



Technical support to the implementation and management of ENI CBC programmes

# Factsheet on procurement by project public beneficiaries in Republic of Moldova

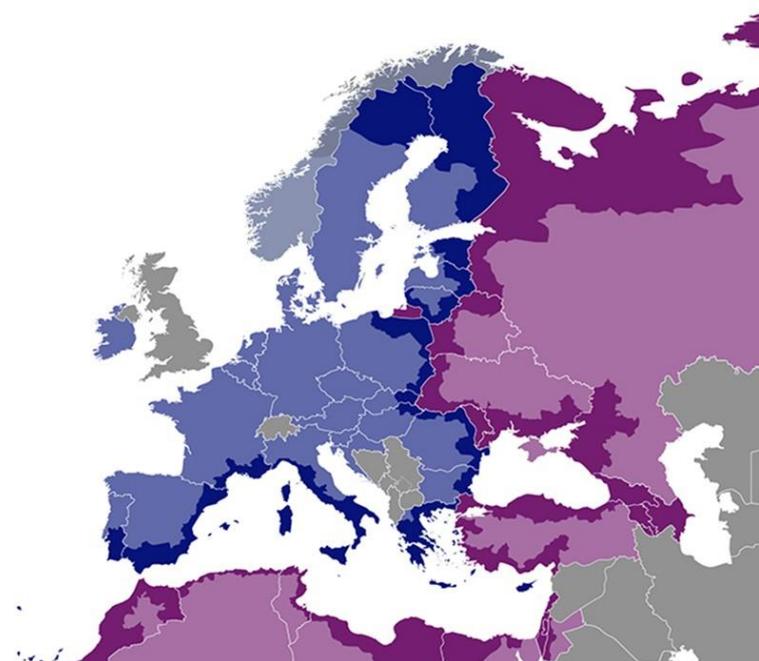
Applicable rules, tips and recommendations for ENI CBC Romania-Republic of Moldova

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## **DISCLAIMER**

This **non-binding document** has been developed by the TESIM project. It does not necessarily reflect the views of the European Commission on the topic, and is presented to programme and project practitioners **for illustrative purposes only**.

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, but it is included as an eligibility requirement by some programmes, in particular, Romania-Republic of Moldova. Further, there are few exceptions to the PRAG applicability, as detailed in section 2.2 and these only concern the projects preparation period (before the contracting process).

The present factsheet aims to describe the applicable rules of awarding contracts related to works, supplies and services for public the Moldovan beneficiaries<sup>1</sup>, deriving from the applicable legislation, but also from the programmes' specific rules and the Financing Agreement. Please read carefully the section on programme specific rules, as public institutions may not apply the usual national procurement procedures.

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<sup>1</sup> For the purpose of this note, the notion of "non-public", that is, "private beneficiary" should be understood as private non-profit organization, as none of the programmes in which Republic of Moldova is involved allows for the participation of profit-making bodies (e.g., businesses). A separate guide on procurement is available for them.



## 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 Moldovan beneficiaries are as follows:

Article	Content
<b>52.2</b>	General principles
<b>52.3</b>	Rules of nationality and origin
<b>53</b>	Procedures and thresholds for service contracts
<b>54</b>	Procedures and thresholds for supply contracts
<b>55</b>	Procedures and thresholds for work contracts
<b>56</b>	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 Republic of Moldova approved a new law on procurement in 2015, updated in 2018<sup>2</sup>, which harmonized the applicable rules with EU legislation.

<sup>2</sup> Law 131 from 03.07.2015. Last modification in law 319 of 30.11.2018

In any case, the Moldovan beneficiaries, in accordance with the provisions of the Financing Agreement, also need to comply with the rules stipulated in the ENI CBC IR and the programme rules. A specific check-list for the verification of the compliance of the Moldovan legislation with the ENI CBC IR provisions 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 Republic of Moldova 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 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 Romanian legislation, no restrictions regarding origin are foreseen, so there is **no restriction on the origin of supplies**. As an exception, the sanctions currently imposed by the EU on Russia (and vice versa) may lead to restrictions in the acquisition of goods and services from this country.

### 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, it should be published in Internet, so that the potential suppliers from the other participating countries of the programme area are informed (e.g. web-site of the project or of the programme).

Nevertheless, the thresholds in the ENI CBC IR are not directly applicable to Moldovan public beneficiaries if national legislation is applied. 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 programme rules, the national legislation and 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 Moldovan Lei (MDL)

The amounts indicated in the ENI CBC IR and in the programme rules are all in EUR, while in the actual procurement procedures MDL 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 may be “monthly accounting rate of the Commission”, which can be found in the [Inforeuro website](#).

### 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** Order no. 85 of 15.06.2016 to assess the convenience of using this procedure.

## 2.2. Specific provisions by the programme

The programme includes in the Guidelines for applicants and the grant contract the obligation to use the templates and details for the types of procedures of PRAG by public beneficiaries in partner countries.



**If I have to use PRAG, what does it mean in practice?**  
This factsheet aims at giving you tips and answers.

Article 9.3 of the grant contract stipulates that the beneficiaries shall apply:

“the Lead Beneficiaries / Beneficiaries shall apply the provisions of the Procurement and grants for European Union external actions (PRAG), including the templates and details for the types of procedures (mainly chapters 2, 3, 4, 5 and 8), in force at the moment of the launch of the call for proposals [...]”

Article 9.3 lists only one exception to the rule, i.e., the Lead Beneficiaries/ Beneficiaries may apply the provisions of the national procurement law only in two cases:

- 1) for costs related to studies and documentation for projects including an infrastructure component (for the Feasibility Study or equivalent, Environment Impact Assessment, technical documentation) incurred during the project preparation period which starts after the approval date of the programme, respectively 17 December 2015 - provision applicable only for LIP, HARD and SOFT projects with an infrastructure component (article 8.1.j of the Grant Contract) and
- 2) for preparatory costs aimed ensure the existence of strong partnerships (article 8.1.k of the Grant Contract)

Besides the outlined exception, in this programme, regardless of the specific provisions for grant beneficiaries in PRAG, the use of its **procurement procedures and templates is** explicitly mentioned as **compulsory** in the grant contract. Therefore, the **only exception** of template is the adapted for the **Declaration on honour**, which you may find in the annex.

## 2.3. Overview on applicable Moldovan legislation

The list of applicable legal acts is as follows:

Legal reference	Content
The <b>Law of Moldova no. 131 from 03.07.2015 on Public procurement. Last modified by Law 23 of 11.03.2019</b>	Establishes a mandatory <b>legal framework for procurement by public bodies</b> and provides the definition of the public bodies, covered by this Law. <b>Procurement</b> of supplies, works and services under the grant funding is <b>subject to national legislation and</b>

	<b>respective financing agreement</b> (Article 8: where the international treaty to which the Republic of Moldova is a party lays down rules other than those provided by this law, the rules of the international treaty)
<b>Financing Agreements</b> on CBC 2014-2020 Special Conditions and its Annex I-General Conditions	<b>Requirement for Beneficiaries in CBC countries to follow</b> procurement procedures and rules of nationality and origin as per Articles 52-56 of the <b>Implementing Regulation (EU) No 897/2014</b> (Articles 4 and 5 of the Annex I of the agreements)
<b>Orders N° 173, 174, 175, 176 and 177 of 2018 of the Ministry of Finance on Standard Documentation for the procurement of goods and services</b>	<b>Standard tender documentation</b> (in compliance with best international practices)
<b>Order N° 665 of 2016 of the Ministry of Finance on the low-value procurement</b>	<b>Instructions for procurement procedures for low-value contracts</b>
<b>Order N° 987 of 2018 of the Ministry of Finance on the low-value procurement</b>	<b>Instructions for competitive negotiated procedure</b>

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

### 3. Requirements on procurement for Moldovan public bodies

#### 3.1. General principles

The “**Law no. 131 of 03.07.2015 on Public procurement of the Republic of Moldova, last modified by Law 23 of 11 March 2019**” shall apply to the beneficiaries considered as public bodies in the understanding of the law<sup>3</sup>. Article 8 of the law allows to use procurement provisions of the ratified international treaties of the Republic of Moldova, if different from the law.

The **general procurement principles**, as stated in article 7 of the law, **are in line with the ENI CBC IR and section 2.5 of PRAG**: fair competition, economy and efficiency, transparency, non-discrimination, objectivity and fight against corruption and fraud.

#### 3.2. Definition of public bodies

Article 13 of the law of Moldova on public procurement includes the following definition of “**contracting authorities**”:

*Article 13. The status of a contracting authority*

- (1) *Contracting authorities are the public authorities, defined in the legislation of the Republic of Moldova, legal persons of public law, associations of these authorities or persons.*
- (2) *A legal entity governed by public law is any entity that cumulatively fulfills the following conditions:*
  - a) *is set up to meet exclusively needs of general interest, whether industrial or commercial;*
  - b) *which has legal personality;*
  - c) *the activity of which is provided on public money or the management of which is subject to the control of public authorities or other legal persons governed by public law, or its board of directors, management or supervision is formed, in proportion of more than 50%, from members appointed by the said entities.*
- (3) *The contracting authority is also an association of contracting authorities, the members of which shall designate from among themselves, by civil legal act, a legal entity representing them as sole purchasers in their dealings with any economic operator.*
- (4) *By Government Decision, other legal entities that have the obligation to carry out public procurement under this law may also be qualified as contracting authorities if their activity is carried out in markets where competition is excluded by normative or administrative act or in the existence of a dominant position on the market.*

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<sup>3</sup> This is without prejudice to the application of a different notion of “public body” for the purposes of determining the financial liability of Republic of Moldova in accordance with Article 74.5 of the ENI CBC IR and the Financing Agreement.

- (5) Any other entity that does not meet cumulatively the requirements specified in paragraph (2) may be qualified as a contracting authority, at the will or decision of the competent management bodies, provided that the purchases are made in strict accordance with this law.
- (6) The contracting authority is also the central procurement authority designated by the Government to organize and centralize procurement procedures to meet the needs of the same goods, works or services of several contracting authorities using only electronic means of communication, except in the cases provided by art. 33.
- (7) Contracting authorities purchasing goods, works and services through a central purchasing authority within the meaning of paragraph (6) shall be considered as compliant with the provisions of this law to the extent that the central purchasing body concerned has also complied with them.

### 3.3. Language requirements

The procurement announcements have to be published in Romanian, even though other languages may be used regardless the amount under the circumstances stipulated in article 40 of the law. Considering that Romanian is an official language in the European Union, this provision is in line with the language requirements in section 2.6 of PRAG. The above-mentioned article stipulates:

- (2) The award documentation shall be prepared and published in the state language.
- (3) Awarding documentation may also be drawn up in one of the languages of international circulation where:
  - a) the nature of the goods, works and services required impose the attraction of foreign economic operators, resources, foreign technologies, the provision of expertise or the involvement of foreign competitors;
  - b) the estimated value of the goods, works and services requested exceeds the thresholds stipulated in art. 2 par. (3).
- (4) Tenders shall be submitted in the language specified in the awarding documentation. Any economic operator has the right to refer to the awarding documentation and to formulate the requirements in the language in which the tender was submitted.

### 3.4. Type of procurement procedures

The type of procedures defined in Article 46 of the law are harmonized with EU legislation and fully in line with the procedures identified in section 2.6 of PRAG:

- (1) The public procurement contract may be awarded through the following procedures:
  - a) open tender;
  - b) restricted tender;
  - c) competitive dialogue;
  - d) negotiated procedures;
  - e) request for price offers;
  - f) solution competition;

- g) acquisition for social services and other specific services;
- h) partnership for innovation.
- (2) The basic procedures for the award of the public procurement contract are open tender and restricted tendering. Other public procurement procedures may be used only under the conditions expressly provided by this law.
- (3) The contracting authority shall have the right to use the following procurement techniques and specific procurement procedures:
  - a) framework agreement;
  - b) dynamic acquisition system;
  - c) electronic auction.
  - d) electronic catalogs

### 3.5. Applicable thresholds

The "**Law of the Republic of Moldova on public procurement**" stipulates the minimum thresholds for public bodies. The thresholds in the Law are expressed in MDL. This guide uses the [accounting rate of the Commission of the month of December 2020](#), that is 19,9181 MDL/EUR.

The Law (art. 2) fixes the following thresholds:

"Article 2. Scope of application of the law (1) This law shall apply to public procurement contracts, except those specified in art. 5, the estimated value of which, net of value added tax, is equal to or greater than the following thresholds: "

Type of contracts	Amount in MDL	Estimated amount in EUR (December 2020)
Supplies and services	Up to 200.000 MDL	9.752,10€
Works	Up to 250.000 MDL	12.190,13€
Contracts related to social services and other specific services listed in Annex no. 2	Up to 400.000 MDL	19.504,20€

"(4) Public procurement contracts the estimated value of which, net of value added tax, does not exceed the thresholds referred to in paragraph (1) are governed by the Low Value Public Procurement Regulations, approved by the Government. "

The procedure for any contract below these thresholds is the equivalent to "single tender" in PRAG. Above them, the thresholds are as follows:

Demand of price offer <sup>4</sup> (equivalent to competitive negotiated procedure in PRAG)	Amount in MDL	Estimated amount in EUR (December 2020)
Supplies and services	From 200.000 to 800.000 MDL	From 9.752,20€ to 39.008,40€
Works	From 250.000 to 2.000.000 MDL	From 12.190,13€ to 97.521,01€

All the contracts above these thresholds must use open tender.

<sup>4</sup> Not applicable to contracts related to social services and other specific services listed in Annex no. 2 of the Law

## 4. Compliance with ENI CBC Implementing Rules

### 4.1. Partially compliant provisions

Even though the Law of Republic of Moldova on procurement, together with the orders of the Ministry of Finance, is compliant with the requirements of articles 52.2 to 56 of the ENI CBC IR, there are two points of attention, which might imply ineligibility of expenditure if not taken into account:

- Exclusion criteria for tenderers and declaration on honour;
- Number of members of the evaluation committee.

Article 19 of the Law stipulate **exclusion criteria** for tenderers. However, the eligibility criteria defined are not fully compliant with the requirements of the ENI CBC Implementing Rules.

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** of this document.

Art 20 of the Law stipulates that the contracting authorities accept the European single procurement document (hereinafter referred to as "DUAE" (approved by MF order 177)), which consists of an up-to-date declaration as a preliminary document instead of certificates issued by public authorities or by third parties, confirming that the economic operator concerned fulfills the conditions in EU.

The Governmental Decision No. 667 of 27.05.2016 for the approval of the Regulation on the work of the Working Group for Procurement stipulates for the **evaluation committee**:

*II. Composition of the working group*

- (3) The working group shall be set up by a special decision (order) or provision of at least 5 members and in duly justified cases of at least 3 members, including the head of the working group - the person holding the first signature right in the appropriate institution or the person appointed by it and the secretary of the working group.*

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 Moldova.

### 4.2. Tender documents in accordance with best international practices

Standard tender documents are stipulated in the Orders N° 173, 174, 175, 176 and 177 of 2018 of the Ministry of Finance. Even though the [standard tender documents](#) are

compliant with the criterion of “best international practices”, some minor elements should be improved to be fully in line with the usual EU practices.



**May I use my own usual templates, that is, the standard tender documents stipulated by the Ministry of Finance?**

You can only use those that have no equivalent document in PRAG. All templates may be translated into Romanian.

Three evaluation documents are missing in the national standard templates:

- Administrative grid;
- Evaluators grid;
- Tender opening checklist

We recommend to use the following PRAG templates for these missing documents:

Name of document	PRAG reference
Administrative Compliance Grid	b8o1_admingrid_simp_en.doc (services); c4j_admingrid_en.doc (supplies); d4l_admingrid_en.doc (works)
Evaluation grid	Annex 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 opening check-list	b9_openchecklist_en.doc (services) c5_openchecklist_en.doc (supplies) d5_openchecklist_en.doc (works)

We **strongly recommend** to adapt (and translate) the above-mentioned PRAG templates, as the non-inclusion of this templates may result in the ineligibility of the expenditure.

You may find the templates in the annexes for services, supplies and works in the following URL: <https://goo.gl/Ungxi6><sup>5</sup>

<sup>5</sup> This is a shortened URL address



### 4.3. Additional templates and information to the usual ones

As indicated in the checklist above, some of the documents stipulated in PRAG are not usual in the Moldovan procedure, there is no specific template or there is some missing information.

**“Tender documents must be drafted according to best international practice”** and **“PRAG templates must be used”** in the ENI CBC programmes in Republic of Moldova. These are essential requirements for the eligibility of expenditure.

Despite the alignment of Moldovan legislation and tender documents with EU standards, we recommend to carry out a thorough verification of the compliance of your usual templates and details for the procedure.

**DO NOT PROCURE AS USUAL!!**

## ANNEX: 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

<b>(1) declares that the above-mentioned person is in one of the following situations:</b>	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 Republic of Moldova and the European Commission in the legal provisions of Republic of Moldova;	<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 Moldovan 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 Moldovan competent authorities, the Delegation of the European Union in Republic of Moldova, 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 Moldovan 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 Moldovan National Authority (identified in the Financing Agreement for ENI CBC programmes between the European Commission and Republic of Moldova) or the European Commission relating to the infringement of the competition rules stipulated in the Association Agreement between the European Union and Republic of Moldova 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><b>(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:</b></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><b>(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:</b></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**

<b>(4) declares that the above-mentioned person:</b>	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

<b>(5) declares that the above-mentioned person complies with the selection criteria applicable to it individually as provided in the tender specifications:</b>	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).*

<b>(6) if the above-mentioned person is the sole tenderer or the leader in case of joint tender, declares that:</b>	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"/>

## VII – 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

Signature