

**EUROPEAN NETWORK OF LEGAL EXPERTS IN THE FIELD OF GENDER EQUALITY AND
EUROPEAN NETWORK OF LEGAL EXPERTS IN THE NON-DISCRIMINATION FIELD**

1. TITLE OF THE CONTRACT

EUROPEAN NETWORK OF LEGAL EXPERTS IN THE FIELD OF GENDER EQUALITY AND
EUROPEAN NETWORK OF LEGAL EXPERTS IN THE NON-DISCRIMINATION FIELD

VT/2007/021

2. BACKGROUND

In its Social Agenda (2005-2010), the Union has fixed as its overall strategic goal to promote more and better jobs and to offer equal opportunities for all. The realisation of the Social Agenda relies on a combination of instruments comprising EU legislation, the implementation of open methods of coordination in various policy fields and financial incentives such as the European Social Fund.

Until now, the implementation of the open methods of coordination in the employment and social inclusion/social protection fields relied on two distinct Community programmes. Equally the promotion of gender equality and of the non-discrimination principle was at the core of two distinct Community programmes. And lastly promotion of labour law including health and safety regulations were dealt with by separate interventions.

With the view of fostering greater coherence and simplification in the way Community programmes are delivered, the Commission proposed that all these separate programmes be now integrated into one framework programme, PROGRESS.

The Decision n°1672/2006 establishing a Community programme for employment and social solidarity – PROGRESS was adopted by the European Parliament and the Council on 24 October.¹

PROGRESS overall aim is to financially support the implementation of the objectives of the European Union in the employment and social affairs area, as set out in the Social Agenda, and thereby contribute to the achievement of the Lisbon Strategy goals in these fields.

It aims at supporting the core functions of the European Community towards fulfilling its Treaty-delegated tasks and powers in its respective areas of competence in the employment and social sphere. It will support initiatives aimed at reinforcing the role of the Community in proposing EU strategies; implementing and following-up EU objectives and their translations into national policies; transposing and following-up of EU legislation's application in a coherent way through Europe; promoting the co-operation and co-ordination mechanisms between Member States and cooperating with social partners and organisations that represent civil society.

¹ Decision 1672/2006/EC of the European Parliament and the Council, OJ L 315/1 of 15/11/2006.

More specifically, PROGRESS will support:

- (1) the implementation of the European Employment Strategy (section 1);
- (2) the implementation of the open method of coordination in the field of social protection and inclusion (section 2);
- (3) the improvement of the working environment and conditions including health and safety at work and reconciling work and family life (section 3);
- (4) the effective implementation of the principle of non-discrimination and promotion of its mainstreaming in all EU policies (section 4);
- (5) the effective implementation of the principle of gender equality and promotion of its mainstreaming in all EU policies (section 5).

It is divided up into five policy sections which are (1) Employment, (2) Social inclusion and social protection, (3) Working conditions, (4) Non-discrimination and (5) Gender Equality.

Against this background, PROGRESS pursues the following general objectives, as set out in article 2.1 of the Decision:

- "(1) to improve the knowledge and understanding of the situation prevailing in the Member States (and in other participating countries) through analysis, evaluation and close monitoring of policies;
- (2) to support the development of statistical tools and methods and common indicators, where appropriate broken down by gender and age group, in the areas covered by the programme;
- (3) to support and monitor the implementation of Community law, where applicable, and policy objectives in the Member States, and assess their effectiveness and impact;
- (4) to promote networking, mutual learning, identification and dissemination of good practice and innovative approaches at EU level;
- (5) to enhance the awareness of the stakeholders and the general public about the EU policies and objectives pursued under each of the 5 sections;
- (6) to boost the capacity of key EU networks to promote, support and further develop EU policies and objectives, where applicable."

The fourth section of the Programme concerns the effective implementation of the principle of non-discrimination, notably through:

- (1) Improving the understanding of the situation in relation to discrimination in particular through analysis and studies and, where appropriate, the development of statistics and indicators as well as assessing the effectiveness and impact of existing legislation, policies and practices;

- (2) Supporting the implementation of EU anti-discrimination legislation through effective monitoring, holding seminars for those working in the field and networking amongst specialised bodies dealing with anti-discrimination;
- (3) Raising awareness, disseminating information and promoting the debate about the key challenges and policy issues in relation to discrimination and the mainstreaming of anti-discrimination in all EU policies, including among social partners, NGOs and other stakeholders;
- (4) Developing the capacity of key EU networks to promote and further develop EU policy goals and strategies in the field of combating discrimination.

The fifth section of the Programme concerns the effective implementation of the principle of gender equality, notably through:

- (1) Improving the understanding of the situation in relation to gender issues and gender mainstreaming, in particular through analysis and studies and the development of statistics and, where appropriate, indicators, as well as assessing the effectiveness and impact of existing legislation, policies and practices;
- (2) Supporting the implementation of Community gender equality legislation through effective monitoring, holding seminars for those working in the field and networking amongst specialised equality bodies;
- (3) Raising awareness, disseminating information and promoting the debate about the key challenges and policy issues in relation to gender equality and gender mainstreaming, among the social partners, NGOs and other stakeholders;
- (4) Developing the capacity of key European level networks to support and further develop Community policy goals and strategies on gender equality.

For a detailed account of the activities that will be put in place or promoted under PROGRESS, please visit the preliminary PROGRESS website at:

http://ec.europa.eu/employment_social/progress/index_en.html

The present Call for tenders is issued in the context of the implementation of the 2007 annual plan of work which is consultable at

http://ec.europa.eu/employment_social/progress/docs/programme2007_en.pdf

3. SUBJECT OF THE CONTRACTS

This call for tender concerns two different lots:

- 1 - a European Network of Legal Experts in the Field of Gender Equality;**
- 2 - a European Network of Legal Experts in the Antidiscrimination Field .**

Bidders may apply for either one Lot or both Lots.

If a bidder wants to apply for both Lots, he shall submit a separate offer (both technically and financially) for each Lot.

Unless specified otherwise, the references to "tenderer" and "contractor" in these Specifications apply to tenderers/contractors under any of the two Lots.

Lot 1 - the European Network of Legal Experts in the Field of Gender Equality

Equal treatment of men and women is a fundamental principle of the European Union enshrined in the EC Treaty (Articles 2, 3, 141) as well as in an extensive body of secondary legislation. To-date, directives which provide for equal treatment in the areas of pay, employment and vocational training, statutory and occupational social security schemes, self-employed persons and assisting spouses and in the access to and supply of goods and services have been adopted. Directives providing for the protection of pregnant workers, parental leave and the sharing of the burden of proof in cases of sex discrimination have also been adopted. The acquis on gender equality has also been shaped and clarified by a large number of judgements from the European Court of Justice whose task it is to ensure that, in the interpretation and application of the Treaty, the law is observed (Article 220 of the EC Treaty).

On 1 March 2006, the Commission adopted "A Roadmap for equality between women and men (2006-2010)"². The roadmap sets out six priority areas for action in the period from 2006 to 2010 and it identifies priority objectives and actions for each area. In particular, the Roadmap provides:

The Commission will

...

- *reinforce the effectiveness of legislation*
 - *review the existing EU gender equality legislation not included in the 2005 recast exercise³ with a view to updating, modernising and recasting where necessary*
 - *monitor implementation and enforcement of EU gender equality legislation*
 - *inform EU citizens of their gender equality rights through the "Your Europe"⁴ portal and the Citizens' Signpost Service⁵.*

The Roadmap is available on the EUROPA website:

² Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions A Roadmap for equality between women and men 2006 – 2010 (Com (2006) 92 final)

³ COM (2004) 279

⁴ <http://europa.eu.int/youreurope/nav/en/citizens/home.html>

⁵ http://europa.eu.int/citizensrights/signpost/front_end/index_en.htm

http://ec.europa.eu/employment_social/gender_equality/gender_mainstreaming/roadmap_en.html.

As the Commission has the monopoly of initiating legislative proposals and in order to assist it in carrying out its functions as guardian of the treaties, it needs to be adequately informed, on a regular basis, about the content of national legislation and any recent developments in the field of equality between women and men, which have occurred in the EU, EEA and candidate countries. The Commission also needs to be advised of the probable impact of any developments in this area.

Since 1984, the Commission has been assisted in the performance of these tasks in the area of gender equality by a network of independent legal experts. The contract of the current network is due to expire at the beginning of June 2007.

Therefore, the purpose of the contract is to establish and maintain a network of legal experts in the field of gender equality.

The network will be required to give independent advice, analysis and relevant information to the Commission on national legislation and policies in the field of equality between women and men within the 27 Member States as well as Iceland, Liechtenstein, Norway. The network will contribute to the reviewing of the effectiveness of existing legislation and, if necessary, the development of new legislative instruments at EU level in the field of equality between women and men. More specifically the purpose of the network is to:

- provide guidance to the Commission on the operation and effectiveness of national implementation of the gender equality directives in the countries mentioned above;
- provide information and advice on the development of European and national case-law and its impact on the level of protection provided against discrimination;
- provide examples of good practice in terms of providing protection against discrimination, protection of pregnant workers and parental leave rights through legislation.

Lot 2 - the European Network of Legal Experts in the Antidiscrimination Field

Following the case-law of the European Court of Justice, Article 6 of the Treaty on European Union provides that the Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law.

The right of all individuals to equality before the law and to protection from discrimination is an essential fundamental right in order to allow any democratic society to function properly. It helps to achieve the objectives of promoting economic and social progress and a high level of employment by increasing economic and social cohesion. In Amsterdam, in June 1997, the Heads of State and Government agreed to strengthen the European Union's capacity to act in this area by introducing Article 13 of the Treaty establishing the European Community, which gives the Community specific powers to take action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

On 29 June and 27 November 2000, on the basis of proposals presented by the Commission in November 1999, the Council adopted two new directives intended to prevent and combat discrimination:

- Directive 2000/43/EC (Race Equality Directive) prohibits discrimination based on racial or ethnic origin in a wider range of fields such as employment, education, provision of goods and services and social protection;
- Directive 2000/78/EC (Employment Equality Directive) prohibits discrimination in employment and excludes all discrimination based on religion or belief, disability, age or sexual orientation;

The Council also adopted on 27 November 2000 a Decision establishing, for the period from 1 January 2001 to 31 December 2006, a Community action programme to combat discrimination (2001 to 2006)⁶, aimed at promoting measures to combat any direct or indirect, single or multiple discrimination based on racial or ethnic origin, religion or beliefs, disability, age or sexual orientation. One of its three major objectives was to foster a better understanding of the issues relating to discrimination by improving knowledge of this phenomenon and assessing the effectiveness of policies and practices.

Therefore, in a first phase, three groups of independent legal experts on discrimination on grounds of racial and ethnic origin and religion, disability and sexual orientation were established. From July 2004 onwards, these groups were replaced by a single network of independent legal experts, which covered all 5 grounds of discrimination of Directives 2000/43/EC and 2000/78/EC. The contract with the consortium that managed this network comes to an end in the beginning of July 2007. The purpose of this contract is to establish and maintain a network of legal experts in the field of discrimination on the grounds of race and ethnic origin, religion or belief, age, disability and sexual orientation.

This network will provide the Commission with independent information and advice on the implementation and application of Directives 2000/43/EC and 2000/78/EC, highlighting good practices and areas of difficulty in Member States.

More specifically, the objectives are to :

- provide information to the Commission on the effectiveness of national implementation of the two anti-discrimination directives in the above mentioned countries;
- provide information and advice on the development of European and national case-law and its impact on the level of protection provided against discrimination;
- provide examples of good practice in terms of providing protection against discrimination through legislation.

4. PARTICIPATION

The participation in this tender is open to any physical person or legal entity coming within the scope of the Treaties and any other physical person or legal entity from a third country which has concluded with the Communities a specific agreement in the area of public contracts, under the conditions provided for in that agreement.

⁶ Council Decision 2000/750/EC of 27 November 2000, OJEC L 303 of 2.12.2000, p. 23.

Where the Multilateral Agreement on Public Contracts concluded within the framework of the WTO applies, the contracts are also open to nationals of States that have ratified this Agreement, under the conditions provided for therein. It should be noted that research and development services, which come under category 8 of Annex II-A of Directive 2004/18/EEC, are not covered by this Agreement.

In practice, the participation of applicants from third countries that have concluded a bilateral or multilateral agreement with the Communities in the area of public contracts must be allowed, under the conditions provided for in that agreement. Bids submitted by applicants from third countries that have not concluded such an agreement may be accepted, but may also be rejected.

5. TASKS TO BE CARRIED OUT BY THE CONTRACTOR

5.1. Description of the tasks and outputs

LOT 1: the European Network of Legal Experts in the Field of Gender Equality

The task of the contractor will be to establish and maintain a network of independent experts to provide the Commission with independent advice, analysis and information in relation to the areas covered by the Directives in the field of gender equality in the 27 Member States and in Iceland, Liechtenstein and Norway.

The tasks of the Network will be to provide independent advice, analysis and information to the European Commission on :

- the transposition at national (and, where applicable, at federal and/or sub-national) level of the gender equality directives, in the countries referred to above;
- the practical implementation and application of national legislation transposing the Directives ;
- national initiatives in the field of gender equality legislation and related political developments (such as the discussion of proposals to introduce new legislation or to amend existing laws);
- the impact of national court rulings which have the effect of establishing jurisprudence on the level of protection provided by national law against discrimination;
- the potential conformity of the above with the requirements of European Union Law.
- the impact of judgements of the European Court of Justice on national law and, where appropriate, of the judgements of the European Court of Human Rights.

The contractor will be required to set up a network of legal experts, which will be managed and co-ordinated by a highly qualified expert (the co-ordinator) who will be assisted by an executive committee and, if necessary, administrative assistant(s).

The contractor will make sure that the co-ordinator, executive committee and members of the Network will perform the following specific tasks (as appropriate):

1. **Manage the network**, including the overall co-ordination of the contract, secretariat and translation services necessary to ensure the execution of the tasks indicated hereafter.

The **co-ordinator** will be responsible for:

- overall quality control of the work of the network in order to ensure that the Commission is furnished with accurate, up-to-date and relevant information of the highest quality in accordance with the Commission's requirements;
- liaison with the experts of the network, as well as the Commission services (Unit G2, DG EMPL), so as to ensure that the network's work programme is carried out effectively and efficiently.

2. Draft an annual **general report** on Community gender equality law and its transposition in the 27 Member States and in Iceland, Liechtenstein and Norway, as well as a description of measures going beyond the minimum requirements of the directives. The report will be based on a template to be drawn up by the co-ordinator in consultation with the Commission. The report will comprise two parts; a first part which should provide a general description of the Community acquis (including European Court of Justice case law) (around 20 pages); and a second part which should provide an overview on a country by country basis of how each country has implemented the directives (an average of 5 pages per country). This report, which is intended for general dissemination to policy makers, practitioners, researchers, etc., should be drafted in English, and translated into French and German. It should be provided to the Commission in a quality and format that is suitable for publication (camera ready).

3. Draft up to five **thematic reports** per year in English on subjects closely-related to the legislative activities and priorities of the Commission in the field of gender equality in accordance with the specifications and deadlines set out in an annual work programme to be agreed upon with the Commission. The purpose of these reports is to provide information on and an analysis of the practical impact of the directives as well as possible weaknesses and/ or lacuna in the existing acquis. The number and length of individual reports may vary depending on the topics covered i.e. it may be decided to request 3 – 4 longer reports or 5 shorter ones, but the combined length of the reports will be around 500 pages. These reports should be provided in a quality and format that is suitable for publication (camera ready) as some or all of these reports may be published.

4. Draft biannual **European Equal Treatment Law Reviews**, for broad dissemination, on key legal development at national and EU levels in the field of equality between men and women. The review should provide information for researchers, lawyers and policy-makers. It should also refer to relevant national and EU publications and other sources of information. It should be produced in English and translated into French and German and should be provided to the Commission in a quality and format that is suitable for publication (camera ready). Possible contents, to be further determined in close co-operation with the Commission, will include:

- A general introduction on the state of play, drawing attention to key issues.

- State of affairs in gender equality cases pending or decided by the European Court of Justice, with further references to the relevant documents.
- Key developments in case-law at national level.
- Key developments in the state of national gender equality legislation and on related policy developments at national level.

It is expected that each edition of the review should be 2 – 3 pages per country, plus 3 – 4 pages on developments at EU level.

5. Provide responses to requests for **information, advice and detailed analysis** in relation to specific urgent questions. These may be of a horizontal nature or may be specific to individual countries. It is expected that each expert will receive approximately 10-12 such requests per year. The experts will be required to provide responses to these requests, in English or French, within three working days unless otherwise specified.

6. Provide regular **flash-reports** on recent key legal developments in the area of gender equality in the countries covered by the contract: these reports, which should be provided at the experts initiative, are intended to alert Commission policy makers to key legal and related policy developments at national level, in particular to enable them to be aware of potential conflicts with Community law. These reports should be provided in English or French.

7. Prepare and organise **two annual meetings** (one day each) gathering the whole network in Brussels. One of these meetings may be with other networks in particular the European network of legal experts in the non-discrimination field. These meetings will be conducted in English (without interpretation facilities). The dates and agenda of the two meetings will be agreed upon with the Commission. The meetings will be held in one of the Commission buildings. The co-ordinator (and her assistant(s) if appropriate) will be required to meet with the Commission immediately prior to these meetings in order to prepare for the meetings. In addition, the **Executive Committee** will be required to attend two to three meetings per year with the Commission services (Unit G2, DG EMPL) in Brussels in order to draw up and discuss the work programme, clarify the tasks expected, discuss the outputs of the Network, etc.

8. Some experts of the network will be asked to participate and **make presentations** at seminars / conferences on gender equality where appropriate. Although in some cases travel expenses will be paid by the organisers, the bid should foresee a budget for taking part in an average of 5 conferences per year. The contractor should provide a report on the proceedings and the expert's involvement.

LOT 2 : the European Network of Legal Experts in the Antidiscrimination Field

The tasks of the Contractor will be to provide the Commission with independent advice, analysis and information on all the 5 grounds of discrimination covered by the two directives across the 27 Member States. The contractor will be free to organise the provision of the necessary expertise as it sees fit, assuring the quality of the information provided is in line with the requirements set out below.

The tasks of the Network will be to provide independent advice, analysis and information to the European Commission on:

- the transposition at national (and, where applicable, at federal and/or sub-national) level of Council Directives 2000/43/EC and 2000/78/EC;
- the practical implementation and application of national legislation transposing the Directives ;
- national initiatives in the field of anti-discrimination legislation and related political developments (such as the discussion of proposals to introduce new legislation or to amend existing laws);
- the impact of national court rulings which have the effect of establishing jurisprudence on the level of protection provided by national law against discrimination;
- the potential conformity of the above with the requirements of European Union Law.
- the impact of judgements of the European Court of Justice on national law and, where appropriate, of the judgements of the European Court of Human Rights.

The contractor will make sure that the Network will perform the following specific tasks (as appropriate):

1. To **organise an annual legal seminar** bringing together the experts of the Network, officials nominated by the Member States (maximum 2 officials per Member State) and of the Commission (6 to 8 officials), and a limited number of other persons (such as representatives of European NGO's and/or social partners) in order to discuss key issues relating to the directives and the fight against discrimination.

Preparation of the seminar by the Contractor will involve the following:

- In agreement with the Commission, setting the date of the meetings, sending the invitation and preparing the agenda (in English, French and German). The notice and agenda must be sent to the participants at least five weeks before the date of the meetings in order to stimulate the discussions.
- In agreement with the Commission, drafting three thematic working papers of maximum three pages each, to be provided in English, French and German, together with the agenda.
- Administration of the experts' travel expenses and daily allowances (except for the national officials).
- Practical arrangements for the meetings (booking the meeting room and hotel rooms for the participants, restaurants, arrange the translation into English, French and German, etc)

The Commission will chair the meeting. The contractor will facilitate the discussions at the meeting and prepare the final report, to be agreed by the Commission.

2. Some experts of the network will be asked to participate and **make presentations** at seminars / conferences on anti-discrimination where appropriate. Although in some cases travel expenses will be paid by the organisers, the bid should foresee a budget for taking part in an average of 8 conferences per year. The contractor should provide a report on the proceedings and the expert's involvement.

3. The management of the network will be required to **attend two to three meetings per year with the Commission services** (Unit G2, DG EMPL) in Brussels in order to draw up and discuss the work programme, clarify the tasks expected, discuss the outputs of the Network, etc.

4. The Contractor will produce the following **outputs** for the Commission:

a) a **comprehensive report** updating the thorough analysis of the transposition and effective implementation of the two directives in all Member States, as well as a description of measures going beyond the minimum requirements of the Directives. The report will be based on a template to be provided by the Commission. The first part of the report should be easily accessible for policy-makers in terms of length and technicality (an average of no more than 5 pages per country), with the more in depth analysis in the second part. The comprehensive report will mainly be used by Commission officials in their work of supervising the implementation of Community Law. The report should as far as possible be updated as developments occur, with an annual thorough update to ensure accuracy. It should be provided in English. An executive summary will be drafted both in English and French. This report will be put online on the Commission's web site.

b) an average of three longer and two shorter **thematic reports** on issues selected by the Commission that will contribute to deeper understanding of and a consistent approach to the application of the concepts contained in the directives (such as, for example, indirect discrimination, genuine and determining occupational requirements, sharing of the burden of proof etc). These reports of approximately 50 pages (in case of long reports) or 20 pages (in case of short reports), should be provided in English or French in a publishable version and made available to the public in English, French and German.

c) **flash reports** on recent developments in key legal issues in anti-discrimination at national level, or at European level where appropriate (e.g. Council of Europe). These reports are intended to alert Community policy makers to key legal developments at national level, in particular to enable them to be aware of potential conflicts with Community law. These reports should be provided in English or French.

d) 2 issues per year of the **European Anti-discrimination Legal Review** for wider dissemination on key legal developments at national and European levels. The Review should provide information for researchers, lawyers and policy-makers. It should also refer to relevant national and EU publications and other sources of information. As an indication, this Review will count approximately 50 pages. It should be provided by the Contractor in English, French and German. Possible content, to be further determined in close co-operation with the Commission, will include:

- A general introduction on the state of play, drawing attention to key issues.
- State of affairs in anti-discrimination cases pending or decided by the European Court of Justice, with further references to the relevant documents.
- Key developments in case-law at national level.

- Key developments in the state of anti-discrimination legislation in Member States and on related policy developments at national level.

e) Drafting a proposal for a **chapter for the Commission's annual report on equality**. The Commission has contracted out, as part of the process of raising awareness of the European aspects of the fight against discrimination and the promotion of equality, the production of an annual report highlighting certain issues of interest and, in particular, to focus on developments in the Member States. The Contractor will be requested to coordinate closely and regularly with the annual report's contractor in order to provide a timely contribution and to avoid any duplication or inconsistency between the reports. This contribution should cover the key issues developed in the above outputs but in a more concise and simpler format, in order to be accessible to a non-specialist audience.

f) responses to **specific requests** from the Commission for more detailed analysis and information and/or services. The Contractor will provide accurate information, analysis and advice on such questions, in English or French, within 5 working days, unless otherwise specified.

In **both Lots** the chosen bidder will be required to participate in the horizontal activities concerning the uniform application of EU legislation. Linked to the better regulation agenda, an increasing concern relates to the need to ensure an effective and uniform application of EU legislation. This means going beyond the mere aspect of checking the existence and conformity of national implementing measures with EU provisions. These activities will aim at increasing the knowledge base on the various EU legislation developed in the employment and social areas and at building strong networks rooted at national level and encompassing public administrations the social partners, NGO's, judges, lawyers, and independent experts confronted with problems of implementation in all Member States. The chosen bidder for each of the Networks will be requested to provide all relevant information to the contractor responsible for such activities, as well as to facilitate the participation of the latter in the seminar/meetings organised in the framework of each networks' contract.

5.2. Guidelines for tasks, execution and methodology

The PROGRESS Programme aimed at promoting gender mainstreaming in all its five policy sections and commissioned or supported activities. Consequently, the Contractor will take the necessary steps to ensure that its proposed team and/or staff respects the gender balance at all levels. It will also pay due attention when appropriate to the gender dimension of the service he is asked to deliver as detailed in the description of tasks.

Equally, needs of disabled people shall be duly acknowledged and met while executing the requested service, as far as practicable. This will in particular entail that where the Contractor organises training sessions, conference, issues publications or develops dedicated websites, people with disabilities have equal access to the facilities or the services provided.

Finally, the Contracting Authority encourages the Contractor to promote equal employment opportunities for all its staff and team. This entails that the Contractor shall

foster an appropriate mix of people, whatever their ethnic origin, religions, age, and ability.

The Contractors will be required to explain in its activity report accompanying the request for the final instalment the steps and achievements it made towards meeting these contractual provisions.

The contractor responsible for the **European Network of Legal Experts in the Field of Gender Equality** should put in place an appropriate structure, which should include the following elements, to carry out the tasks specified above:

A **network of legal experts** capable of providing expert advice on the situation in relation to gender equality legislation in all 27 Member States as well as in Iceland, Liechtenstein, Norway. It is expected that there will be one expert for each country covered by the contract.

A **co-ordinator** who will work in close collaboration with the Commission services (Unit G2, DG EMPL) and will be responsible for the overall co-ordination of the contract, as well as for the financial and administrative tasks, with the support of administrative assistant(s) (if necessary); and

An **executive committee** made up of a small number of senior experts (a total of 2 – 4, at least some of whom must be additional to the members of the network) plus the co-ordinator. This committee will assist the co-ordinator in ensuring the overall quality of the work of the network and will be required to meet with the Commission (Unit G2, DG EMPL) up to three times a year.

The contractor responsible for the **European Network of Legal Experts in the Antidiscrimination Field** should put in place the appropriate structure in order to provide expert advice on the situation in all 27 Member States covering the grounds of racial and ethnic origin, religion and belief, disability, age and sexual orientation. The contractor is free to design this structure as s/he sees fit.

However, the Commission would not expect that each country concerned would be covered by a separate expert for each ground of discrimination, but each country concerned by the contract should be covered by one different expert. Moreover, the Commission would expect that the responsibility for ensuring a strategic perspective and the overall quality of the work would fall to a smaller group of very senior experts.

A co-ordinator shall ensure the overall co-ordination of the contract, as well as the financial and administrative tasks, with the support of administrative assistant (s).

A different person will be responsible for ensuring the quality of the content of the services provided and of the out-puts produced.

The contractor (for the two lots) or both contractors (for each lot) will be required to verify the source of any information provided by its experts/subcontractors, and ensure a thorough quality check of any material provided.

In carrying out the contract, the contractors will liaise, as appropriate, with the relevant officials from the Commission services and the Member States, with other Networks of

experts in the field of Gender Equality and Antidiscrimination, and with the European Union Monitoring Centre on Racism and Xenophobia.

The Commission emphasises that it undertakes to create a balance between women and men in the groups of experts and committees. It draws tenderers' attention to the medium-term objective of achieving at least 40% representation for each gender in each expert group and committee⁷.

The contractor(s) will carry out its tasks under this contract in close collaboration with the Commission services.

6. PROFESSIONAL QUALIFICATIONS REQUIRED

LOT 1 - European Network of Legal Experts in Field of Gender Equality

See Annex IV of the draft contract, CVs and classification of experts. The Co-ordinator and members of the Executive Committee must satisfy the requirements for at least Level II experts and the other experts must satisfy the requirements for at least Level III experts.

The Contractor will need to involve experienced lawyers and/or academics, specialised in national legislation in the areas of labour, industrial relations, social security, commercial or constitutional law with an emphasis on gender equality issues, in all the countries concerned by the contract. They should also have knowledge of European Community law, in particular the gender equality *acquis*.

LOT 2 : European Network of Legal Experts in the Antidiscrimination Field

The Contractor will need to involve senior lawyers and/or academics, specialised in European and /or national legislation in the area of anti-discrimination, capable together of covering all grounds of discrimination covered by Directives 2000/43/EC and 2000/78/EC in all countries concerned by the contract.

The group of senior experts of the research team must satisfy the requirements for at least Level II experts and the other experts must satisfy the requirements for at least Level III experts.

For both Lots, the contractor will need to show the capacity to run large scale networks at European level and have a proven capacity to manage the administrative and financial aspects of such a project.

See Annex IV of the draft contract, CVs of experts.

7. TIME SCHEDULE AND REPORTING

The duration of the contracts for each of the two Lots will be 12 months from the entry into force of the contract, renewable three times.

For details see Article 1.2 of the draft contract and Annex I for Reporting.

⁷ Commission Decision 2000/407/EC.

Additional contracts for new Member States and/or candidate countries could be awarded by negotiated procedure without prior publication of a contract notice, in conformity with article 126.1.f of the implementing rules of the financial regulation, provided a Memorandum of Understanding providing for their participation in the PROGRESS Programme is signed between each one of those countries and the European Union.

The specific deadlines for the completion of each of the tasks set out at point 5 will be agreed between the Commission and the contractor.

Additional requirements

1. With a view to facilitating appropriate monitoring and evaluation by the European Commission of all results obtained and outputs delivered under PROGRESS programme, the Contractor will be required to provide for each of the tasks required under the present Call

- Presentation of their key points in one page. Key points should be concise, sharp and easily understandable. They shall be provided in English, French and German. Other Community languages would be welcome even if not compulsory.
- Unless otherwise more precisely prescribed in the section "tasks to be carried out", an executive summary in 5/6 pages and in English, French and German.

2. In accordance with the General conditions, the Contractor is under the obligation to acknowledge that the present service is delivered on behalf of the Community in all documents and media produced, in particular final delivered outputs, related reports, brochures, press releases, videos, software, etc, including at conferences or seminars, as follows.

"This (publication, conference, training session) is financed by the European Community Programme for Employment and Social Solidarity (2007-2013). This programme was established to support the implementation of the objectives of the European Union in the employment and social affairs area, as set out in the Social Agenda, and thereby contribute to the achievement of the Lisbon Strategy goals in these fields.

The seven-year Programme targets all stakeholders who can help shape the development of appropriate and effective employment and social legislation and policies, across the EU-27, EFTA and EU candidate and pre-candidate countries.

The Programme has six general objectives. These are:

- (1) to improve the knowledge and understanding of the situation prevailing in the Member States (and in other participating countries) through analysis, evaluation and close monitoring of policies;*
- (2) to support the development of statistical tools and methods and common indicators, where appropriate broken down by gender and age group, in the areas covered by the programme;*
- (3) to support and monitor the implementation of Community law, where applicable, and policy objectives in the Member States, and assess their effectiveness and impact;*

- (4) to promote networking, mutual learning, identification and dissemination of good practice and innovative approaches at EU level;
- (5) to enhance the awareness of the stakeholders and the general public about the EU policies and objectives pursued under each of the policy sections;
- (6) to boost the capacity of key EU networks to promote, support and further develop EU policies and objectives, where applicable.

For more information see:

http://ec.europa.eu/employment_social/progress/index_en.html"

For publications it is also necessary to include the following reference:

"The information contained in this publication does not necessarily reflect the position or opinion of the European Commission"

With regard to publication and any communication plan linked to the present service, the Contractor will insert the European Union logo, and any other logo developed for the employment and social solidarity fields, and mention the European Commission as the Contracting Authority in every publication or related material developed under the present service contract.

Failure by the contractor to respect these obligations could lead the European Commission to reduce by 5% the final amount to be paid under the present service contract.

8. PAYMENTS AND STANDARD CONTRACT

In drawing up the bid, the tenderer should take into account the provisions of the standard contract comprising the "General terms and conditions applicable to service contracts". Article 1.4 thereof provides for the modalities of payment.

Payments will be made at intervals throughout the contract period as a function of the progress made, the reports submitted and the quality of the work undertaken.

Modalities applicable to this contract will be:

- Following the signature of the Contract by the last contracting party, within 30 days of the receipt of a duly constituted financial guarantee equal to at least the invoiced pre-financing amount, a pre-financing payment equal to max 20 % of the total amount referred to in Article I.3.1 shall be made
- 60 % after the submission of the interim report and the approval by the Commission and upon written request (invoice) by the contractor; (covering actual incurred costs)
- a final payment (20%) covering the balance due, payable upon written request, submitted along with the final performance and activity report and a final financial statement on the annual budget execution, and after approval of the said final performance and activity report and final financial statement.

In particular, as mentioned in the section on "guide on how the tasks are to be carried out", the Contractor is required to explain in its final activity report its achievements in meeting the described equal opportunities provisions.

9. PRICE

Under the terms of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities, the latter are exempt from all charges, taxes and duties, including value added tax; such charges may not therefore be included in the calculation of the price quoted. The amount of VAT is to be indicated separately.

The **maximum** amount available in this call for tenders is € 1.750.000 per year, divided in the following manner

- for **LOT I - European Network of Legal Experts in the Field of Gender Equality** :

€750,000 per year; and

- for **LOT II - European Network of Legal Experts in the Antidiscrimination Field** :

€1.000,000 per year.

Tenderers should note that any bid exceeding these limits will not be considered.

The price must be stated in EUR(€), net of VAT (using, where appropriate, the conversion rates published in the C series of the Official Journal of the European Union on the day when the invitation to tender was issued), and broken down according to the model in Annex III included in the attached standard contract, in order to include:

Professional Fees and direct costs

- Fees, expressed in number of person/days and unit price per working day for each expert proposed. The unit price is expected to cover the expert's fees and administrative expenses.
- Travel expenses (other than local transport costs)
- Daily subsistence allowances (DSA's): these cover all the subsistence costs of the experts who are on mission for short term assignments outside their usual place of work,
- Translations costs,
- Expenses for the shipment of equipment or unaccompanied luggage, directly connected with the performance of the tasks specified in the contract,
- Other direct costs (to be specified in detail), if applicable, by the tenderer.

10. GROUPINGS OF TENDERERS OR CONSORTIA

Tenders can be submitted by groupings of service providers/suppliers who will not be required to adopt a particular legal form prior to the contract being awarded, but may be required to do so after the award if this formulation is necessary for the good execution of the contract⁸. However, a grouping of firms must nominate one party to be responsible for the receipt and processing of payments for members of the grouping, for managing the service administration, and for coordination. The documents required and listed in the following points 11 and 12 must be supplied by every member of the grouping.

EACH MEMBER OF THE GROUPING ASSUMES A JOINT AND SEVERAL LIABILITY TOWARDS THE COMMISSION.11. EXCLUSION CRITERIA AND SUPPORTING DOCUMENTS

1) Bidders must provide a declaration on their honour, duly signed and dated, that they are not in one of the situation referred to in Articles 93 and 94 a) of the Financial Regulation.

Those articles are as follows :

Article 93 of the Financial Regulation

Applicants or tenderers shall be excluded if:

⁸ These entities can take the form of an entity with or without legal personality but offering sufficient protection of the Commission's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association).

The contract has to be signed by all members of the group, or by one of the members, which has been duly authorised by the other members of the grouping (a power of attorney or sufficient authorisation is to be attached to the contract), when the tenderers have not formed a legal entity.

- (a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) they have been convicted of an offence concerning their professional conduct by a judgement which has the force of res judicata;
- (c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- (d) they have not fulfilled their obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- (e) they have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- (f) following another procurement procedure or grant award procedure financed by the Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.

Article 94 of the Financial Regulation

Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:

- are subject to a conflict of interest;

2) The tenderer to whom the contract is to be awarded shall provide, within a time limit defined by the contracting authority and preceding the signature of the contract, the evidence referred to in Article 134 of the implementing Rules, confirming the declaration referred to in point 1 above.

Article 134 of the Implementing Rules – Supporting documents

- The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in one of the situations described in points (a), (b) or (e) of Article 93 of the Financial Regulation, production of a recent extract from the judicial record or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that these requirements are met.

- The contracting authority shall accept, as satisfactory evidence that the candidate or tenderer is not in the situation described in point (d) of Article 93 of the Financial Regulations, a recent certificate issued by the competent authority of the State concerned. Where no such document or certificate is issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.
- Depending on the national legislation of the country in which the tenderer or applicant is established, the documents referred to in paragraphs 1 and 2 above shall relate to legal entities and/or physical persons, including, where considered necessary by the awarding authority, company directors or any person with powers of representation, decision-making or control in relation to the tenderer.

See Annex I (which may be used as a checklist) for the supporting documents accepted by the European Commission to be provided by applicants, tenderers or bidders.

3) The contracting authority may waive the obligation of a candidate or tenderer to submit the documentary evidence referred to in Article 134 of the Implementing Rules, if such evidence has already been submitted to it for the purposes of another procurement procedure launched by DG EMPL and provided that the issuing date of the documents does not exceed one year and that they are still valid.

In such a case, the candidate or tenderer shall declare on his honour that the documentary evidence has already been provided in a previous procurement procedure and confirm that no changes in his situation have occurred.

12. SELECTION CRITERIA

The candidates will be selected on the basis of their financial and economic capacity and their professional and technical capacity.

(1) **Economic and financial capacity** to carry out the tasks set out in the tender specification must be demonstrated as follows:

(a) the tenderer (or all partners of the consortium together) must provide proof of turnover in the last financial year for which accounts have been closed at least equivalent, in case of Lot I, to the proposed price of the contract (750.000 euro) and, in case of Lot II, to 75% of the proposed price of the contract (750.000 euro); in case a tenderer is chosen for both lots the above mentioned turnover has to be equivalent to 1.500.000 euro.

(b) balance sheets or extracts from balance sheets from the last two financial years that have been closed, where publication of the balance sheets is required under company law in the country in which the service provider is established; in the case of tenders from consortia, this certificate must be provided by each member of the consortium;

(c) if one or both of the above mentioned documents cannot be provided because of duly justified reasons, a bank declaration providing evidence of good financial standing may be accepted if the Commission so decides; in

the case of tenders from consortia, this declaration must be provided by each member of the consortium;

(2) Professional and technical capacity

(a) The tenderer's professional and technical capacity in the field covered by the contract will be further assessed on the basis of the following:

LOT I - European Network of Legal Experts in the Field of Gender Equality

For the **executive committee** (including the co-ordinator), this will require distinguished academics and/or practising lawyers with:

- proven expertise and at least 10 years professional experience with at least 4 years experience in dealing with legal issues in the area of labour, industrial relations, social security, commercial or constitutional law, with an emphasis on gender equality. Knowledge of European Community law, in particular the gender equality acquis, will also be required. The contractor should ensure that the membership of the committee is such that it has at its disposal expertise in relation to all of the areas covered by the Community equality legislation as well as a quality control manager with professional expertise in relation to editing of publications (judged on the basis of published works);
- capacity to operate and understand the relevant issues at European level (judged on the basis of published works);
- strong analytical skills and ability to conduct legal research; proficiency in legal writing and ability to prepare legal opinions and reports as well as planning and organising skills to coordinate the work of others and to work to tight deadlines (judged on the basis of published works and experience in managing a volume of work and/or staff);
- evidence of excellent written and oral communication (judged on the basis of published works and language skills).

In addition the **co-ordinator** will require:

- Proven ability to perform all of the co-ordination and administrative tasks involved in organising and managing an EU-wide group of experts. The Commission will assess this criterion on the basis, inter alia, of:
 - a list submitted by the tenderer showing, in particular, the number of persons who will assist the co-ordinator with the administration of the network and their respective tasks, and
 - a list of the principal contracts held and supplies delivered in the past three years, with the sums, dates and recipients, public or private;
- The proven ability to call on the necessary expertise to cover all of the countries included in the contract;

- Sufficient knowledge of languages to facilitate communication with the Commission and the experts and, in particular, ability to draw up reports in English.

For the **other experts**, this will require distinguished academics and/or practising lawyers with:

- Experience of a minimum of 5 years professional experience of which at least 2 must have involved work relating to national legislation and its interpretation in the fields of labour, industrial relations, social security, commercial or constitutional law, with an emphasis on gender equality. Knowledge of European Community law, in particular the gender equality *acquis*, will also be required;
- Sufficient knowledge of languages to facilitate communication with the Commission and the other experts and, in particular, ability to draw up reports in English. This ability will be assessed in particular on the basis of works and/or articles published in the field of gender equality legislation and practices. Each expert must be able to give oral presentations in English.

LOT II - European Network of Legal Experts in the Antidiscrimination Field

For the **organisation acting as a co-ordinator**, this will require :

- The proven ability to perform all of the **co-ordination and the administrative tasks** involved in organising and managing an EU-wide group of experts. The Commission will assess this criterion on the basis, inter alia, of:
 - a list submitted by the tenderer showing, in particular, the number of persons responsible for this administration and their respective qualifications and tasks, and
 - a list of the principal contracts held and supplies delivered in the past three years, with the sums, dates and recipients, public or private.
- The proven ability to call on the necessary expertise to cover all countries concerned by the contract and all five grounds of discrimination addressed by Directives 2000/43/EC and Directive 2000/78/EC.
- Sufficient knowledge of languages to ensure communication with the Commission and the experts and, in particular, ability to draw up reports in one of these languages.

For the **senior members** of the research team, this will require:

- Proven expertise and at least 10 years experience in dealing with legal issues concerning equality and discrimination (judged on the basis of published works);

- Experience of operating and an understanding of the relevant issues at an European level (judged on the basis of published works).
- Strong analytical skills and ability to conduct legal research; proficiency in legal writing and ability to prepare legal opinions and reports as well as planning and organizing skills to coordinate the work of others;
- Evidence of good written and oral communication skills.

For the **other experts**, this will require:

- The other experts will also have, collectively, the proven ability to cover all grounds of discrimination and all countries concerned by the contract. The Commission will require that their CVs are provided. All experts will have to conform to the same criteria listed below when they are brought into the contract:
 - A minimum of 5 years professional experience of which at least 2 must have involved work relating to European and /or national legislation and its interpretation and, in particular, legal protection against discrimination in the country concerned and/or elsewhere;
 - Sufficient knowledge of languages to facilitate communication with the Commission and the other experts and, in particular, ability to draw up reports in the working languages of the Commission. This ability will be assessed in particular on the basis of works and/or articles published in the field of analysis of anti-discrimination legislation and practices. Each expert must also be able to give oral presentations.

(b) Means of proof required for both Lots

Technical and professional capacity of economic operators to undertake the analysis described above shall be evaluated and verified as follows:

- a list of coordinators and experts to be used for performance of services requested, together with their CVs and qualifications,
- if not included in the experts' CVs, a list of the main works and/or articles published by all the experts involved, in relation to the relevant subject specified in his tender, undertaken over the last 5 years at least,
- a declaration by the applicant certifying the competence of the team to carry out the services,
- firm commitments of involvement in the project signed and dated from external persons to the firm.

In the case of tenders from consortia, the following are required:

- a clear identification of the contractor who will also be responsible for signing the contract, and
- written confirmation from each member of the consortium that they would be ready and willing to participate in the execution of the contract, and briefly describing their role(s).

Tenderers considered by the European Commission not to meet the above-mentioned requirements on financial and operational capacity will be eliminated without further assessment.

13. AWARD CRITERIA

The contract will be awarded to the tenderer whose offer represents the best value for money, taking account of the criteria listed below as well as of the unit prices proposed.

The most economically advantageous tender in terms of:

13.1 – Quality of the offer

- Approach - Depth of conceptual understanding of the nature of the assignment, its context and the results to be achieved. (30 points)
- Methodology – the methodology for organising and coordinating the research work, including the collection, verification, analysis, drafting and presentation of information on relevant case law, legislation, and other measures concerning either gender equality or antidiscrimination in the concerned countries. To this end, the bid should include details of how the co-ordinator intends to monitor and ensure the quality of all the tasks to be performed, including those of the legal experts, and how he or she will maintain contacts with the experts. The bid should also describe how the tenderer will respond to specific Commission's requests. (40 points)
- Work Organisation - the quality of the strategy for organising and coordinating the work, in particular the administrative and logistical tasks involved in managing the contract and co-ordinating the group of experts. The contractor must detail the number of people involved in the administrative management, provide details about the organisation of meetings, the delivery of work and how contacts with the network will be guaranteed, in particular in order to provide answers to specific questions to tight deadlines. (30 points)

13.2 - The Price

The evaluation committee will consider further only those tenders that have obtained at least a technical quality score of 70 points.

The points total will then be divided by the price, with the highest-scoring bid being chosen.

14. CONTENT AND PRESENTATION OF BIDS

14.1 Content of bids

The tenderer must provide all the information and documents necessary to enable the Commission to conduct an appraisal of the offer on the basis of the selection and the award criteria (see sections 12 and 13 above) and taking account of the exclusion criteria listed in section 11 above.

Tenders must be presented in three parts:

- (1) **a first part:** containing all administrative information including:
 - (a) Date of bid for the provision of services;
 - (b) Name of tenderer, full address, telephone and fax numbers and e-mail address;
 - (c) Legal entity form duly completed⁹;
 - (d) Legal status;
 - (e) Identification of the tenderer's headquarter or domicile (presented with the supporting evidence normally acceptable under its own law);
 - (f) Date of establishment or registration;
 - (g) Name and quality of the Contractor's legal representative (i.e. the person duly authorised to act legally on behalf of the Contractor in relation to third parties);
 - (h) VAT number or proof of exemption;
 - (i) Social security number;
 - (j) Certified copies of certificates as required under section 11 above "Exclusion criteria and supporting documents";
 - (k) Details of the tendering organisation structure;
- (2) **a second part:** concerning the **technical content** of the bid including:
 - (a) A description of the intended organisation and management of the services and tasks to be carried out;
 - (b) A detailed description of the planned approach and methodology to be used;

⁹ Form available from http://europa.eu.int/comm/budget/execution/legal_entities_en.htm

- (c) A work-plan, indicative timetable and detailed description of the services to be provided;
 - (d) Details of the proposed project team and an explanation of the nature and extent of their participation in the project;
 - (e) Description of relevant professional experience with emphasis on the specific fields covered by the invitation to tender;
 - (f) Detailed curriculum vitae of key project team members, as well as national experts.
 - (g) if not already covered elsewhere, the tender must supply specific information covering each of the award criteria listed in point 13.
- (3) **a third part**: comprising the **financial part** of the tender and including:
- (a) Full details of the proposed price as described in section 9 above and following the format of Annex III of the attached blank draft contract;
 - (b) A financial identification form (Bank ID form) duly completed and signed and stamped by the bank¹⁰;
 - (c) proof of turnover of the tenderer in the last financial year for which accounts have been closed;
 - (d) balance sheets or extracts from balance sheets from the last two financial years that have been closed, where publication of the balance sheets is required under company law in the country in which the service provider is established; in the case of tenders from consortia, this certificate must be provided by each member of the consortium;
 - (e) if one or both of the above mentioned documents cannot be provided, a bank declaration providing evidence of good financial standing may be accepted if the Commission so decides; in the case of tenders from consortia, this declaration must be provided by each member of the consortium;

14. 2. Presentation of the bids

Bids must:

- 1) be signed by the tenderer's legal representative; **all unsigned bids will be excluded;**

¹⁰ Form available from http://europa.eu.int/comm/budget/execution/tiers_fr.htm

- 2) be submitted in triplicate (1 original and 2 copies);
- 3) contain all the information required above;
- 4) be clear and concise;
- 5) be submitted in one of the official languages of the European Union;
- 6) be delivered according to the requirements set out in the letter of invitation to tender and before the date and time limit indicated therein (all addresses, dates and deadlines are indicated in this letter).

15. ADDITIONAL PROVISIONS

- 1) Fulfilment of adjudication or invitation to tender procedure shall not involve the Commission in any obligation to award the contract.
- 2) The Commission shall not be liable for any compensation with respect to tenderers whose tenders have not been accepted. Nor shall it be liable in the event of its deciding not to award the contract.
- 3) Expenses incurred in respect of the preparation and presentation of tenders cannot be refunded.
- 4) No information of any kind will be given on the state of progress with regard to the evaluation of tenders.
- 5) All documents submitted by tenderers will become property of the Commission and will be regarded as confidential.

Annex I

Exclusion criteria (Article 93(1) FR)	Supporting documents to be provided by applicants, tenderers or tenderers to who the contract will be awarded	
	Procurement (Article 93(2) FR; Article 134 IR)	
<p>1. Exclusion from a procurement procedure, Article 93(1) FR : <i>« Candidates or tenderers shall be excluded from participation in a procurement procedure if:</i></p>		
<p>1.1. (subparagraph a) <i>they are bankrupt or being wound up,</i> <i>are having their affairs administered by the courts,</i> <i>have entered into an arrangement with creditors have suspended business activities, are the subject of proceedings concerning those matters,</i> <i>or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations¹¹;</i></p>	<p>Recent extract from the judicial record or recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance or Where no such certificate is issued in the country concerned : sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance</p>	
<p>1.2. (subparagraph b) <i>they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata¹²;</i></p>	<p>Cf. supporting documents for Article 93(1)(a) FR above</p>	

¹¹ See also Article 134(3) IR : Depending on the national legislation of the country in which the tenderer or candidate is established, the documents referred to in paragraphs 1 and 2 shall relate to legal persons and/or natural persons including, where considered necessary by the contracting authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

¹² Cf. footnote n° 1.

Exclusion criteria (Article 93(1) FR)	Supporting documents to be provided by applicants, tenderers or tenderers to who the contract will be awarded	
	Procurement (Article 93(2) FR; Article 134 IR)	
1.3. (subparagraph c) <i>they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;</i>	Declaration by the candidate or tenderer that he is not in the situation described	
1.4. (subparagraph d) <i>they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed¹³;</i>	Recent certificate issued by the competent authority of the State concerned confirming that the candidate is not in the situation described or Where no such certificate is issued in the country concerned: sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance	
1.5. (subparagraph e) <i>they have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests¹⁴;</i>	Cf. supporting documents for Article 93(1)(a) FR above	
1.6. (subparagraph f) <i>following another procurement procedure or grant award procedure financed by the Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations. »</i>	Declaration by the candidate or tenderer that he is not in the situation described	

¹³ Cf. footnote n° 1.

¹⁴ Cf. footnote n° 1.

