

Annex 5. Criteria for exclusion of participation in a procurement procedure

Tenderers shall be excluded from participation in a procurement procedure if:

- a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations. However, tenderers in this situation may be eligible to participate insofar as the Grant Recipient is able to purchase supplies on particularly advantageous terms from either a supplier which is definitively winding up its business activities, or the receivers or liquidators of a bankruptcy, through an arrangement with creditors, or through a similar procedure under national law;
- b) they or persons having powers of representation, decision-making or control over them have been convicted of an offence concerning their professional conduct by a final judgment.
- c) they have been guilty of grave professional misconduct; proven by any means which the Grant Recipient can justify;
- d) they have not fulfilled obligations relating to the payment of social security contributions or taxes in accordance with the legal provisions of the country in which they are established, or with those of the country of the Grant Recipient or those of the country where the contract is to be performed;
- e) they or persons having powers of representation, decision-making or control over them have been convicted for fraud, corruption, involvement in a criminal organisation or money laundering by a final judgment;
- f) they make use of child labour or forced labour and/or practise discrimination, and/or do not respect the right to freedom of association and the right to organise and engage in collective bargaining pursuant to the core conventions of the International Labour Organization (ILO).

3.3 Tenderers shall confirm in writing that they are not in any of the situations listed above. Even if such confirmation is given by a tenderer, the Grant Recipient shall investigate any of the situations listed above if it has reasonable grounds to doubt the contents of such confirmation.

Contracts shall not be awarded to tenderers which, during the procurement procedure:

- a) are subject to a conflict of interests;
- b) are guilty of misrepresentation in supplying the information required by the Grant Recipient as a condition of participation in the tender procedure, or fail to supply this information.