

Self-declaration regarding exclusion criteria

- 1.) I/we hereby confirm that an enterprise will be excluded from the participation in an award procedure, if the contracting authority has knowledge that a person whose conduct is attributable to the enterprise, has been legally convicted under
 - a. section 129 of the penal code (forming criminal organisations), section 129a of the penal code (forming terrorist organisations), section 129b of the penal code (criminal and terrorist organisations abroad),
 - b. section 89c of the penal code (financing of terrorism) or in regard with the participation in such an offence or in regard with the provision or collection of financial means that all or part of shall be knowingly used for an offence referred to in section 89c paragraph 2 no. 2 of the penal code,
 - c. section 261 of the penal code (money laundering; hiding unlawfully obtained financial benefits),
 - d. section 263 of the penal code (fraud), where the criminal offence has been committed against the general budget of the European Communities or against budgets administered by the European Communities or on their behalf,
 - e. section 264 of the penal code (subsidy fraud), where the criminal offence has been committed against the general budget of the European Communities or against budgets administered by the European Communities or on their behalf,
 - f. section 299 of the penal code (taking and giving bribes in commercial practice),
 - g. section 108e of the penal code (bribing delegates)
 - h. sections 333 and 334 of the penal code (giving bribes), each also in conjunction with section 335a of the penal code (foreign and international public officials),
 - i. article 2 section 2 of the law on combating international corruption (bribery of Foreign Public Officials in International Business Transactions) or
 - j. sections 232 and 233 of the penal code (human trafficking) or section 233a of the penal code (assisting in human trafficking).

A violation of these provisions shall be treated as equivalent to violations of penal provisions in other states. The conduct of a legally convicted person shall be attributed to an enterprise if he acted responsibly in conducting business on behalf of the enterprise or if supervisory or organisational fault under Article 130 of the Code of Administrative Offences (OWiG) lies with a person in connection with the conduct of another legally convicted person acting on behalf of the enterprise.

I/we herewith confirm that none of the aforementioned criminal acts justifying the exclusion of the award procedure have been committed.

In case such a self-declaration can not be provided, the charges brought, the investigating authority and the current status of the proceedings shall be outlined briefly.

- 2.) I/we herewith confirm that I/we have fulfilled my/our obligations with respect to the payment of taxes, social security contributions and – if applicable – professional association contributions.
- 3.) I am/we are aware that an enterprise may be excluded from the award procedure, if

- a. the enterprise has demonstrably violated applicable environmental, social or labour law obligations in conjunction with the execution of public contracts,
- b. the enterprise is insolvent, insolvency proceedings or equivalent proceedings have been opened or applied for in respect of the assets of the enterprise, such proceedings have not been opened due to insufficient assets, the enterprise is being liquidated or has ceased its economic activity,
- c. the enterprise has demonstrably committed grave misconduct in professional matters calling into questions the integrity of the enterprise; sections 123 paragraph 3 of the Act against Restraints of Competition shall apply mutatis mutandis,
- d. the contracting authority has sufficient grounds to conclude that the enterprise has made arrangements with other enterprises, which have as their object or effect the prevention, restriction or distortion of competition,
- e. a conflict of interest arises in regard with the execution of the award procedure, which calls into questions the impartiality and independence of a person acting for the contracting authority and can't be resolved by less severe measures,
- f. a distortion of competition results from the fact that the enterprise was already involved in the preparation of the award procedure and the distortion can't be resolved by less severe measures,
- g. the enterprise has substantially or continuously failed to meet essential requirements with regard to prior public contracts resulting in premature termination of the contract, claims for damages or comparable legal results,
- h. the enterprise has committed serious misrepresentation in regard with exclusion or suitability criteria or withheld corresponding information or is not able to submit the necessary supporting documents,
- i. the enterprise has tried to unduly influence the decision making of the contracting authority, has tried to collect confidential information in order to obtain undue advantages with regard to the award procedure, or has negligently or intentionally provided misleading information which might substantially influence the decision of the contracting authority or has tried to provide such information.

I/we herewith confirm that none of the aforementioned reasons justifying the exclusion of the award procedure are present.

- 4.) I am/we are aware that not providing or falsely providing the above mentioned declarations may result in exclusion from this and future award procedures as well as in termination of given public contracts.
- 5.) I/we undertake to request the above declarations from subcontractors and to present these declarations before the contracting authority approves of further assignment.



Place, date

signature/ stamp

Note: In case you find yourself in one of the above mentioned situations, you can provide evidence that you have taken sufficient measures for Self-Cleaning (section 125 of the Act against Restraints of Competition). For this purpose you have to provide evidence that you have paid financial compensation for any damages caused by criminal acts or misconduct or have committed yourself to pay such a compensation, that the facts and circumstances have been clarified thoroughly by active cooperation with the investigating authorities and that specific technical, organizational and personnel measures have been taken, which are likely to avoid further criminal acts or misconduct. The necessary supporting documents shall be attached to the application together with the self-declaration.

The contracting authority recognizes as sufficient evidence for the fact that the exclusion criteria stipulated in section 123 paragraphs 1 to 3 of the Act against Restraints of Competition do not apply to the applicant or bidder as an alternative to the corresponding sections of this self-declaration an extract from the corresponding register, in particular a criminal record from the Federal Central Criminal Register or, in absence thereof, an equivalent statement of a competent judicial or administrative authority of the state of origin or establishment of the applicant or bidder. The contracting authority recognizes as sufficient evidence for the fact that the exclusion criteria stipulated in section 123 paragraph 4 and section 124 paragraph 1 no. 2 of the Act against Restraints of Competition do not apply to the applicant or bidder as an alternative to corresponding sections of this self-declaration a statement issued by the competent authority of the state of origin or establishment of the applicant or bidder.