description of the key challenges and recommendations** for service/ supplies and works contracts
- ❖ A detailed **glossary of terms**
- ❖ **Annex: simplified tender dossiers** for service, supplies and works (single tender)



Key factors to take into account!



What to do	What NOT to do
Do identify the applicable rules to your organisation	Do not look for shortcuts to save time in preparing the procedures
Do plan all procurement at the beginning of the project	Do not assume that procurement can be done quickly
Do be aware of the thresholds for all types of contracts	Do not split contracts (per years, per partners, per concepts). Artificial splitting of contracts is not allowed
Do consult the JTS/MA/NA in case of doubt or just to double check	Do not trust only your experience, even if you had similar grants in the past – rules change
Do revise your usual procedures to verify that they are compliant with programme rules	Do not assume that tenderers have enough experience to submit eligible bids
Do prepare clear Terms of Reference and check-lists for tenderers	Again do not procure as usual

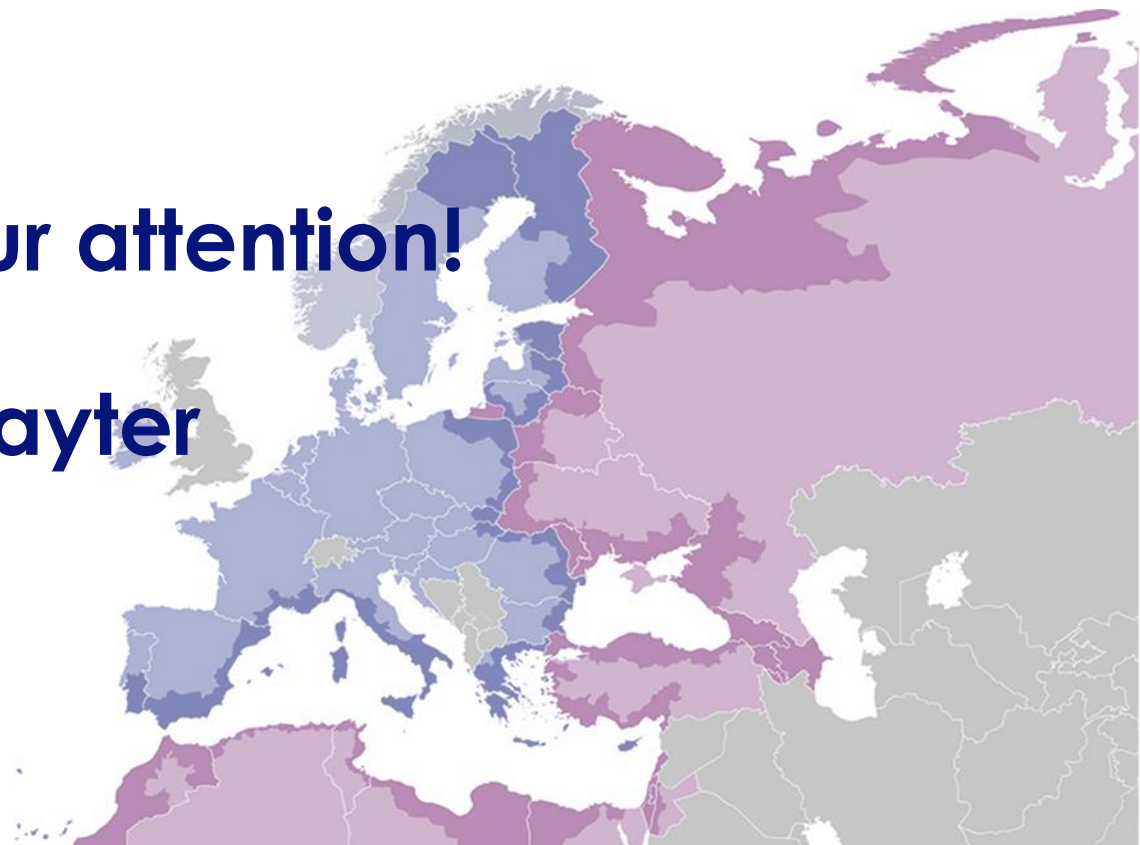


TESIM

Technical support to the implementation
and management of ENI CBC programmes

Thank you for your attention!

Diana Kobayter



A project funded by the European Union



Implemented by a consortium led by:

