FILLING INSTRUCTIONS

**European Single Procurement Document ESPD**

# Directives in relation to the personal qualification of contractors

## Pursuant to the regulations of Article 59 of Directive 2014/24/EU1 and Article 80(3) of Directive 2014/25/EU2, hereinafter: '*the Directive*' or '*the Directives*', as well as the Act of 11 September 2019 - Public Procurement Law (Journal of Laws of 2019 and of 2020, item 288, 1492, 1517, 2275 and 2320), hereinafter: '*the PPL*', with regards to classic and sectoral procurement procedures whose value is equal to or exceeds the EU thresholds3, the basic document constituting confirmation of:

* 1. compliance by the contractors with the conditions for participation in the procedure

## lack of grounds for exclusion,

* 1. as well as the fulfilment of selection criteria (objective and non-discriminatory criteria established by the contracting authority to restrict the number of eligible contractors or participants in the contest)

is the **contractor's declaration** temporarily replacing the subjective evidence required by the contracting authority.

# Form of the European Single Procurement Document

## This declaration shall be made on the standard form of the European Single Procurement Document **(ESPD)**, the template for which is provided in Commission Implementing Regulation (EU) 2016/7 of 5 January 2016. (Official Journal of the EU No. L 3 of 6.1.2016, p. 16), hereinafter referred to:

“ESPD Regulation”. This regulation has direct effect in the Member State.

# Entities submitting the ESPD

## The Directives' regulations, followed by the PPL Act, provide for subjective verification using the ESPD form in relation to:

* 1. contractors

## in the case of contractors applying collectively for the award of the contract, the ESPD form shall be submitted by each of the contractors (with regard to the conditions for

1Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement, repealing Directive 2004/18/EC (Official Journal of the EU L 94 of 28.3.2014, p. 65).

2Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors, repealing Directive 2004/17/EC (Official Journal of the EU L 94, 28.3.2014, p. 243)

3The thresholds defined in:

* Commission Delegated Regulation (EU) 2019/1828 of 30 October 2019 amending Directive 2014/24/EU of the European Parliament and of the Council in respect of their thresholds for public supply, service and works contracts and design contests
* Commission Delegated Regulation (EU) 2019/1829 of 30 October 2019 amending Directive 2014/25/EU of the European Parliament and of the Council in respect of their thresholds for supply, service and works contracts and design contests

## participation in the procedure and selection criteria completed to the extent that the contractor demonstrates their fulfilment);

* 1. resource providers

## ESPD of the entity providing the resources shall be submitted by the contractor if it invokes its resources to prove the fulfilment of the conditions for participation in proceedings or selection criteria;

* + - ESPD should be completed to the extent that the contractor makes use of the resources of the resource provider;

## ESPD should also address the verification of the basis for exclusion of the resource provider;

* + - applies both where the entity providing the resource will not be a subcontractor during the performance of the contract and where it will be one;

## subcontractors

* + - concerns subcontractors indicated by the contractor to whom he intends to subcontract parts of the contract, including subcontractors of works contracts and subcontractors of service contracts, whether or not to be performed on the site subject to the direct supervision of the contracting authority, and subcontractors of supply contracts, with the exclusion of further subcontractors and suppliers participating in the execution of the works or service contract;

## ESPD should refer to the verification of the basis for exclusion, if such examination has been foreseen by the contracting authority in the framework of a specific procedure;

* + - ESPD of the subcontractor shall be submitted by the contractor, if required by the contracting authority.

# Deadline for submitting ESPD

## The filled-in ESPD form shall be submitted:

* in a nonlimited tender together with the offer or before the selection of the most advantageous offer, if, in the case referred to in Article 139(1) of the PPL Act, the contracting authority stipulated the possibility of requesting the ESPD only from the contractor whose offer was assessed as the most advantageous;

## in multi-stage modes, together with a request to participate;

* negotiated without an announcement - together with the offer4;

4unless the contracting authority has waived the requirement for the contractor to submit this statement pursuant to Article 212(4) of the PPL Act

## by direct agreement - prior to conclusion of the contract5;

* at the contract execution stage - with regard to new subcontractors to whom the contractor later intends to assign a part of the contract.

# Form of ESPD

## For contracts with a value equal to or above the EU thresholds, contractors are required to submit a declaration **on the standard ESPD form**, in electronic form, on pain of nullity. To comply with the electronic form, it is sufficient to submit the ESPD electronically and affix a qualified electronic signature. In cases where the contracting authority waives the requirement to use electronic means of communication for the ESPD, the document shall be submitted in writing or electronically (e.g. on a CD) at the contracting authority's choice, otherwise it shall be null.

At: <https://espd.uzp.gov.pl/> an electronic tool prepared by the Public Procurement Office based on a tool developed by the EC is available which can be used to implement the obligation to submit the ESPD electronically.

# Content of ESPD

## Pursuant to the Directive, ESPD should contain at least the following information:

* a statement by the contractor to the effect that there are no grounds (basis) for exclusion;
* a statement by the contractor that he fulfils the conditions for participation in the procedure;
* a statement by the contractor that he complies with the selection criteria designed to limit the number of contractors allowed to take part in the procedure;
* identification of the public authority or third party responsible for issuing the documents certifying the absence of grounds for exclusion and, where applicable, the fulfilment of the conditions for participation and selection criteria;
* a formal statement by the contractor to the effect that the contractor will be able, upon request and without delay, to provide documents proving the absence of grounds for exclusion and the fulfilment of the conditions for participation and selection criteria;
* information necessary for the contracting authority to obtain the supporting documents directly from the database (under the conditions defined in Article 59(5) of the Directive).

ESPD form consists of six parts:

5unless the contracting authority has waived its request for the contractor to submit this statement under Article 217(3) of the PPL Act

## part I. identification of the public procurement procedure

- to be filled in by the contracting authority or the contractor

## and

## part II. identification of contractor

## part III. grounds for exclusion

## part IV. conditions for participation

## part V. selection criteria

## part VI. signature(s)

## - to be filled in by the contractor.

Detailed guidance on how to complete the standard ESPD form can be found in the third column of the attached table.

# *NOTE:* Statement in proceedings with value below the EU thresholds

In the case of public procurement procedures whose value does not exceed the equivalent of the EU thresholds, there is no obligation to require/submit a declaration of fulfilment of the conditions for participation in the procedure and of the absence of grounds for exclusion from the procedure, or of the fulfilment of the selection criteria, on the standard ESPD form established by the EC Regulation cited in point II.

# Part I: Information on the procurement procedure and the contracting authority or contracting entity

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| **In the case of public procurement procedures for which a call for proposals has been published in the Official Journal of the European Union, the information required in Part I will be retrieved automatically provided that the electronic Single European Contract Document service is used for the creation and completion of the European Single Contract Document.** (1) **Publication address of the relevant notice (2) in** ***the Official Journal of the European Union:***  **OJ EU S number [], date [], page [],**  **Number of the announcement in OJ S: [][ ][ ][ ][ ]/S [ ][ ][ ][ ][ ][ ][ ][ ].**  **If a call for proposals has not been published in the Official Journal, the contracting authority or contracting entity must fill in the information making it possible to identify the procurement procedure unambiguously:**  **In case the publication of the notice in the Official Journal of the European Union is not required, please provide other information to clearly identify the procurement procedure (e.g. publication address at national level): [....]** | In this field, the contracting authority enters the address of the publication of the announcement in the Official Journal of the EU.  If no announcement has been published  in the Official Journal of the EU, the contracting authority must enter information enabling the procurement procedure to be identified unambiguously here. |

### INFORMATION ON THE PROCUREMENT PROCEDURE

**The information required in Part I will be retrieved automatically provided that the above-mentioned electronic service dedicated to the European Single Order Document**

1 The Commission services will disclose to contracting authorities, contracting entities, contractors, electronic service providers and other interested parties a free electronic service dedicated to the European Single Procurement Document.

2 In the case of **contracting authorities**: **a prior information notice** used as **a call for competition** or **a contract notice.** In the case of **contracting entities**: **a periodic information notice** used as a call for competition, **a contract notice** or a **notice on the existence of a qualification system.**

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| **will be used to create and complete this document. Otherwise, this information must be completed by the contractor.** | |  |
| **Identity of the contracting authority** (***3***) | **Answer:** | The scope of information required in this part of the form coincides with the information contained in sections I.1, II.1.1 and II.1.3 of the contract notice published in the Official Journal of the EU.  Complete this section of the form by entering the basic information relating to the procurement procedure: name of the contracting authority, title or brief description of the contract and, if applicable, the reference number assigned to the procedure by the contracting authority. |
| Name: | [ ] |
| ***What contract does this document relate to?*** | ***Answer:*** |
| Title or brief description of the contract to be procured (4): | [ ] |
| Reference number assigned by  the contracting authority or contracting entity *(if applicable)* (5): | [ ] |
| **All other information in all sections of the European Single Contract Document should be completed by the contractor.** | |  |

3 This information should be copied from Section I(I.1) of the relevant announcement.In the case of a joint procurement, please indicate the names of all participating contracting authorities.

4 See points II.1.1 and II.1.3 of the relevant announcement.

5 See points II.1.1 of the relevant announcement.

**Part II: Information concerning the contractor**

### A: INFORMATION ON THE CONTRACTOR

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| **Identification:** | **Answer:** | First, the contractor submitting the ESPD is to be identified.  In the case of contractors applying jointly for a contract, only the contractor to which the ESPD relates shall be indicated under this heading. All contractors applying jointly for the contract ("consortium") are indicated later in the form (last items of Section A).  In the case of contractors using a VAT number, this number (Tax Identification Number preceded by PL) must be entered.  In the case of contractors who do not use a VAT number, enter the number the contractor uses in connection with its business: REGON, Tax Identification Number, as appropriate.  In the case of non-entrepreneurial individuals who use a PESEL registration number for tax purposes, this number must be entered. |
| Name: | [ ] |
| VAT number, if applicable:  If a VAT number is not applicable, please provide another national identification number if required and applicable. | [ ]  [ ] |
| Postal address: | [……] |  |

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| Designated contact person(s) (6): Phone number:  E-mail address:  Web address (if applicable): | [……]  [……]  [……]  [……] | Information on designated contact person(s) should be repeated as many times as necessary. |
| **General information:** | **Answer:** | For the purposes of answering this question, the definitions contained in the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36) should be used. |
| Is the contractor a micro, small or medium enterprise (7)? | [] Yes [] No |
| **Only if the order is restricted** (**8**): whether the contractor is a sheltered workshop, ‘workshop enterprise’ (9) or will it carry out the contract in the framework of sheltered employment programmes?  **If yes,**  what is the respective percentage of disabled or disadvantaged workers? If required, please specify to which category or categories | [] Yes [] No  […] [….] | The space of the form should be filled in with a 'Yes' if the contracting authority in a specific proceeding made use of the possibility under Article 94(1) of the PPL. This regulation provides for the possibility for the contracting authority to stipulate in the contract notice that only sheltered workshops, social cooperatives and other contractors whose main objective or the main purpose |

6 Please repeat the information on the designated contact person(s) as many times as necessary.

7 Cf. Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36). This information is required for statistical purposes only.

**Micro-enterprise:** an enterprise which **employs fewer than 10 people** and whose annual turnover or annual balance sheet total **does not exceed EUR 2 million. Small enterprise:** an enterprise which **employs fewer than 50 people** and whose annual turnover or annual balance sheet total **does not exceed EUR 10 million.**

**Medium enterprise:** **enterprises which are not micro or small enterprises and which employ fewer than 250 people and have an annual turnover not exceeding EUR 50 million, *or***

**annual balance sheet total does not exceed EUR 43 million.**

8 See contract announcement, point III.1.5.

9 I.e. an enterprise whose main objective is the social and professional integration of disabled or disadvantaged people.

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| of disabled or  disadvantaged workers concerned. |  | of the activities of their organisationally separate units which will perform the contract is the social and professional integration of socially marginalised people, may apply for the award of the contract, provided that the percentage of such people employed by the contractor or its unit which will perform the contract is not less than 30%. In particular, the provision identifies examples of socially marginalised groups in this respect.  Please refer to section III.1.5 of the contract announcement (Official Journal of the EU) for information on whether the contract has been restricted in this way.  A 'social enterprise' should be understood as an enterprise whose main objective is the social and professional integration of disabled or disadvantaged people. |
| If applicable, is the contractor registered in an official list of approved contractors or holds an equivalent certificate (e.g. under a national (pre-)qualification scheme)? | [] Yes [] No []Yes [] Not applicable | The Directive , in Article 64, provides for the possibility for Member States to establish and maintain official lists of approved contractors and their certification. Transposition of these regulations is not mandatory. The Polish legislator has not made use of the possibility of establishing official lists of approved contractors. |

 Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement, repealing Directive 2004/18/EC (Official Journal of the EU L 94 of 28.3.2014, p. 65)

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|  |  | **Polish contractors in this subsection mark the option "Not applicable" and**  **leave the rest of the subsection blank.**  In contrast, such lists exist in some other EU Member States. In Germany, for instance, there is an official list of approved building contractors: <http://www.pq-verein.de/>, in the Czech Republic - lists and certification for all types of contracts <http://www.isvz.cz/isvz/Podpora/ISVZ.aspx>  If the (foreign) contractor is included in such a list, he or she shall mark the answer "Yes" and complete the further part of the form in the space below. The space "No" shall be filled in by the contractor who is not included in such a list without completing the further part of the form in the space below. |
| **If yes:**  **Please respond in the remainder of this section, in Section B and, where applicable, Section C of this Part, complete Part V (where applicable) and, in each case, complete and sign Part VI.**   1. Please indicate the name of the list or certificate and the relevant registration number or certificate number, if applicable: 2. If the certificate of listing or | a) [……] | To be filled in by a contractor from a country which has an official list of approved contractors and which is included in such a list.  Whenever the European Single Procurement Document form refers to the availability  of relevant documents or certificates in electronic form |

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| the issuing of a certificate shall be indicated:   1. the reference data on which the listing or certificate is based and, where applicable, the classification given in the official list (10): 2. Does the issued listing or certificate cover all the required qualification criteria?   **If not:**  **Please additionally complete the missing information in Part IV in Sections A, B, C or D, as appropriate.**  **ONLY if required**  **by the relevant announcement or contract documents:**   1. Will the contractor be able to provide a certificate relating to the payment of social security contributions and taxes or to provide information which will enable the contracting authority or contracting entity to obtain this certificate directly by means of a free national database in any Member State?   If the relevant documentation is available in electronic form, please indicate: | b) (Internet address, issuing authority or body, exact reference of the documentation):  [……][……][……][……] c) [……]   1. [] Yes [] No 2. [] Yes [] No   (Internet address, issuing authority or body, exact reference of the documentation):  [……][……][……][……] | it shall be understood to mean the possibility of obtaining them via free and publicly accessible databases, including public registers, within the meaning of the Act of 17 February 2005 on the computerisation of the activities  of entities performing public tasks. |
| **Type of participation:** | **Answer:** |  |

10 Reference data and classification, if any, are specified on the certificate.

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| Is the contractor taking part in the procurement procedure jointly with other contractors (11)? | [] Yes [] No | Each of the contractors applying jointly shall complete this field in their form, indicating their role in the group of contractors applying jointly ("consortium"), the names of the other members of the consortium and the name of the consortium, if any.  The contractor applying for the contract on its own shall mark the answer "No” and leave the remainder of this subsection blank. |
| If so, please ensure that the other participants submit separate European Single Contract Documents. | |
| **If yes:**   1. Please indicate the role of the contractor in the group (leader, responsible for specific tasks, etc.): 2. Please indicate the other contractors participating jointly in the procurement procedure: 3. If applicable, name of participating group: | a): [……]  b): [……]  c): [……] |
| **Parts** | **Answer:** | If the contracting authority has allowed for the possibility of submitting partial offers within one procedure, the part requested by the contractor must be indicated in this field. |
| Where appropriate, indication of the proportion(s) of the contract for which the contractor intends to submit an offer. | [ ] |

### B: INFORMATION ON THE CONTRACTOR'S REPRESENTATIVES

*If applicable, please indicate the name(s) and address(es) of the person(s) authorised to represent the contractor for the purpose of this procurement procedure:*

11 Particularly within a group, consortium, joint venture or similar entity.

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| **Authorised representatives, if any:** | **Answer:** | This section must contain the names and addresses of persons authorised to represent the contractor for the purposes of the procurement procedure, as well as the scope of any powers of attorney granted.  The term "representation" used in the form is to be understood broadly, as representation or power of attorney within the meaning of the Civil Code.  If the scope of the power of attorney granted is specified in detail in this section and a declaration of intent to that effect is made in the content of the ESPD and the ESPD document is signed correctly (in accordance with the principles of representation), it is not necessary to create and attach a separate power of attorney document to the offer or request to participate. If the data under this heading is for information purposes only and a power of attorney has been granted separately, the power of attorney should be attached to the offer or request to participate. |
| Name and surname, including date and place of birth, if required: | [……], [……] |
| Function/Acting as: | [……] |
| Postal address: | [……] |
| Phone number: | [……] |
| E-mail address: | [……] |
| If necessary, please provide details of the representation (its forms, scope, purpose, etc.): | [……] |

### C: INFORMATION ON RELIANCE ON THE CAPACITIES OF OTHER ENTITIES

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| **Dependence on other entities:** | **Answer:** | Pursuant to Article 118(1) of the PPL Act, a contractor may, in order to confirm the fulfilment of the conditions for participation in proceedings or selection criteria, in appropriate situations and with regard to a specific contract or part thereof, rely on the technical or professional abilities or the financial or economic situation of the entities which make the resources available, regardless of the legal nature of the relations which bind the contractor.  If the contractor relies on the capacities of other entities in order to demonstrate the fulfilment of the conditions for participation in proceedings or selection criteria, pursuant to Article 125(5) of the PPL Act, he is obliged to submit - for each of the entities concerned - a separate form of the single document containing the information required in Part II, Sections A (information on the contractor) and B (information on the contractor's representatives), Part III (grounds for exclusion) and - to the extent that he makes use of the resources of a third party - in Part IV (eligibility criteria) and Part V (selection criteria).  Such forms should be completed and signed by these entities. |
| Does the economic operator rely on the capacity of other entities in order to meet the qualification criteria set out below in Part IV and (if applicable) the criteria and rules stated below in Part V? | [] Yes [] No |

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|  |  | The preceding also applies to all technical staff or technical services, i.e. personnel resources that do not belong directly to the contractor's company.  However, this does not apply to personal resources at the contractor's direct disposal, i.e. cases where a natural person is engaged by the contractor on the basis of various legal relationships, regardless of whether he or she is engaged in business activity by means of a company (workplace) or providing a service on the basis of, inter alia, a contract of mandate, if that person will only perform personally, agreed with the contractor, activities related to the performance of the public contract, e.g. act as a construction manager. In this case, we are referring to the direct disposal of a person capable of performing the contract and not to the reliance on the resources of a third party. This qualification is determined by the content of the legal relationship existing between the contractor and such person.  Where relevant to the specific capacities on which the contractor relies, |

 See:<https://www.uzp.gov.pl/baza-wiedzy/interpretacja-przepisow/opinie-archiwalne/dopuszczalnosc-zadania-przez-zamawiajacego-przedstawienia-przez-wykonawce-dokumentow-podmiotowych-dotyczacych-> [podmiotu-trzeciego](https://www.uzp.gov.pl/baza-wiedzy/interpretacja-przepisow/opinie-archiwalne/dopuszczalnosc-zadania-przez-zamawiajacego-przedstawienia-przez-wykonawce-dokumentow-podmiotowych-dotyczacych-podmiotu-trzeciego)

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|  |  | the information required in Parts IV (eligibility criteria) and V (selection criteria) must be included for each of the entities concerned. |
| **If so**, please provide, **for each** of the entities concerned, a separate form of the European Single Procurement Document containing the information requested **in Sections A and B of this Part and in Part III,** duly completed and signed by the entities concerned.  It should be noted that this also applies to all technical staff or technical services not belonging directly to the undertaking of the contractor concerned, in particular those responsible for quality control and, in the case of public works contracts, those whom the contractor will be able to call upon to carry out the works.  Where relevant to the specific capacities on which the contractor relies, please attach - for each of the entities concerned - the information required in Parts IV and V (12). | |  |

12 E.g., for technical services involved in quality control: part IV, section C, point 3.

**D: INFORMATION REGARDING SUBCONTRACTORS ON WHOSE CAPACITIES THE CONTRACTOR DOES NOT RELY**

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| (Section to be completed only if the contracting authority or contracting entity explicitly requests it.) | |  |
| **Subcontracting:** | **Answer:** | The contractor may subcontract the execution of the contract or its separate part unless the contracting authority has made a reservation pursuant to Art. 60 or Art. 121 of the Public Procurement Law (PPL) Act or Art. 214 (9) of the PPL Act applies.  If the indicated reservation has not been made by the contracting authority and the contractor intends to subcontract all or part of the contract to subcontractors, the contractor shall mark the answer "Yes" in the form, thereby indicating the list of subcontractors he proposed and identifying them.  The information about subcontractors contained in this section of the ESPD form serves the purpose of subjective verification of contractors (by checking subcontractors).  Pursuant to Article 462(5) of the PPL Act, the contracting authority may require the contractor who intends to entrust the execution of a part of the contract to |
| Does the contractor intend to subcontract any part of the contract to third parties? | [] Yes [] No  If so, and as far as known, please provide a list of proposed subcontractors:  […] |

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|  |  | subcontractors to submit uniform documents to demonstrate that there are no exclusion grounds from the procedure regarding subcontractors (determination of the existence of exclusion grounds regarding a subcontractor does not result in the exclusion of the contractor from the procedure but only in the inability to allow the negatively verified subcontractor to execute the contract).  In this case, the contractor shall submit a separate ESPD form for each of the designated subcontractors, completed by the subcontractor in terms of exclusion grounds (Part III) and signed by him (the subcontractor).  If the contracting authority does not verify the subcontractors to ensure that there are no exclusion grounds (he did not provide for such a possibility in the contract documents), contractors should also provide a response in this section of the form regarding subcontractors. However, in this situation, contractors are not obliged to submit separate ESPD forms for the subcontractors they have designated. |
| **If the contracting authority or contracting entity explicitly requests this information in addition to the information required in this section, please provide, for each subcontractor (each category of subcontractors) concerned, the information required in this part of section A and B and in part III.** | |  |

# Part III: Exclusion grounds

### A: GROUNDS RELATED TO CRIMINAL CONVICTIONS

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| Article 57(1) of Directive 2014/24/EU specifies the following exclusion grounds: | | The provision of Article 57(1) of the Directive was implemented in the text of Article 108(1)(1) and (2) of the PPL Act, considering that the catalogue of felonies provided for in the aforementioned provisions of the PPL Act is broader than that implied by the text of Article 57(1) of the directive. |
| 1. **participation in a criminal organization** (**13**); | |
| 2. **corruption** (**14**); | |
| 3. **fraud (15)**; | |
| 4. **terrorist offenses or offenses related to terrorist activities (16)** | |
| **5.** **money laundering or terrorist financing** (**17**) | |
| **6.** **child labour and other forms of human trafficking** (**18**). | |
| **Grounds related to felony convictions for offense under national laws implementing the grounds set forth in Article 57 (1) of the said directive:** | **Answer:** |
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| Has the contractor himself or  any individual who is a member of the bodies | [] Yes [] No |
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13 As defined in Article 2 of Council framework decision 2008/841/JHA of October 24, 2008, on combating organized crime (Journal of Laws L 300, 11.11.2008, p. 42).

14 As defined in Article 3 of the Convention on combating corruption of officials of the European Communities and officials of the Member States of the European Union (Journal of Laws C 195, 25.6.1997, p. 1) and in Article 2(1) of Council framework decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (Journal of Laws L 192, 31.7.2003, p. 54). This ground for exclusion also covers corruption as defined in the national law of the contracting authority (contracting entity) or contractor.

15 As defined in Article 1 of the Convention on the Protection of the European Communities' Financial Interests (Journal of Laws C 316, 27.11.1995, p. 48).

16 As defined in Articles 1 and 3 of the Council Framework Decision of June 13, 2002, on combating terrorism (Journal of Laws L 164, 22.6.2002, p. 3). This ground for exclusion also includes inciting, aiding, abetting or attempting to commit a crime, as referred to in Article 4 of that Framework Decision.

17 As defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (Journal of Laws L 309, 25.11.2005, p. 15).

18 As defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council of April 5, 2011, on preventing and combating human trafficking and protecting its victims and replacing Council Framework Decision 2002/629/JHA (Journal of Laws L 101, 15.4.2011, p. 1).

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| administrative, management or supervisory authority of the contractor or has representation, decision-making or control powers in the contractor's enterprise has been issued a final judgment for one of the reasons listed above, in a judgment dating back no more than five years old, or in which the period of exclusion specified directly in the judgment is still in force? | If the relevant documentation is available electronically, please indicate: (web address, issuing office or body, exact references e of the documentation):  [……][……][……][……] (19) | Pursuant to the aforementioned provisions of the PPL, subjected to verification of their criminal record are individuals convicted for:   1. participation in an organized criminal group or association aimed at committing a crime or fiscal crime, as referred to in Article 258 of the Penal Code (Journal of Laws of 2020, item 1444 and 1517), 2. human trafficking, as referred to in Article 189a of the Penal Code, 3. crimes referred to in Article 228-230a, Article 250a of the Penal Code, or in Article 46 or Article 48 of the Act of June 25, 2010, on Sports (Journal of Laws of 2020, item 1133), 4. financing of a terrorist crime referred to in Article 165a of the Penal Code or the crime of preventing or hindering the ascertainment of the criminal origin of money or concealing its origin, as referred to in Article 299 of the Penal Code, 5. crimes of a terrorist nature, as referred to in Article 115 § 20 of the Penal Code, or aimed at committing this crime, |

19 Please repeat as many times as necessary.

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|  |  | 1. entrusting work to a minor foreigner, as referred to in Article 9 paragraph 2 of the Act of June 15, 2012, on the consequences of entrusting work to foreigners unlawfully residing on the territory of the Republic of Poland (Journal of Laws, item 769), 2. crime against economic turnover, referred to in Article 296-   307 of the Penal Code, the crime of fraud referred to in Art.  286 of the Penal Code, crime against the credibility of documents, as referred to in Articles 270-277d of the Penal Code, or a fiscal offense.  (h) crimes referred to in Article 9 or Article 10 of the Act of June 15, 2012, on the consequences of entrusting work to foreigners illegally residing in the territory of the Republic of Poland (Journal of Laws, item 769) (in this case we are dealing with the implementation of *Directive 2009/52/EC of the European Parliament and of the Council of June 18, 2009 providing for minimum standards with regard to penalties and measures applicable to employers employing illegally staying third-country nationals).* |

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|  |  | A detailed catalogue of the crimes referred to in Article 108(1)(1) of the Act, along with the assignment of the appropriate sections of the form, is provided in the attachment to the instructions.  In this section of the form, the contractor shall make a statement regarding having no criminal record only with respect to the specific crimes indicated below, which are covered by the statutory prerequisites of Article 108(1)(1) and (2) of the PPL Act, and which also implement Article 57(1) of the Directive, viz:   1. participation in a criminal organization, i.e., under national law, Article 258 of the Penal Code; 2. corruption, i.e., Articles 228-230a or 250a of the Penal Code or Article 46 or Article 48 of the Sports Act; 3. financial abuse, fraud, referred to in Art. 286 of the Penal Code, as well as the fiscal offenses referred to in Article 108(1)(1)(g) of the Act; 4. terrorist crimes or crimes related to terrorist activities, i.e., crimes of a terrorist nature, as referred to in Article   24(1)(13)(c) of the Act; |

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|  |  | 1. money laundering or terrorist financing - Article 299 or Article 165a of the Penal Code; 2. child labour and other forms of trafficking in human beings, entrusting work to a minor foreigner, as referred to in Article 9 (2) of the Act on the consequences of entrusting work to foreigners illegally residing in the territory of the Republic of Poland, and human trafficking, as referred to in Article 189a of the Penal Code.   Other exclusion grounds under Article 108(1)(1) and (2) of the PPL Act, which do not implement Article 57(1) of the Directive, should be included in other sections of this part of the form:   * in section C, in the subsection on **violation of obligations in the field of environmental law, social law, and labour law**   o crime referred to in Article 9 (1) and (3) or Article 10 of the Act of June 15, 2012, on the consequences of entrusting work to foreigners illegally residing in the territory of the Republic of Poland; |

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|  |  | * in section D on **national** exclusion grounds:   + crimes against the credibility of documents listed in Articles 270 - 277d of the Penal Code;   + crimes against economic turnover listed in the provisions of Articles 296 - 307 of the Penal Code, with the exception of Article 299 (money laundering). |
| **If so**, please provide (20):   1. the date of the judgement, specify which of items 1-6 it relates to, and state the reason(s) for the conviction; 2. indicate who was convicted [ ]; 3. **to the extent that it was directly established in the judgement:** | a) date: [ ], point(s): [ ], reason(s): [ ]  b) [……]  c) the length of the exclusion period [……] and the point(s) concerned.  If the relevant documentation is available electronically, please indicate: (web address, issuing office or body, exact references e of the documentation): | In the case of a final conviction for one of the listed crimes referred to in Article 57(1) of the Directive, the date of the judgment of the crime must be indicated, while assigning the specific crime listed in the indicated provision of the Directive in points 1- 6 (see above).  If the conviction specifies a period of exclusion from participation in public procurement procedures, this information should also be indicated in this section of the form. |

20 Please repeat as many times as necessary.

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|  | [……][……][……][……] (21) | The Polish e-National Criminal Register (NCR) system fundamentally allows public contracting authorities to obtain information on specific individuals, but in such a case it is necessary to submit a request for such information containing detailed data (e.g., the family name of the individual in question) which the contracting authority will not have with respect to individuals verified as having no criminal record on the part of the contractor. Therefore, in the case of the Polish NCR, according to the current legal status, it is not possible to obtain such a document  in electronic form. |
| In case of conviction, has the contractor taken measures to demonstrate his reliability despite the existence of a relevant exclusion ground (22)  (remedial actions)? | [] Yes [] No | Pursuant to Article 110(2) of the PPL Act, the contractor is not subject to exclusion in the circumstances specified in Article 108(1)(1), (2) and (5) or Article 109(1)(2) to (5) and (7) to (10), if he proves to the contracting authority that he meets all of the following conditions:  - repaired or has undertaken to repair the damage caused by the crime, misdemeanour or misconduct, including through monetary compensation; |
| If so, please describe the measures taken (23): | [……] |

21 Please repeat as many times as necessary.

22 According to national legislation implementing Article 57 (6) of Directive 2014/24/EU.

23 Taking into account the nature of the crimes committed (one-time, repeated, systematic, etc.), the explanation should demonstrate the appropriateness of the measures taken

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|  |  | * has comprehensively explained the facts and circumstances related to the crime, misdemeanour or misconduct and the damage caused by them, actively cooperating with the authorities, including law enforcement authorities or the contracting authority; * has taken specific technical, organizational, and personnel measures appropriate for preventing further crimes, misdemeanour or misconduct, in particular:  1. has severed all ties with individuals or entities responsible for the contractor's misconduct, 2. has reorganized the personnel, 3. has implemented a reporting and control system, 4. has established internal audit structures in order to monitor compliance with rules, internal regulations or standards, 5. has introduced internal regulations on liability and compensation for non-compliance with rules, internal regulations or standards. |

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|  |  | The contracting authority, pursuant to Article 110 (3) of the PPL Act, taking into account the importance and specific circumstances of the contractor's act, will evaluate the evidence provided by the contractor in the form above. If he finds them sufficient, the contractor will not be subject to exclusion. |

### B: GROUNDS RELATED TO THE PAYMENT OF TAXES OR SOCIAL SECURITY CONTRIBUTIONS

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| **Payment of taxes or social security contributions:** | **Answer:** |  |
| Has the contractor complied with all **obligations regarding the payment of taxes or social security contributions**,  both in the country where it is established and in the Member State of the contracting authority or contracting entity, if different from the country of establishment? | [] Yes [] No | In this section of the form, the contractor submits a declaration of compliance with public law obligations regarding the payment of taxes and insurance contributions, regardless of whether it concerns the obligatory premise of the contractor's exclusion (Art. 108(1)(3) of the PPL Act) or an optional premise (Article 109(1)(1) of the PPL Act). Naturally, in a situation where the contracting authority has not allowed an optional premise in the proceeding, the contractor's statement applies only to the obligatory premise.  The further part of the form concerning the payment of taxes and insurance contributions shall be completed by the contractor only if he has circled the answer "No" in this space. |

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| **If not**, please indicate:   1. the country or Member State concerned; 2. what amount is concerned? 3. how this violation of obligations was determined: 4. through a judicial or administrative **decision**:    * Is this decision final and binding?    * Please indicate the date of the judgment or decision.    * In the case of a judgment, **if directly stated therein**, the length of the exclusion period: 5. by **other means**? Please specify which:   d) Has the contractor fulfilled or will fulfil his obligations by paying taxes or social security contributions due or by entering into binding agreements to repay these debts, including accrued interest or fines, where applicable? | **Taxes** | **Social security contributions** | In the case of certain public law arrears, the contractor is required to indicate the specific information specified in the ESPD form (specified in (a) through (d)). |
|  |  | The form requires separate identification of exclusion grounds for the obligatory premise under Article 108(1)(3) of the PPL Act (item 1)) and the optional premise under Article 109(1)(1) of the PPL Act (item 2)). |
| a) [……]  b) [……] | a) [……]  b) [……] |
| c1) [] Yes [] No | c1) [] Yes [] No |  |
| – [] Tak [] No | – [] Yes [] No |  |
| – [……] | – [……] |  |
| – [……] | – [……] |  |
| c2) [ …] | c2) [ …] | The information contained in paragraph (d) refers to the circumstances related to the application of specific corrective measures by the contractor to demonstrate the absence of exclusion grounds from the proceedings on both obligatory and optional. |
| d) [] Yes [] No  **If so**, please provide specific details regarding this matter: | d) [] Yes [] No  **If so**, please provide specific details regarding this matter: |

Χ In the tool for electronic completion of the ESPD form, available at https://espd.uzp.gov.pl/, the questions are phrased as follows: "Has the contractor violated his obligations regarding the payment of taxes or social security contributions, both in the country where he resides and in the Member State of the contracting authority or contracting entity, if different from the country of residence?" Thus, by using this tool, the contractor fills out the further part of the form regarding the payment of taxes and insurance contributions only if he has marked the answer "Yes" here.

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|  | [……] | [……] |  |
| If the relevant documentation regarding the payment of taxes or social security contributions is available electronically, please indicate: | (web address, issuing office or body, exact references e of the documentation):  (24) [……][……][……] | | In Poland, neither the tax administration nor the Social Insurance Institution allows third parties, including contracting parties, to obtain certificates or relevant information directly through a free database. |

24 Please repeat as many times as necessary.

### C: GROUNDS RELATED TO INSOLVENCY, CONFLICT OF INTEREST OR PROFESSIONAL MISCONDUCT25

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| **It should be noted that for the purposes of this procurement, some of the following exclusion grounds may be defined more precisely in national law, in the relevant notice or in the procurement documents. Thus, national law may, for instance, provide that the concept of "severe professional misconduct" may include several different forms of conduct constituting misconduct.** | |  |
| **Information on possible insolvency, conflict of interest or professional misconduct** | **Answer:** |  |
| Has the contractor**, to his knowledge, violated his obligations in the areas of environmental law, social law, and labour law** (**26**)? | [] Yes [] No | In this section of the form, the contractor submits a declaration regarding the specific exclusion grounds from the proceedings under the directive and the implemented provisions of the PPL Act.  The PPL Act provides for obligatory and optional grounds for examining the grounds for excluding the contractor from the proceeding which are related to violations of environmental, social, and labour law obligations.  As part of the obligatory grounds, the legislator provided in Article 108(1)(1)(h) and (2) of the PPL Act, grounds for excluding a contractor from the proceedings if individuals acting on his side have been punished for the crime referred to in Article 9(1) and (3) or Article 10 of the |

25 See Article 57 (4) of Directive 2014/24/EC.

26 Referred to, for the purposes of this procurement, in national law, in the relevant notice or contract documents, or in Article 18 (2) of Directive 2014/24/EU.

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|  |  | Act of June 15, 2012, on the consequences of entrusting work to foreigners residing in the territory of the Republic of Poland in violation of regulations (Journal of Laws item 769).  Exclusion on this ground is mandatory. The contractor always submits a declaration in this regard.  As part of the optional grounds, the legislator provided in Article 109 (1) (2) and (3) of the PPL Act, grounds for excluding the contractor from the proceedings if:   * individuals acting on the contractor's side have been convicted of a crime referred to in Articles 181-188 [environmental crimes] and 218-221 [crimes against the rights of individuals performing gainful employment] of the Penal Code. * individuals acting on his side have been penalised for a misdemeanour against the rights of an employee or an environmental crime if the offense resulted in arrest, restriction of liberty or a fine; * a final administrative decision has been issued against the contractor for violation of obligations under labour law, environmental law or social security provisions if a fine was imposed by this decision. |
|  |  | The above-mentioned exclusion ground from the procedure is optional, i.e. the contracting authority may provide it for examination of contractors in the contract notice or the contract documents.  The contractor shall complete the form regarding this ground only if the contracting authority has provided for such an exclusion ground. |
| **If so**, has the contractor taken measures to demonstrate his reliability despite the existence of a relevant exclusion ground (remedial actions)?  [] Yes [] No  **If so**, please describe the measures taken: [……] | Pursuant to Article 110(2) of the PPL Act, the contractor is not subject to exclusion in the circumstances specified in Article 108(1)(1), (2) and (5) or Article 109(1)(2) to (5) and (7) to (10), if he proves to the contracting authority that he meets all of the following conditions:   * repaired or has undertaken to repair the damage caused by the crime, misdemeanour or misconduct, including through monetary compensation; * has comprehensively explained the facts and circumstances related to the crime, misdemeanour or misconduct and the damage caused by them, actively |

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|  |  | cooperating with the authorities, including law enforcement authorities or the contracting authority;  - has taken specific technical, organizational, and personnel measures appropriate for preventing further crimes, misdemeanour or misconduct, in particular:   1. has severed all ties with individuals or entities responsible for the contractor's misconduct, 2. has reorganized the personnel, 3. has implemented a reporting and control system, 4. has established internal audit structures in order to monitor compliance with rules, internal regulations or standards, 5. has introduced internal regulations on liability and compensation for non-compliance with rules, internal regulations or standards.   The contracting authority, pursuant to Article 110 (3) of the PPL Act, taking into account the importance and specific circumstances of the contractor's act, will evaluate the evidence provided by the contractor in the form above. If he finds them sufficient, the contractor will not be subject to exclusion. |

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| Is the contractor in one of the following situations:   1. **has gone bankrupt**; or 2. **is undergoing bankruptcy** or liquidation proceedings; or 3. has entered into an **arrangement with creditors**; or 4. is in another situation resulting from a similar procedure under national laws and regulations (27); or 5. his assets are managed by a liquidator or court; or 6. his business activities are suspended?   **If so:**   * Please provide specific details: * Please state the reasons that, regardless of the above-mentioned situation, enable the contract to be executed, taking into account the applicable national rules and measures relating to the continuation of business activities (28)?   If the relevant documentation is available electronically, please indicate: | [] Yes [] No  – [……]  – [……]  (web address, issuing office or body, exact referential data of the documentation):  [……][……][……] | Pursuant to Article 109(1)(4) of the PPL Act, the contracting authority may exclude from a public procurement proceeding a contractor in respect of whom liquidation has been opened, bankruptcy has been declared, whose assets are administered by a liquidator or a court, who has entered into an arrangement with creditors, whose business activities are suspended or who is in another situation arising from a similar procedure provided for in the regulations of the place where the procedure was initiated.  The indicated exclusion ground from the procedure is optional, i.e., the contracting authority may provide it for examination of contractors in the contract notice or in the contract documents.  The contractor shall complete the form in this regard only if the contracting authority has provided for such an exclusion ground.  The specific questions contained in this regard in the ESPD form should be evaluated from the perspective of the aforementioned exclusion grounds for the contractor from the proceedings, as defined in the PPL Act. |

27 See national regulations, the relevant notice or contract documents.

28 This information does not need to be provided if the exclusion of contractors in one of the cases listed in (a)-(f) has become mandatory under applicable national law without any possibility of derogation in a situation where contractors are able to execute the contract, regardless

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| **Is the contractor guilty of severe professional misconduct?** (**29**)?  If so, please provide specific details regarding this matter: | [] Yes  [] No [……] | In this section of the form, the contractor submits a declaration regarding the existence or lack of exclusion ground against him concerning severe professional misconduct.  "Severe professional misconduct" under EU law is understood broadly and includes any culpable misconduct that affects the professional credibility of a given contractor, including violations of the deontological standards applicable to the contractor’s profession, which are determined by a disciplinary body established for that profession or in a final court decisionIn this context, it should be considered that the concept of "severe professional misconduct" also includes crimes, determined by a final judgment which may affect the professional credibility of the contractor.  Pursuant to Article 109(1)(5) of the Act, the contracting authority may exclude from the public procurement procedure a contractor who has culpably and severely violated his professional obligations, which undermines his integrity, in particular, when the contractor, as a result of deliberate action or gross negligence, has failed to execute or has improperly executed a public contract, which the contracting authority is able to demonstrate by means of appropriate evidence. |

29 See definitions in national law, the relevant notice or procurement documents, where applicable.

Δ cf. judgment of the Court of Justice of the EU of December 13, 2012, in case C-465/11 Forposta SA and ABC Direct Contact sp. z o.o. v. Poczta Polska SA, ECLI:EU:C:2012:801, (27)

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|  |  | The indicated exclusion ground from the procedure is optional, i.e., the contracting authority may provide it for examination of contractors in the contract notice or in the contract documents.  The contractor shall complete the form in this regard only if the contracting authority has provided for such an exclusion ground. |
| **If so**, has the contractor taken measures to perform remedial actions?  [] Yes [] No  **If so**, please describe the measures taken: [……] | Pursuant to Article 110(2) of the PPL Act, the contractor is not subject to exclusion in the circumstances specified in Article 108(1)(1), (2) and (5) or Article 109(1)(2) to (5) and (7) to (10), if he proves to the contracting authority that he meets all of the following conditions:   * repaired or has undertaken to repair the damage caused by the crime, misdemeanour or misconduct, including through monetary compensation; * has comprehensively explained the facts and circumstances related to the crime, misdemeanour or misconduct and the damage caused by them, actively cooperating with the authorities, including |

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|  |  | law enforcement authorities or the contracting authority;  - has taken specific technical, organizational, and personnel measures appropriate for preventing further crimes, misdemeanour or misconduct, in particular:   1. has severed all ties with individuals or entities responsible for the contractor's misconduct, 2. has reorganized the personnel, 3. has implemented a reporting and control system, 4. has established internal audit structures in order to monitor compliance with rules, internal regulations or standards, 5. has introduced internal regulations on liability and compensation for non-compliance with rules, internal regulations or standards.   The contracting authority, pursuant to Article 110 (3) of the PPL Act, taking into account the importance and specific circumstances of the contractor's act, will evaluate the evidence provided by the contractor in the form above. If he finds them sufficient, the contractor will not be subject to exclusion. |

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| Has the contractor entered into **agreements with other contractors to distort competition?**  **If so**, please provide specific details regarding this matter: | [] Yes [] No  […] | In this section of the form, the contractor submits a declaration regarding an unauthorized agreement concluded by him in this or any other public procurement procedure, which leads to a distortion of fair competition.  Pursuant to Article 108(1)(5) of the PPL Act, the legislator has introduced an obligatory ground for excluding a contractor from a public procurement proceeding if the contracting authority can determine, on the basis of credible grounds, that the contractor has entered into an agreement with other contractors aimed at distorting competition, in particular if they belong to the same capital group within the meaning of the Act on Competition and Consumer Protection of February 16, 2007, and have submitted separate offers, partial offers or requests to participate in the proceeding, unless they demonstrate that they prepared these offers or requests independently of each other. |
| **If so**, has the contractor taken measures to perform remedial actions?  [] Yes [] No  **If so**, please describe the measures taken: [……] | Pursuant to Article 110(2) of the PPL Act, the contractor is not subject to exclusion in the circumstances specified in Article 108(1)(1), (2) and (5) or Article 109(1)(2) to (5) and (7) to (10), if he proves to the contracting authority that he meets all of the following conditions: |

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|  |  | * repaired or has undertaken to repair the damage caused by the crime, misdemeanour or misconduct, including through monetary compensation; * has comprehensively explained the facts and circumstances related to the crime, misdemeanour or misconduct and the damage caused by them, actively cooperating with the authorities, including law enforcement authorities or the contracting authority; * has taken specific technical, organizational, and personnel measures appropriate for preventing further crimes, misdemeanour or misconduct, in particular:  1. has severed all ties with individuals or entities responsible for the contractor's misconduct, 2. has reorganized the personnel, 3. has implemented a reporting and control system, 4. has established internal audit structures in order to monitor compliance with rules, internal regulations or standards, 5. has introduced internal regulations on liability and compensation for non-compliance with rules, internal regulations or standards. |

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|  |  | The contracting authority, pursuant to Article 110 (3) of the PPL Act, taking into account the importance and specific circumstances of the contractor's act, will evaluate the evidence provided by the contractor in the form above. If he finds them sufficient, the contractor will not be subject to exclusion.  The Contracting Authority shall, following Article 110(3) of the PPL Act, taking into account the importance and special circumstances of the contractor's deed, assess the evidence shown by the contractor in the form above. If he considers them sufficient, the contractor will not be subject to exclusion. |

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| Is the contractor aware of any **conflict of interest** (**30**) caused by its participation in the contract awarding procedure?  **If yes,** please provide details of this: | [] Yes [] No  […] | In this section of the form, the contractor shall declare whether or not there is a specific conflict of interest in the proceeding. If such a conflict exists, the form shall require him to give details in this regard.  The ground for examining the conflict of interest indicating an optional basis for exclusion of the contractor from the procedure is set out in Article 109(1), point 6 of the PPL Act. Under its disposition, a contracting authority may exclude from participation in the proceedings a contractor if the manager of the contracting authority, a member of the tender commission and other persons performing activities connected with the conduct of the ordering procedure on the side of the contracting authority, or persons |

30 Indicated in national law, the relevant notice or the contract documents.

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|  |  | who may influence the outcome of the procedure, or persons awarding the contract:   1. compete for the award of this contract; 2. are married, in a direct or secondary kinship up to the second degree, or are related by adoption, guardianship or custody, or are in cohabitation with the contractor, their legal deputy or members of the management or supervisory bodies of the contractors competing for the award of the contract;; 3. within the period of 3 years prior to the initiation of the contract award procedure, were in an employment or contracting relationship with the contractor,  received remuneration from the contractor  on another basis or were members  of the management or supervisory bodies of contractors applying for the award of  the contract; 4. are in a legal or factual relationship with the contractor to the extent that there is a justified doubt as to their impartiality  or independence in connection with the contract award procedure due to their  direct or indirect financial,  economic or personal interest in a specified |

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|  |  | outcome of that procedure;  - unless the conflict of interest described above can be effectively eliminated other than by excluding the contractor from the proceeding.  The provision therefore assumes, first of all, the possibility of eliminating the conflict of interest in a different way, for example by excluding the persons acting on the contracting authority's side from the contract in question. Only as a last resort, if it is not possible to eliminate the conflict in another way, shall the contracting authority be obliged to exclude the contractor from the procedure based on the indicated grounds.  The indicated basis for exclusion is  optional, i.e. the contracting authority may provide for it to be examined by contractors in the contract notice, or in the contract documents, or in the invitation to negotiate..  The contractor shall fill in the form in this respect only if the contracting authority has provided for such a basis for exclusion. |

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| Has the contractor or any company associated with the contractor **advised** the contracting authority or contracting entity or been **involved in any way** in the preparation of the contract award procedure?  **If yes,** please provide details of this: | [] Yes [] No  […] | In this section of the form, the contractor shall declare any involvement in the preparation of the public contract awarding procedure concerned. Where there is such an involvement leading to a distortion of competition in the procedure, the form shall require him to give details of this involvement.  In Article 108(1), point 6 of the PPL Act, the legislator has introduced an obligatory condition for excluding a contractor from the proceedings. Under this provision, a contracting authority is obliged to exclude a contractor from the procedure if there has been a distortion of competition resulting from prior involvement of that contractor, or an entity which is a member of the same capital group as the contractor, within the meaning of the Act on Competition and Consumer Protection of 16 February 2007, unless the distortion of competition caused thereby can be eliminated in a different manner than by excluding the contractor from the procedure.  Under Article 85(1) of the PPL Act, if a contractor or an entity which is a member of the same group as the contractor, within the meaning of the Act of 16 February 2007 on Competition and Consumer Protection (Journal of Laws of 2019, item. 369, 1571, |

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|  |  | and 1667), advised or was otherwise involved in the preparation of the procedure for the award of that contract, the contracting authority shall take appropriate measures to ensure that the participation of that contractor in the procedure does not distort competition, in particular it shall communicate to the other contractors the relevant information which it communicated or obtained in connection with the involvement of the contractor or that entity in the preparation of the procedure, and shall set an appropriate time limit for the submission of offers. The contracting authority is also obliged to indicate in the procedure protocol the measures taken to prevent the distortion of competition.  Under Article 85(2) of the PPL Act, a contractor involved in the preparation of a contract awarding procedure is subject to exclusion from that procedure only if the distortion of competition caused by that involvement cannot be eliminated in any other way than by excluding the contractor from participation in that procedure. Before excluding the contractor, the contracting authority shall give that contractor the opportunity to prove that his participation in the preparation of the contract awarding procedure will not distort competition. |

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| Has the contractor been in a situation where a previous public contract awarding procedure, a previous contract with a contracting entity or a previous concession contract has been **terminated prematurely** or where damages or other comparable sanctions have been imposed in connection with that previous contract?  **If yes,** please provide details of this: | [] Yes [] No  […] | In this section of the form, the contractor shall make a statement regarding irregularities in his performance of a previous public contract awarding procedure or concession agreement in the circumstances indicated in Article 109(1), point 7 of the PPL Act.  Under this provision, the contracting authority may exclude from a public contract awarding procedure a contractor who, for reasons due to the contractor's fault, has substantially or to a significant extent failed to perform or has improperly performed or has for a long time improperly performed a major obligation under a previous order or concession contract, which has led to termination or withdrawal from the contract, compensation, substitute performance or the exercise of warranty rights for defects.  Considering the content of the provision, the contracts in the performance of which there have been deviations from their execution or consequences other than those indicated in the provision are not indicated here.  The indicated basis for exclusion from the procedure is optional, i.e. the contracting authority may provide for it to be examined by contractors in the contract notice or in the contract documents. |

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|  |  | The contractor shall complete the form in this respect only if the contracting authority has provided for this  basis for exclusion.  In the case of such irregularities,  the form requires him to  provide details in this regard. |
| **If yes,** has the contractor taken measures for self-cleaning?  [] Yes [] No  **If yes,** please describe the measures taken:[……] | * Under Article 110(2) of the PPL Act, a contractor shall not be subject to exclusion in the circumstances specified in Article 108(1), points 1, 2, and 5 or Article 109(1), points 2-5, and 7-10, if he proves to the contracting authority that he fulfils all of the following conditions: * having repaired or undertaken to repair the damage caused by the offence, misdemeanour or misconduct, including through pecuniary compensation; * having fully explained the facts and circumstances of the crime, the offence or the misconduct and the damage it has caused by cooperating with the competent authorities, including the law enforcement authorities, or the contracting authority; * having undertaken specific technical, organisational and human resources |

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|  |  | measures appropriate for the prevention of further crimes, offences or misconduct, in particular:  a) having cut all ties with the persons or entities responsible for the contractor's misconduct,  b) having reorganised the personnel,  c) having implemented a reporting and monitoring system,  d) having established internal audit structures to monitor compliance with laws, internal regulations or standards,  e) having established internal liability and compensation arrangements for non-compliance with laws, internal regulations or standards.  The contracting authority, under Article 110(3) of the PPL Act, considering the seriousness and special circumstances of the contractor's act, will assess the evidence shown by the contractor in the form above. If he considers them sufficient, the contractor will not be subject to exclusion. |
| Can the contractor confirm that he:  a) is not guilty of serious **misleading** in providing the information required to verify the absence of bases for exclusion or to verify the fulfilment of the selection criteria; | [] Yes [] No | In this section of the form, the contractor makes a statement concerning the misleading of the contracting authority in the contract awarding procedure. |

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| 1. has not withheld this information; 2. is able to immediately provide the supporting documents requested by the contracting authority or contracting entity; and   d) has not undertaken measures to unlawfully influence the decision-making process of the contracting authority or contracting entity, to obtain confidential information that may give him an undue advantage in the contract awarding procedure, or to negligently present misleading information that may have a substantial influence on decisions on exclusion, selection or award of the contract? |  | The legislator provided for optional grounds for exclusion in this regard in Article 109(1), points 8-10 of the PPL Act. Under these provisions, the contracting authority may exclude from participation in the proceedings:   * a contractor who, as a result of a deliberate action or grave negligence, misled the contracting authority when presenting information about not being subject to exclusion, meeting the conditions for participation in the procedure or the selection criteria, which could have had a significant influence on the contracting authority's decision in the contract awarding procedure, or who withheld such information, or is not capable of providing the required subjective evidence; * a contractor who has unlawfully influenced, or attempted to influence the activities of the contracting authority, or attempted to acquire, or has acquired confidential information which may give him an advantage in the contract awarding procedure; * a contractor who, as a result of recklessness or negligence, has provided misleading information that may have had a significant influence |

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|  |  | on the contracting authority's decisions in the contract awarding procedure. |

### D: OTHER BASES FOR EXCLUSION WHICH MAY BE PROVIDED FOR UNDER THE NATIONAL LAW OF THE MEMBER STATE OF THE CONTRACTING AUTHORITY OR CONTRACTING ENTITY

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| **Bases for exclusion of a purely national nature** | **Answer:** | This section of the form refers to all grounds for investigating bases for exclusion of a contractor that are not specifically listed above, but which constitute national grounds for investigating bases for exclusion of contractors from the procedure. This concerns the following bases for exclusion:   * exclusion of the contractor in the case of conviction for offences against credibility of documents and offences against economic turnover (Article 108(1, point 1, letter g, and point 2 of the PPL Act), i.e. offences referred to in Articles 270- 277d of the Polish Penal Code [offences against credibility of documents] and offences referred to in Articles 296-307 of the Polish Penal Code [offences against business transactions], except for the offence of preventing or hindering the establishment of the criminal origin of money or the concealment of its origin, referred to in Article 299 of the Polish Penal Code– in this respect the contractor should additionally demonstrate any remedial measures; |
|  |  |
| Are the **bases for exclusion of a purely national nature** stated in the relevant notice or contract documents? | [] Yes [] No |
| If the documentation required in the relevant notice or contract documents is available in electronic form, please indicate: | (internet address, the issuing office or authority, the accurate reference data of the documentation):  [……][……][……] (31) |
| **In case any of the bases for exclusion of a purely national nature apply,** has the contractor taken measures for self-cleaning? | [] Yes [] No |
| **If yes,** please describe the measures taken: | [……] |

31 Please repeat as many times as necessary.

|  |  |  |
| --- | --- | --- |
|  |  | * exclusion of a contractor who has been legally prohibited from competing for public contracts (Article 108(1), point 4 of the PPL Act); the prohibition is imposed on a collective entity based on the provisions of the Act on the liability of collective entities for criminal offences of 28 October 2002 (Journal of Laws of 2016, item 1541 and of 2017, items 724 and 933), and on an individual based on the provisions of the Code of Criminal Proceedings.   Moreover, by means of Article 108(2) of the PPL Act, the legislator provided a national mandatory basis for exclusion of a contractor from the proceedings. Under this provision, in the case of contracts with a value equal to or exceeding the PLN equivalent of EUR 20 000 000 for construction works, and EUR 10 000 000 for supplies or services, the contracting authority is obliged to exclude from participation in the proceedings contractors who prevent or hinder the determination of the criminal origin of the money or conceal its origin, due to the impossibility of determining the real beneficiary, within the meaning of Article 2(2), point 1 of the Anti-Money Laundering |

|  |  |  |
| --- | --- | --- |
|  |  | and Terrorist Financing Act of 1 March 2018 (Journal of Laws of 2020  of 2020, item 971 and 1086).  Under Article 55, as cited in the Central Register of Real Beneficiaries Act, further referred to as the "Register", is an ICT system for processing information on real beneficiaries of the companies listed in Article 58 of the said Act. Under Article 58 of the cited act, the following shall be obliged to report and update information on real beneficiaries:   1. general partnerships; 2. limited partnerships; 3. limited joint-stock partnerships; 4. limited liability partnerships;   4a) simple joint-stock companies (from 1 March 2021);   1. joint-stock companies, with the exception of public companies within the meaning of the  Act of 29 July 2005 on public offering and the conditions for introducing financial instruments into  the organised trading system and on public companies  (Journal of Laws of 2019, item 623, 1798 and 2217). |

|  |  |  |
| --- | --- | --- |
|  |  | Under Article 67 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, the Register is **public**, while under Articles 69 and 70 of the said Act, information on real beneficiaries collected in the Register is available **free of charge and through electronic means of communication.** Under Article 71 as cited in the Act, the Minister competent for public finance has been authorised to determine, by way of an ordinance, the manner of drawing up and the manner and procedure of submitting applications for granting access to information collected in the Register, as well as the manner, procedure and deadlines for making such information available, bearing in mind the need to ensure fast, reliable and secure access to information from the Register. These issues are regulated by the Ordinance of the Minister of Finance of 16 May 2018 on applications for access to information on real beneficiaries and making such information available (Journal of Laws of 2018, item 965).  The register is available at: <https://crbr.podatki.gov.pl/adcrbr/#/wyszukaj>. |

# Part IV: Qualification Criteria

***With regard to the selection criteria (Section  or Sections A to D of this Part), the contractor declares that:***

### : GENERAL STATEMENT OF ALL ELIGIBILITY CRITERIA

|  |  |  |
| --- | --- | --- |
| **The contractor should only fill in this field if the contracting authority or contracting entity has indicated in the relevant notice or in the contract documents referred to in the notice that the contractor may limit itself to filling in section  of Part IV and does not need to fill in any of the other sections in Part IV:** | |  |
| **Meeting all required eligibility criteria** | **Answer** | At this point, the ESPD form provides for the possibility for the contractor to submit a general statement on the fulfilment of the conditions for participation in the procedure (eligibility criteria), which allows the contractor not to fulfil further fields relating to the detailed conditions of participation in the procedure (qualification criteria) specified by the contracting authority.  In this case, the ESPD form only requires the contracting authority to indicate in the contract notice or procurement documents (ToR) that the contractor may limit itself to filling in section  of Part IV of the form.  The decision in this regard rests with the contracting authority. Thus, in the event of such a reservation from the contracting authority, the contractor does not have to fill in any of the other sections of Part IV of the form concerning the qualification criteria, but the proper (evidentiary) verification of the fulfilment of specific conditions specified by the contracting authority for participation in the procedure (selection criteria).  As a rule, the contracting authority will conclude with the |
| Meets all required eligibility criteria: | [] Yes [] No |

|  |  |  |
| --- | --- | --- |
|  |  | proceedings based on relevant documents submitted by the contractor whose offer was rated the highest, at the request of the contracting authority (Article 126(1) of the PPL).  Although the PPL does not explicitly provide for an adequate, detailed regulation in this respect, such a general statement on meeting all the required qualification criteria meets the requirements of the contractor's declaration of initial confirmation of meeting the conditions for participation in the procedure (eligibility criteria) referred to in Article 125(1) and (2) of the PPL. |

**A: Competencies**

|  |  |  |
| --- | --- | --- |
| **The contractor should only provide information if the contracting authority or contracting entity requires the selection criteria in question in the relevant notice or in the contract documents referred to in the notice.** | |  |
| **Competencies** | **Answer** |  |
| 1) **Is registered in the relevant professional or commercial register**  Member State of establishment of the contractor (32):  If the relevant documentation is available in electronic form, please indicate: | […]  (address, issuing office or body, precise reference data documentation): [……][……][……] | Contractors are not obliged to fill in this section of the form if the contracting authority has not specified the conditions for participation in the procedure relating to the ability to act in business transactions (Article 113 of the PPL).  At this point, the form refers to the relevant professional or commercial registers. |

32 As described in Attachment XI to Directive 2014/24/EU; Contractors from certain Member States may be required to comply with other requirements set out in that Attachment.

|  |  |  |
| --- | --- | --- |
|  |  | Pursuant to Article 113 of the PPL, with regard to the conditions for participation in the procedure concerning the ability to act in business transactions, the contracting authority may require that contractors engaged in economic or professional activity are entered in one of the professional or commercial registers kept in the country in which they have their registered office or place of residence.  Attachment XI to Directive 2014/24/EU or Attachment VII to Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, public supply contracts and contracts by contracting authorities or entities in the fields of defence and security and amending Directives 2004/17/EC and 2004/18/EC EU L 216, 20.8.2009, p. 76)  provides a non-exhaustive list of professional and commercial registers in the Member States of the European Union.  With regard to Polish contractors applying for a contract, it is possible to obtain relevant information on the competences of these entrepreneurs directly by means of free databases available at, respectively, [https://ekrs.ms.gov.pl/web/wyszukiwarka-krs/strona-](https://ekrs.ms.gov.pl/web/wyszukiwarka-krs/strona-glowna/index.html) [glowna/index.html](https://ekrs.ms.gov.pl/web/wyszukiwarka-krs/strona-glowna/index.html) and <https://prod.ceidg.gov.pl/ceidg/ceidg.public.ui/search.aspx>i. |
| 2) **With regard to public service contracts:**  Is it necessary to **have** | [] Yes [] No | Pursuant to Article 114 of the PPL, with regard to the conditions for participation in the procedure concerning the right to conduct a specific professional activity in the |

|  |  |  |
| --- | --- | --- |
| **authorisation** or **being a member** of a specific organisation in order to be able to provide the service in question in the country where the contractor is established?  If the relevant documentation is available in electronic form, please indicate: | If so, please specify which permit or membership status you are seeking and whether the contractor has one: [ …] [] Yes [] No  (address, issuing office or body, precise reference data documentation): [……][……][……] | procurement procedure, the contracting authority may require proof of possession of:   * relevant authorisation, licence, concession or entry in the register of regulated activities or * an appropriate permit, licence, concession or entry in the register of regulated activities, if these are necessary for the provision of certain services in the country where the contractor is established or domiciled, or   services – the membership status of a given organisation if membership in that organisation is necessary for the provision of specific services in the country where the contractor has its registered office or place of residence.  The declaration submitted on the form in this column refers to the indicated regulation. |

### B: Economic and Financial Situation

|  |  |  |
| --- | --- | --- |
| **The contractor should only provide information if the contracting authority or contracting entity requires the selection criteria in question in the relevant notice, or in the contract documents referred to in the notice.** | |  |
| **Economic and financial situation** | **Answer:** | Pursuant to Article 115(1) of the Public Procurement Law, with regard to the conditions of participation  economic or financial situation, the contracting authority may lay down conditions which will ensure that the |
| 1a) Its ('overall') annual turnover over the  number of financial years required in the relevant contract notice or documents shall be as follows: | year: [……] turnover: [……] […] currency year: [……] turnover: [……] […] currency year: [……] turnover: [……] […] currency |

|  |  |  |
| --- | --- | --- |
| **and/or**  1b) Its average annual turnover over a certain number of years required by the relevant notice or contract documents is as follows (**33**)**:**  If the relevant documentation is available in electronic form, please indicate: | (number of years, average turnover )**:** [……], [……] […] currency  (the internet address of the issuing office or body, the exact reference data of the documents):  [……][……][……] | contractors have the economic or financial capacity necessary to perform the contract. To this end, the contracting authority may require  in particular:   1. that contractors have a certain minimum annual revenue, including a certain minimum annual revenue, for the activities covered by the public contract; 2. for contractors to provide information on their annual financial statements showing, in particular, the ratio of assets to liabilities; 3. that the contractor has adequate liability insurance; 4. the contractor's creditworthiness or financial resources.   The contractor should provide the information required in this section only if the contracting authority has specified such conditions for participation in the tender in the notice or |
| 2a) Its annual ('specific') **turnover in the area of economic activity** covered by the contract and as defined in the relevant  contract documents within the required number of financial years shall be as follows:  **and/or**  2b) Its average annual **turnover in the area concerned and within a certain number of years required by the relevant notice or**  **procurement documents is as follows** (**34**)**:** If the relevant documentation is available in electronic form, please indicate: | year: [……] turnover: [……] […] currency year: [……] turnover: [……] […] currency year: [……] turnover: [……] […] currency  (number of years, average turnover)**:** [……], [……] […] currency  (the internet address of the issuing office or body, the exact reference data of the documents):  [……][……][……] |
| 3) In the event that turnover information (general or specific) is not available for the entire required period, please indicate the date of the  establishment of the contractor's business or commencement of business by the contractor: | [……] |

33 Only if it is permitted in the relevant notice or contract documents.

34 Only if it is authorised in the relevant notice or contract documents.

|  |  |  |
| --- | --- | --- |
| 4) With regard to **financial indicators**  (**35**) specified in the relevant notice or contract documents, the contractor declares that the current value(s) of required indicator(s) is (are) as follows:  If the relevant documentation is available in electronic form, please indicate: | (description of required indicator in relation to – X to Y (36) – oraz value):  [……], [……] (37)  (the internet address of the issuing office or body, the exact reference data of the documents):  [……][……][……] | procurement documents referred to in the notice.  Article 115 of the Public Procurement Law provides an open catalogue of circumstances that may be assessed by the contracting authority, as part of the conditions for participation in the procedure (selection criteria). If the contracting authority provides for a different way of assessing the conditions concerning the economic or financial situation of the contractor, the contractor should refer to them at this point in the form. |
| 5) Under the **occupational risk insurance**, the contractor is insured for the following amount:  If this information is available in electronic form, please indicate: | [……] […] currency  (the internet address of the issuing office or body, the exact reference data of the documents):  [……][……][……] |
| 6) With regard to other possible **economic or financial requirements** that may have been set out in the relevant notice or procurement documents,  The contractor declares that  If the relevant documentation, which **may have** been specified in the relevant notice or in the contract documents, is available in the  electronic form, please indicate: | [……]  (the internet address of the issuing office or body, the exact reference data of the documents):  [……][……][……] |

35 Ex. asset-to-liabilities ratio.

36 Ex. asset-to-liabilities ratio..

37 Please repeat as many times as needed.

### C: TECHNICAL AND PROFESSIONAL ABILITY

|  |  |  |
| --- | --- | --- |
| **The contractor should only provide information if the contracting authority or contracting entity requires the selection criteria in question in the relevant notice or in the contract documents referred to in the notice.** | |  |
| **Technical and professional ability** | **Answer:** |  |
| 1a) Only in respect of public procurement | Number of years (this period is indicated in | The contractor should provide the information required in this section only if the contracting authority specifies the conditions for participation in the procedure in the relevant notice, or in the contract documents.  Pursuant to the first sentence of Article 116(1) of the Public Procurement Law, when assessing the technical or professional capacity of a contractor, the contracting authority may specify the conditions concerning the necessary education, professional qualifications, experience, technical potential of the contractor or persons assigned by the contractor to perform the contract, enabling the performance of the contract at an appropriate level of quality.  In accordance with the Document Regulation (), the contracting authority requires that the |
| **public works contracts:**  During the reference period (38) the contractor has **made** | relevant notice or documents  Order): […] |
| **following the construction works specified in** | Works: [……] |
| **type:** |  |
| If the relevant documentation relating to the | (the internet address of the issuing office or body, |
| satisfactory performance and result in the | the exact reference data of the documents): |
| in respect of the most important works | [……][……][……] |
| is available in the form of |  |
| electronic communications, please indicate: |  |

38 Contracting authorities **may require** this period to be up to five years and **allow** for more than five years' experience.

 Regulation of the Minister of Development, Labour and Technology of 23 December 2020 on subjective means of evidence and other documents or statements that the contracting authority may request from the contractor (Journal of Laws, item 2415)

|  |  |  |
| --- | --- | --- |
|  |  | period from which it is permissible to show completed construction works was up to five years back. In exceptional cases, the contracting authority may allow the required experience from five years ago.  The form in this column does not specify, for example: amounts of construction works, dates, recipients for whom the works were performed. If the contracting authority specifies specific requirements in this respect, the contractor should include this information in this part of the form. |
| 1b) Only for **public supply contracts and public service contracts**  During the reference period (39) the contractor **has made the following major deliveries of a certain type or has provided**  **the following main services of a specific type:** When drawing up the list, please indicate the amounts, dates and recipients, both public and private (40): | Number of years (this period is indicated in the relevant notice or procurement documents): […]   |  |  |  |  | | --- | --- | --- | --- | | Description | Amounts | Dates | Recipients | |  |  |  |  | | According to the Document Regulation, the contracting authority requires that the period from which certain supplies or services can be reported is three years back.  In exceptional situations, the contracting authority may allow the required experience from more than three years ago.  The section should include the supplies or services performed, which are the contractor's response to the description of the condition for participation in the procedure (qualification criterion) specified by the contracting authority. |

39 Contracting authorities **may require** this period to be up to three years and **allow** for **more** than three years' experience.

40 In other words, **all** recipients should be listed and the list should include both public and private customers for the supplies or services concerned.

|  |  |  |
| --- | --- | --- |
|  |  | The list may include both public and private customers for the supplies or services concerned. |
| 2) You may use the services of the following | [……] | This section of the form should include a list of persons assigned by the contractor to perform the contract, in particular those responsible for the provision of services, quality control or management of construction works, in accordance with the requirements specified in this respect by the contracting authority in the description of the condition of participation  in the procedure (selection criterion), which refers to the contractor's personal potential. Thus, at this point in the form, it is possible to indicate, for example, information on the qualifications of these persons,  provided that the contracting authority has specified specific requirements in this regard. |
| **technical staff or technical services** (**41**), especially those |  |
| responsible for quality control: |  |
| In the case of public works contracts for building | [……] |
| the contractor will be able to request |  |
| to the following technical employees or |  |
| technical services for the execution of works: |  |
| 3) Uses the following **devices**  **technical standards and quality assurance measures,** and its **research and development facilities** are as follows: | [……] | At this point in the form, the contractor submits a statement concerning the technical potential, i.e. technical equipment, means necessary to ensure quality or specific scientific and research facilities that will be  at the contractor's disposal, adequately to the description of the condition for participation in the procedure (qualification criterion) made by the contracting authority. |

41 In the case of technical staff or services not directly belonging to the contractor's undertaking but on whose capacity the contractor relies, as set out in Section C of Part II, separate forms must be filled in.

|  |  |  |
| --- | --- | --- |
| 4) During the execution of the order, it will be able to use the following **supply chain management** and **supply chain tracking systems**: | [……] | At this point in the form, the contractor submits a statement on the contractor's technical potential, thanks to which it will be possible to determine the contractor's skills and the appropriate manner of delivery, adequately to the description of the condition for participation in the procedure (qualification criterion) made by the contracting authority. |
| **5) In respect of products or services of a complex nature to be supplied or, exceptionally, in respect of products or services for specific purposes**  Will the contractor allow the inspection to be **carried out** (**42**) their **production or technical capacity** and, where necessary, their  **scientific and research resources** available to it, as well as **quality control measures**? | [] Yes [] No | At this point in the form, the contractor submits a declaration of consent to carry out an audit of its production or technical capacity, as well as the scientific and research resources available to it, as well as the quality control measures it will use.  The indicated item of the form refers to supplies or services of a complex nature, if the contracting authority has introduced detailed requirements in this respect – it has described the condition of participation procedure (selection criterion). Description of the condition included in the advertisement contract or procurement documents should contain a detailed procedure allowing for such an examination (inspection) to be carried out at the contractor's premises, and contractor's statement in that |

42 The inspection is to be carried out by the contracting authority or, if the contracting authority agrees, on its behalf, by the competent official authority of the State in which the supplier or service provider is established.

|  |  |  |
| --- | --- | --- |
|  |  | only consent to undergo such a test. |
| 6) The following **education** and |  | At this point in the form, the contractor submits a statement on his personal potential: his professional qualifications and education. It is important to note that this declaration relates to the contractor itself and its manager(s) and must be distinguished from the condition relating to the people assigned to perform the contract and the declaration made by the contractor in this regard, which is to be made in the earlier section of the form.  That declaration shall be made only in a situation where the contracting authority describes the condition for participation in the procedure (qualification criterion) and adequately to this description. |
| **Work qualifications** are held by: |  |
| a) the service provider or contractor itself: | a) [……] |
| **or** ((depending on the requirements set out in  relevant notice or documents  orders): |  |
|  |  |
|  |  |
| b) Its management team: | b) [……] |
| 7) During the performance of the contract, the contractor will be able to apply the following **environmental management measures:** | [……] | At this point in the form, the developer submits a declaration of environmental management measures.  According to the EMAS Regulation, an environmental management system means a part of an overall management system that includes the organisational structure, planning activities, responsibilities, practices, procedures, processes and resources for developing, implementation, achievement, review and |

|  |  |  |
| --- | --- | --- |
|  |  | maintenance of environmental policy and management of environmental aspects.  The contractor submits the statement adequately to the description of the condition of participation in the procedure (qualification criterion) |
| 8) The **size of the average annual employment** in | Year, average annual employment: | At this point in the form, the contractor shall submit |
| contractors and the number of managers in the | [……], [……] | statement on its potential |
| the last three years are as follows | [……], [……] | in terms of the number of staff |
| [……], [……]  Year, number of managerial staff: [……], [……]  [……], [……] | management and average annual  depending on how the contracting authority describes this condition for participation in the procedure (qualification criterion). |
|  | [……], [……] | If the period of business activity |
|  |  | contractor is less than 3 years, it shall |
|  |  | contractor's declaration |
|  |  | should relate to the period of actual |
|  |  | business |
| 9) It will have the f**ollowing tools,** **plant equipment and technical equipment** at its disposal for the purpose of executing the contract: | [……] | At this point in the form, the contractor submits a declaration of the technical capacity to perform the contract. These are specific tools, technical devices or equipment of the establishment, for which the description of the condition of participation  in the procedure (qualification criterion) indicated by the contracting authority, and which serve directly the performance of the contract. |

|  |  |  |
| --- | --- | --- |
| 10) The contractor **intends to potentially subcontract the**(**43**) following part (percentage) of the order: | [……] | This part of the form is related to the information contained in the form  In this case, however, the contractor confines itself in its statement to indicating the percentage of the contract entrusted to a specific subcontractor.  It should be noted that if a contractor has decided to subcontract a part of the contract and relies on the capacity of the subcontractors to carry out that part, a separate single document for those subcontractors must be completed (see above, Part II, Section C). In cases where the contractor does not rely on the resources of subcontractors, it shall submit a separate single subcontractor document completed only for the grounds of exclusion and only if required by the contracting authority. |
| 11) **With regard to public supply contracts for supplies**  The contractor will provide the required samples, descriptions or photographs of the products to be delivered and which do not need to be accompanied by a certificate of authenticity.  The contractor further declares that, where appropriate, it will provide the required | [] Yes [] No  [] Yes [] No | At this point in the form, the contractor submits a declaration regarding the contractor's ability to provide samples, descriptions or photographs of the products submitted as subjective means of evidence confirming the contractor's technical capacity. At this point in the form, however, we are dealing only with a preliminary statement |

43 It should be noted that if a contractor has decided to subcontract part of the contract and **relies** on the capacity of the subcontractors to carry out that part, a separate single European procurement document for those subcontractors must be completed (see above, Part II, Section C).

|  |  |  |
| --- | --- | --- |
| certificate of authenticity.  If the relevant documentation is available in electronic form, please indicate: | (the internet address of the issuing office or body, the exact reference data of the documents):  [……][……][……] | the contractor's ability to produce, where appropriate, such subjective evidence.  On the other hand, this section does not apply to samples, descriptions or photographs of products submitted with the tender as evidence in question. |
| 12) With regard to **public supply contracts,**  can the contractor provide the required certificates from **official institutes or quality control agencies** of recognised competence to prove compliance with the  products by making an explicit reference to the technical specifications or standards that have been set out in the relevant notice or  procurement documents?  **If not**, Please explain why and indicate what other evidence may be presented:  If the relevant documentation is available in electronic form, please indicate: | [] Yes [] No  […]  (the internet address of the issuing office or body, the exact reference data of the documents):  [……][……][……] | At this point in the form, the contractor submits a statement as to the possibility of submitting a specific subjective measure of evidence confirming the compliance of the offered products with the requirements of specific standards or technical specifications. The statement is preliminary and refers to the contractor's ability to submit such subjective evidence to the contracting authority.  If it is not possible to provide such documents, the contractor should specify in the form the reasons for this state of affairs and refer to specific means of evidence confirming the specific certification of the product, taking into account the quality control requirements specified in this respect by the contracting authority. |

**D: QUALITY ASSURANCE SYSTEMS AND ENVIRONMENTAL MANAGEMENT STANDARDS**

|  |  |  |
| --- | --- | --- |
| **The contractor should only provide information if the contracting authority or contracting entity requires quality assurance systems or environmental management standards in the relevant notice or in the procurement documents referred to in the notice.** | |  |
| **Quality Assurance Systems and Environmental Management Standards** | **Answer:** |  |
| Will the contractor be able to provide | [] Yes [] No | Pursuant to the second sentence of Article 116(1) of the PPL, when assessing the technical or professional capacity of a contractor, the contracting authority may require that contractors comply with the requirements of the relevant quality management standards, including accessibility for persons with disabilities, and environmental management systems or standards indicated by the contracting authority in the contract notice or in the procurement documents.  The contractor should only provide the information required in this section if the contracting authority specifies the conditions participation in the procedure in the relevant notice or in the procurement documents (specifications).  In the case of information of the contractor about the lack of  submission of such documents, if required by the contracting authority, the contracting authority should |
| **certificates** drawn up by an independent |  |
| undertakings, certifying that the |  |
| contractor fulfils the **required standards for the provision of** | [……] [……]  (the internet address of the issuing office or body,  the exact reference data of the documents):  [……][……][……] |
| **quality**, including accessibility for people with disabilities |
|  |
| **If not**, please explain why, and specify |
| what other means of proof relating to the system |
| assurance bodies may be presented: |
| If the relevant documentation is available in the |
| electronic form, please indicate: |
|  |
|  |  | in addition, specify the reasons for this state of affairs and, at the same time, indicate other subjective means of evidence confirming that the quality assurance measures applied by him are in accordance with the required quality management standards. |
| Will the contractor be able to provide | [] Yes [] No  [……] [……]  (the internet address of the issuing office or body,  the exact reference data of the documents):  [……][……][……] | At this point in the form, the contractor submits a declaration regarding the possession and ability to submit to the contracting authority a specific certificate confirming that the contractor meets the requirements of specific environmental management systems or standards.  If it is not possible to submit such documents, the contractor is obliged to indicate the reasons for this and to cite other means of evidence  in this regard.  According to the EMAS Regulation, an environmental management system means a part of an overall management system that includes the organisational structure, planning activities, responsibilities, practices, procedures, processes and resources for developing, implementing, achieving, reviewing and  maintenance of environmental policy and management of environmental aspects. This means, in other words, an organization's management system that aims to prevent or reduce the negative impact of that organization's activities on the environment; it cannot therefore be identified as an environmental management system which is |
| **certificates** drawn up by an independent |
| undertakings, certifying that the |
| Contractor complies with the requirements of **specific systems** |
| **or environmental management standards?** |
| **If not**, please explain why and specify |
| what other means of proof relating to the systems |
| or **environmental management standards** may be |
| be presented: |
| If the relevant documentation is available in the |
| electronic form, please indicate: |
|  |
|  |  | a broader term and is most often defined as the management of the use, protection and shaping of the environment.  If the contractor informs that it is not possible to submit such documents, if they are required by the contracting authority, the contractor should additionally specify the reasons for this state of affairs and at the same time indicate other subjective means of evidence confirming that the environmental management measures applied by the contractor are equivalent to those required under the applicable system or standard  management. |

# Part 5: Limiting the number of eligible candidates

|  |
| --- |
| **The contractor should present information provided that the contracting entity or the contracting authority defined objective and non-discriminatory criteria or rules which are supposed to be applied in order to limit the number of candidates who are planned to be invited to make bids or conduct a dialogue. This information, which can be accompanied by requirements regarding (types of) attestations or documentary evidence which should be possibly presented, was determined in an appropriate notice or in the documents regarding public order which are mentioned in the announcement.**  **It applies solely to restricted procedures, competitive procedures with negotiations, competitive dialogues and innovation partnerships:** |

**The contractor declares, that:**

|  |  |  |
| --- | --- | --- |
| **Limiting the number of candidates** | **Answer:** | This part of the form concerns the criteria of selection, mentioned in art. 148 (2), art. 159 (2), art. 177 (2) and art. 195 (1) of the Public Procurement Law.  In accordance with these regulations, in the case of the following modes: restricted invitation to tender, negotiations with announcement, competitive dialogue and innovation partnership, if the number of contractors meeting the conditions of participation in the process is greater than the number specified in the announcement, the contracting authority invites them to make bids or preliminary bids or to conduct a dialogue of contractors selected on the basis of objective and non-discriminatory criteria called selection criteria. |
| He fulfils the objective and non-discriminatory criteria or rules, which are supposed to be applied in order to limit the number of candidates in the following manner:  In the event that specific attestations or other documentary evidence is required, please determine if the contractor possesses the required documents for each of them:  If some of these attestations or documentary evidence is available in electronic forms, please specify for each of them: | [….]  [] Yes [] No (45)  (internet address, issuing office or authority, precise reference data of the documentation):  [……][……][……] (46) |

44 Please specify precisely to which entry the answer applies.

45 Please repeat as many times as necessary.

46 Please repeat as many times as necessary.

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|  |  | The contractor should present the information required in this section solely in the case of the contracting authority requiring given conditions of process in an appropriate announcement or in the documents of the order (specification).  It has to be clearly indicated to which of the criteria the answer applies, repeating this part as many times as necessary. |

# Part 6: Final statements

*The undersigned officially declares that the information provided above in the parts 2-5 are accurate and were presented with full knowledge of the consequences of serious misleading practices.*

*The undersigned officially declares that he is capable to present attestations and other documentary evidence on demand and without delay, with the exception of cases in which:*

1. *the contracting authority or the contracting entity is able to obtain appropriate proofs directly via free-of-charge national database in any of the Member States* (47)*, or*
2. *the contracting authority or the contracting entity is in possession of the appropriate documentation no later than from 18 April 2018* (48).

*The undersigned officially consents to [indicate the contracting authority or the contracting entity specified in section A of part 1] accessing the documentary evidence provided in [specify the part/section/point(s) to which it applies] of this European Single Procurement Document, for the purposes of* [specify the procurement procedure: (short description, publication address in the Official Journal of European Union, reference number)].

Date, place and – if required or necessary – signature(s): [……]

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| The final statements included in this part of the form are crucial in terms of assessing the contractor. They somewhat serve as a summary of all the form’s contents and the statements made. Additionally, providing these detailed final statements is of importance for the responsibility of entities which submit detailed statements included in the form. At the same time, the final statements draw attention to the necessity of using free-of-charge, open-access databases by the contractor, and concern the contractor’s consent to the contracting authority accessing the information included in the form.  The document, along with the statements mentioned above in the form’s content, should be signed by the contractor, the third party, the sub-contractor, respectively by the one to whom the filed ESPD form applies. In order for the form to be filed effectively, it must be signed by empowered parties, namely those entitled to representation or authorised on the basis of the power of attorney granted independently. In the case of the form being filed by the contractors collectively applying for awarding the contract, the form should be signed by each and every one of the contractors filing the form. |

47 On condition that the contractor provided the necessary information (internet address, issuing office or authority, precise reference data of the documentation) allowing the contracting authority or the contracting entity to take such an action. If necessary, it has to be accompanied by an appropriate consent to gain such access.

48 Depending on the implementation of art. 59, act 5, 2nd paragraph of 2014/24/UE directive in the given country

# Attachment:

**The list of offences referred to in art. 108 of act 1, point 1 of the act**

(in the order in which they are listed in this provision)

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| offence | wording of the provision | column of the single document form |
| participation in an organised criminal group or an union aiming to commit an offence or a fiscal offence, referred to in art. 258 of the Penal Code | **Art. 258**  § 1. Anyone who participates in an organised group or association which purpose is to carry out criminal offences is subject to imprisonment from three months up to five years.  § 2. If the group or association specified in § 1 uses weapons or has terrorist intentions, then the offender is subject to imprisonment from six months up to eight years.  § 3. Anyone who sets up or leads a group or association specified in § 1 that uses weapons, is subject to imprisonment from one up to ten years.  § 4. Anyone who sets up or leads a group or association with the intention of carrying out a terrorist attack is subject to imprisonment for at least three years. | III.A pt 1 |
| human trafficking, referred to in art. 189a of the Penal Code | **Art. 189a.**  § 1. Anyone who carries out human trafficking is subject to imprisonment for at least three years.  § 2. Anyone who prepares to commit the act referred to in § 1, is subject to imprisonment from three months up to five years. | III.A pt 6 |
| the offence referred to in art. 228-230a of the Penal Code  [corruption] | **Art. 228.**  § 1. Anyone who, in connection with performing a public function gains a financial or personal benefit, or its promise, is subject to imprisonment from six months up to eight years.  § 2. In matters of minor importance, the offender is subject to a fine, the penalty of restriction of liberty or imprisonment for up to two years.  § 3. Anyone who, in connection with performing a public function gains a financial or personal benefit, or its promise, in exchange for unlawful conduct is subject to imprisonment from one up to ten years.  § 4. Anyone who, in connection with his or her official capacity, performs his or her official duties dependent upon receiving a financial benefit or its promise, or requires such a benefit, is subject to the same penalty as specified in § 3.  § 5. Anyone who, in connection with performing a public function, gains a financial benefit of great value, or its promise, is subject to imprisonment from two to twelve years.  § 6. A subject to the same penalty as specified in §§ 1-5 is also the one who, in connection with his or her public function in a foreign state or international organisation, gains a financial benefit, or its promise or who requires such a benefit, or performs his or her official duties dependent upon receiving a material benefit. | III.A pt 2 |

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|  | **Art. 229.**  § 1. Anyone who gives or promises to give a financial or personal benefit to a person performing a public function is subject to imprisonment from six months up to eight years.  § 2. In matters of less importance, the perpetrator is subject to a fine, the penalty of restriction of liberty or imprisonment for up to two years.  § 3. Anyone who gives a financial or personal benefit to a person performing a public function in order to induce him to disregard the law or grants such a benefit for disregarding the law is subject to imprisonment from one up to 10 years.  § 4. Anyone who gives or promises to give a financial benefit of great value to a person performing a public function is subject to imprisonment from two up to twelve years.  § 5. A subject to the same penalty as specified in §§ 1-4 is also the one who gives or promises to give a financial benefit to a person performing a public function in a foreign state or international organisation in connection with such duties.  § 6. The offender is not subject to the offences specified in §§ 1-5 if the personal or financial benefit or the promise was accepted by a person performing a public function and the perpetrator informed the authority responsible for prosecution and disclosed all of the crucial circumstances of the criminal act before the authority learned about it. **Art. 230.** § 1. Who, referring to the influences in a national or municipal institution, an international or national organisation or in a foreign organisation unit disposing of public funds, or giving in impression to another person that such influences exist, or convincing another person that such influences exist, undertakes intermediation in handling a matter in exchange for a financial or personal benefit or its promise, is subject to imprisonment from six months up to eight years. § 2. In matters of less importance, the perpetrator is subject to a fine, the penalty of restriction of liberty or imprisonment for up to two years.  **Art. 230a.** § 1. Anyone who gives, or promises to give, a financial or personal benefit in exchange for interceding in handling a matter in a national or municipal government institution, international organisation or national or foreign organisation unit disposing of public funds, consisting of in unlawfully influencing a decision, on acting or failing to act by a person performing a public function in connection with this function, is subject to imprisonment from six months up to eight years.  § 2. In matters of less importance, the perpetrator is subject to a fine, the penalty of restriction of liberty or imprisonment for up to two years.  § 3. The perpetrator of the offence specified in §§ 1 or 2 is not subject to a penalty if the financial or personal benefit, or its promise, was accepted and the perpetrator informed the authority responsible for prosecution and disclosed all of the crucial circumstances of the criminal act before the authority learned about it. |  |
| the offence referred to in art. 250a of the Penal Code  [corruption in elections and referenda] | **Art. 250a.** § 1. Anyone who, being entitled to vote, gains financial or personal benefit or requires such a benefit in exchange for voting in a certain way is subject to imprisonment from three months up to five years.  § 2. A subject to the same penalty is also the one who grants financial or personal benefit to a person entitled to vote in order to convince him or her to vote in a certain way, or for voting in a certain way. § 3. In matters of less importance, the perpetrator of the act specified in §§ 1 or 2 is subject to a fine, the penalty of restriction of liberty or imprisonment up to two years.  § 4. If the perpetrator of the act specified in §§ 1 or 3 in connection with § 1 informed the authority responsible for prosecution and disclosed all of the crucial circumstances of the act, the court will apply an extraordinary mitigation of punishment, and may even refrain from imposing a penalty. | III.A pt 2 |
| the offence referred to in art. 46 of the sports law  [corruption in sport: the offence of venality in sport (art. 46 section 1) and the offence of bribery in sport (art. 46 section 1)] ] | **Art. 46.**   1. Anyone who, in reference to sports competitions organised by a Polish sports association or an entity operating on the basis of a contract with this association, or an entity operating under its authorisation, gains financial or personal benefit or a promise of such a benefit or requires such a benefit or promise in exchange for unfair behaviour which could have influenced the score or the course of this competition, is subject to imprisonment from six months to eight years. 2. 2. Anyone who, in the cases referred to in act 1, grants or promises to grant financial or personal benefit, is a subject to such penalty as well. 3. In matters of minor importance, the perpetrator of the act specified in act 1 or 2 is subject to a fine, penalty of restriction of liberty or imprisonment up to two years. 4. If the perpetrator of the act specified in the act 1 or 2 gains financial benefit of great value or its promise or grants such a benefit or promise or requires such a benefit or promise, is subject to imprisonment from one year to ten years. | III.A pt 2 |
| the offence referred to in art. 48 of the sports law  [corruption in sport: the crime of paid protection in sport (art. 48 section 1) and the crime of bribery for paid protection in sport (art. 48 section 2)] | **Art. 48.**  1. Anyone who, referring to the influences in a Polish sports association or an entity operating on the basis of a contract with this association, or an entity operating under its authorisation or giving an impression to another person that such influences exist, or convincing another person that such influences exist, undertakes intermediation in determining a specific score or the course of a sports competition in exchange for a financial or personal benefit or its promise, is subject to imprisonment from six months up to eight years.  2. A subject to the same penalty is also the one who grants or promises to grant financial or personal benefit in exchange for intermediation in determining a specific score or the course of a sports competition relying on unlawfully influencing the behaviour of a person performing a function in a Polish sports association or an entity operating on the basis of a contract with this association, or an entity operating under its authorisation in connection with performing this function.  3. In matters of minor importance, the perpetrator of the act specified in act 1 or 2 is subject to a fine, penalty of restriction of liberty or imprisonment for up to 2 years. | III.A pt 2 |
| financing of terrorist offences, referred to in art. 165a of the Penal Code | **Art. 165a.** Anyone who collects, transfers or offers means of payment, financial instruments, securities, foreign exchange, property rights or other movable or immovable property in order to finance a terrorist offence is subject to imprisonment from two up to twelve years. | III.A pt 5 |
| preventing and hindering the determination of the source of money or concealing its source, referred to in art. 299 of the Penal Code  [money laundering] | **Art. 299.**  § 1. Anyone who receives, transfers or transports abroad, or assists in the transfer of title or possession of legal tender, securities or other foreign currency values, property rights or real or movable property coming from benefits connected to committing an illegal act, accepts, possesses, uses, transfers or transports abroad, hides, performs its transfers or conversion, helps its transfer of ownership or undertakes other actions in order to prevent or hinder determining its criminal origin or its current placement, its detection, occupation or the forfeiture order, is subject to imprisonment from six months up to eight years.  § 2. 2. A subject to the penalty specified in § 1 is anyone who, being an employee or operating in favour of the bank, a financial or lending institution or other entity, upon which there is a legal obligation of registering the transactions and the people performing these transactions, accepts unlawfully means of payment, financial instruments, securities, foreign exchange, transfers them or converts, or accepts them in other circumstances raising a reasonable suspicion that they are the subject of the offence specified in § 1, or provides other services meaning to conceal their criminal origin or services of protection from occupation. § 3. (repealed)  § 4. (repealed) § 5. If the perpetrator commits the act specified in §§ 1 or 2 acting in concert with other people, he or she is subject to imprisonment from one up to ten years.  §6. A subject to the penalty specified in § 5 is the perpetrator who gains significant financial benefit from committing such an act.  §6a. Who prepares to commit the criminal act specified in § 1 or 2 is subject to imprisonment for up to 3 years.  §7. In case of being convicted of the offence specified in § 1 or 2, the court orders the forfeiture of the objects coming directly or indirectly from the criminal act, along with the benefits from this act or their equivalent, even if they were not possessed by the perpetrator. The forfeiture is not ordered fully or partially if the object, benefit or its equivalent is to be returned to the aggrieved party or to another entity.  §8. Anyone who voluntarily disclosed information about the circumstances and participants of the criminal act to the authority responsible for prosecution and it prevented another offence from being committed, is not subject to the penalty specified in § 1 or 2. If the perpetrator endeavoured to disclose this information and circumstances, the court orders an extraordinary mitigation of punishment. | III.A pt 5 |
| a terroristic offence referred to in art. 115 § 20 of the Penal Code, or the intention to commit such a crime | **Art. 115**  § 20. A terrorist offence is a prohibited act with a sentence of imprisonment for a maximum of five years, committed with the intention of:  1) seriously threatening a large number of people,  2) forcing a public authority of the Republic of Poland, or another national or international organisation, to take or not to take a certain action;  3) cause a serious disturbance in the political system or the economy of the Republic of Poland, or another national or international organisation, - or a threat to commit such an act. | III.A pt 4 |
| entrusting work to a minor foreigner referred to in art. 9 section 2 of the Act of June 15, 2012, on the consequences of entrusting work to foreigners staying in the territory of the Republic of Poland against the regulations (Journal of Laws, item 769) | **Art. 9.**  2. A subject to the same penalty is the one who entrusts work to a minor foreigner without a valid document entitling to stay on the territory of the Republic of Poland. | III.A pt 6 |
| economic and trade related offences referred to in art. 296-307 of the Penal Code  except art. 299 | **Art. 296.** § 1. 1. Anyone who, being obliged by the provision, a decision of an appropriate authority or a contract on handling financial matters or a business of an individual, legal entity or an organisational unit without legal personality, via the abuse of his or her entitlement or failing to comply with the obligation does significant financial harm to the entity, is subject to imprisonment from three months to five years.  § 1a. If the perpetrator referred to in § 1, via the abuse of his or her entitlement or failing to comply with the obligation, poses a direct danger of significant financial harm, he or she is subject to imprisonment for up to three years. § 2. If the perpetrator referred to in § 1 or 1a operates in order to obtain a financial benefit, he or she is subject to imprisonment from six months up to eight years. § 3. If the perpetrator referred to in § 1 or 2 does a financial harm of great value, he or she is subject to imprisonment from one year up to ten years.  § 4. If the perpetrator referred to in § 1 or 3 acts unintentionally, he or she is subject to imprisonment up to three years.  § 4a. If the aggrieved party is not the State Treasury, the prosecution of the criminal act specified in 1a occurs upon the aggrieved party’s request.  § 5. Anyone who, before the initiation of criminal proceedings, voluntarily and utterly repaired the damage caused, is not subject to a penalty.  **Art. 296a.** § 1. Anyone who, performing a managerial function in an organisational unit performing a business or being in an employment relationship, contract of mandate or a contract of a specific work with one, requires or accepts a financial or personal benefit or its promise, in exchange for the abuse of his or her entitlements or not complying his or her obligations which could do financial harm to the organisation or constitute an act of unfair competition or an unacceptable preferential act in aid of the purchaser or the recipient of goods, service or allowance, is subject to imprisonment from three months to five years. § 2. A subject to the same penalty is the one who, in cases specified in § 1 provides or promises to provide a financial or personal benefit.  § 3. In matters of less importance, the perpetrator of the act specified in § 1 or 2 is subject to a fine, the penalty of restriction of liberty or imprisonment for up to two years.  § 4. If the perpetrator of the act specified in §1 does a significant financial harm, he or she is subject to imprisonment from six months up to eight years.  § 5. The perpetrator of the criminal act specified in § 2 or § 3 in connection with §2 is not subject to a penalty, if the financial or personal benefit or its promise was accepted and the perpetrator informed an authority responsible for prosecution and disclosed all of the crucial circumstances of the act, before the authority learned about it. | III.D |
|  | Art. 296b. (repealed).  **Art. 297.** § 1. Anyone who, in order to obtain a bank loan, a loan, a guarantee, a letter of credit, a subsidy, subvention, confirmation from a bank of a liability under a guarantee or a similar monetary allowance for a specified economic purpose, electronic payment instrument or public procurement order for himself or for another person, from a bank or an organisational unit conducting similar business activities on the basis of an act of law or from a body or institution disposing of public funds, submits a forged or altered document or a document stating an untruth, an unreliable document, or an unreliable written statement regarding the circumstances that are significant for obtaining the financial support mentioned above or a payment instrument or order is liable to imprisonment for between three months and five years.  § 2. A subject to the same penalty is the one who, despite the imposed obligation, does not inform an appropriate authority about the rise of a situation which can influence the cessation or limitation of the amount of the financial support specified in § 1, a public procurement or the possibility of further use of the payment instrument.  § 3. A subject to this penalty is not the one who, before the initiation of the criminal proceedings, voluntarily prevented the exploitation of financial support or a payment instrument specified in § 1, ceased to accept a grant or a public procurement or satisfied the claims of the aggrieved party.  **Art. 298.** § 1. Anyone who, in order to obtain compensation under insurance contract, causes an occurrence underlying the payment of such a compensation, is subject to imprisonment from three months to five years.  § 2. A subject to this penalty is not the one who, before the initiation of the criminal proceedings, voluntarily prevented the payment of the compensation.  **Art. 300.** § 1. Anyone who, in the case of imminent insolvency or bankruptcy, hinders or depletes satisfying the claims of his or her creditor, by deleting, concealing, divesting, sparing, destroying, genuinely or seemingly burdening or damaging the components of his or her assets, is subject to imprisonment for up to three years. § 2. Anyone who, in order to prevent the enforcement of a court or another national authority’s order, hinders or depletes satisfying the claims of his or her creditor, by deleting, concealing, divesting, sparing, destroying, genuinely or seemingly burdening or damaging the components of his or her forfeited or threatened to be forfeited assets, or removes signs of forfeiture, is subject to imprisonment from three months up to five years.  § 3.If the act specified in § 1 caused harm to many creditors, the perpetrator is subject to imprisonment from six months to eight years. |  |
|  | § 4. If the aggrieved party is not the State Treasury, the prosecution of the criminal act specified in § 1 occurs upon the request of the aggrieved party.  **Art. 301.** § 1. Anyone who, being a debtor to many creditors, hinders or limits satisfying their claims via creating a new enterprise based on legal provisions and transfers the components of his or her assets to it, is subject to imprisonment from three months to five years.  § 2. A subject to the same penalty is the one who, being a debtor to many creditors, leads to his or her own bankruptcy or insolvency.  § 2. Anyone who, being a debtor to many creditors, in an imprudent manner leads to his or her bankruptcy or insolvency, especially via squandering of the components of the assets, incurring liabilities or closing deals obviously contrary to the rules of managements, is subject to a fine, the penalty of the restriction of liberty or imprisonment for up to two years.  **Art. 302.** § 1. Anyone who, in the case of imminent insolvency or bankruptcy, failing to satisfy the claims of all of the creditors, repays or secures only some of them, via which works to the detriment of the others, is subject to a fine, the penalty of restriction of liberty or imprisonment up to two years.  § 2. Anyone who gives or promises to give financial benefit to the creditor in exchange for working to the detriment of other creditors in connection with bankruptcy or bankruptcy prevention proceedings, is subject to imprisonment for up to three years,  § 3. A subject to the same penalty is the creditor, who, in connection with the proceeding specified in § 2, accepts the benefit in exchange for working to the detriment of other creditors or requires such a benefit. **Art. 303.** § 1. Anyone who does financial harm to an individual, a legal entity or an organisational unit without legal personality, via not keeping documentation of a business or keeping it in an unreliable or factually incorrect manner, especially via destroying, deleting, modifying or forging the documents regarding this business, is subject to imprisonment for up to three years.  § 2. If the perpetrator of the criminal act specified in § 1 causes a significant financial harm, he or she is subject to imprisonment from three months up to five years.  § 3. In matters of less importance, the perpetrator of the criminal act specified in § 1 is subject to a fine, the penalty of restriction of liberty or imprisonment for up to a year.  § 4. If the aggrieved party is not the State Treasury, the prosecution of the criminal act specified in § 1-3 occurs upon the request of the aggrieved party. |  |

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|  | **Art. 304.** Anyone who, exploiting the compulsory position of an individual, a legal entity or an organisational unit without legal personality, concludes an agreement with it, imposing an obligation of benefit disproportional to mutual benefit, is subject to imprisonment for up to three years.  **Art. 305.** § 1. Anyone who, in order to obtain a financial benefit, prevents or hinders a public tender or get into agreement with another person working to the detriment of the property owner or an individual or an institution for whom the tender is conducted, is subject to imprisonment for up to three years.  § 2. A subject to the same penalty is the one who, in connection to the public tender spreads the information or passes over the crucial circumstances which are of importance to conclude the contract being the subject of the tender or gets into agreement with another person working to the detriment of the property owner or an individual or an institution for whom the tender is conducted.  § 3. If the aggrieved party is not the State Treasury, the prosecution of the criminal act specified in § 1 or § 2 occurs upon the request of the aggrieved party.  **Art. 306.** Anyone who deletes, forges or modifies the identification marks, the date of manufacture or the expiration date of a product or a device, is subject to imprisonment for up to three years.  **Art. 307.** § 1. Towards the perpetrator of the criminal act specified in art. 296 or 299-305, who voluntarily and utterly repaired the damage, the court may apply extraordinary mitigation of punishment, or even cease to impose the penalty.  § 2. Towards the perpetrator of the criminal act specified in § 1, who voluntarily repaired the damage in a significant part, the court may apply extraordinary mitigation of punishment. |  |
| the offence of fraud referred to in art. 286 of the Penal Code | **Art. 286.**  § 1. Anyone who, in order to obtain a financial benefit, leads another person to an unfavourable management of his or her own or someone else’s property via mislead or exploiting a mistake or inability to properly understand the taken operation, is subject to imprisonment from six months up to eight years.  § 2. A subject to the same penalty is the one who requires a financial benefit in exchange for returning an unlawfully obtained item.  § 3. In matters of minor importance, the perpetrator is subject to a fine, the penalty of restriction of liberty or imprisonment up to two years.  § 4. If the criminal act specified in § 1-3 was committed against the next of kin, the persecution occurs upon the request of the aggrieved party. | III.A pt 3 |
| the offence against document credibility referred to in art. 270-277 of the Penal Code | **Art. 270.** § 1. Anyone who, aiming to use as an authentic, forges or modifies a document or uses such a document as authentic, is subject to a fine, the penalty of restriction of liberty or imprisonment from three months up to five years.  § 2. A subject to the same penalty is the one who fulfils a blank undersigned by someone else, against the will of the undersigned person and to his or her detriment or uses such a document. | III.D |
|  | § 2a. In matters of less importance, the perpetrator is subject to a fine, the penalty of restriction of liberty or imprisonment for up to two years.  § 3. Anyone who prepares to commit the crime specified in § 1, is subject to a fine, the penalty of restriction of liberty or imprisonment for up to two years.  **Art. 270a.** § 1. Anyone, who aims to use as an authentic, forges or modifies an invoice in the range of factual circumstances which could be of importance for determining the amount of public-law charge or its refund or a refund of a different charge of fiscal character or uses such an invoice as authentic, is subject to imprisonment from six years up to eight years.  § 2. If the perpetrator commits the act specified in § 1 against an invoice or invoices containing a general amount of charge, which amount or total amount is greater than five times the amount of determining the property of a great value or made a constant source of income out of committing the crime, is subject to imprisonment for at least three years.  § 3. In matters of less importance, the perpetrator of the act specified in § 1 or 2 is subject to a fine, the penalty of restriction of liberty or imprisonment for up to two years.  **Art. 271.** § 1. A public official or a different person entitled to issuing a document, who attests there the untrue claims regarding circumstances of legal importance, is subject to imprisonment from three months up to five years.  § 2. In matters of less importance, the perpetrator is subject to a fine or imprisonment.  § 3. If the perpetrator commits the act specified in §1 in order to obtain a financial or personal benefit, he or she is subject to imprisonment from six months up to eight years.  **Art. 272.** Anyone who extorts the attestation of untrue claims via a devious mislead of a public official or different person entitled to issuing the document, is subject to imprisonment for up to three years.  **Art. 273.** Anyone who uses the document specified in art. 271 or 272, is subject to a fine, the penalty of restriction of liberty or imprisonment for up to two years.  **Art. 274.** Anyone who disposes of own or someone else’s document confirming their identity, is subject to a fine, the penalty of restriction of liberty or imprisonment for up to two years.  **Art. 275.** § 1. Anyone who uses a document confirming the identity of someone else or someone else’s property rights or steals or usurps such a document, is subject to a fine, the penalty of restriction of liberty or imprisonment for up to two years. |  |

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|  | § 2. A subject to the same penalty is the one who unlawfully transports, moves or sends a document confirming the identity of someone else or someone else’s property rights.  Art. 276. Anyone who destroys, damages, conceals or deletes a document, upon which he or she is not entitled to dispose of exclusively, is subject to a fine, the penalty of restriction of liberty or imprisonment for up to two years.  Art. 277. Anyone who destroys, damages, removes or falsely exposes border posts or makes them unnoticeable is subject to a fine, the penalty of restriction of liberty or imprisonment for up to two years. |  |
| fiscal offences | [According to art. 53 § 2 of the act from 10th September 1999 - the Fiscal Penal Code (Journal of Laws from 2020, item 19 as amended) a fiscal offence is an illegal act by this code under penalty in daily rates, the penalty of restriction of liberty or imprisonment] | III.A pt 3 |
| art. 9 (1) and (3) or art. 10 of the Act on the consequences of entrusting the completion of work with foreigners remaining against the provisions in the territory of the Republic of Poland | **Art. 9.** 1. Anyone who entrusts, simultaneously, the performance of work to many foreigners staying without a valid document entitling them to stay on the territory of the Republic of Poland, is subject to a fine or the penalty of restriction of liberty.  3. A subject to the penalty specified in act 1 is the one who, in connection with running a business persistently entrusts the performance of work to a foreigner staying without a valid document entitling them to stay on the territory of the Republic of Poland.  **Art. 10.**  1. Anyone who entrusts the performance of work to a foreigner staying without a valid document entitling them to stay on the territory of the Republic of Poland, in conditions of significant exploitation, is subject to imprisonment up to three years.  2. A subject to the same penalty is the one who entrusts the performance of work to a foreigner staying without a valid document entitling them to stay on the territory of the Republic of Poland, who is a victim of a crime specified in art. 189a § 1 of the provision from 6th June 1997r. of the Penal Code ((Journal of Laws 88, item 553, as amended 3)). | III.C column regarding environmental law, social law and **labour law** |