

LAW NO. 96 OF 17 SEPTEMBER 1999 LAW ON PROCUREMENT CONTRACTS OF THE PUBLIC ADMINISTRATION AND PUBLIC ENTITIES

CONSOLIDATED TEXT with amendments resulting from:

[Law no. 179 of 13 December 2005](#)

[Law no. 194 of 22 December 2010](#)

[Law no. 148 of 25 October 2022](#)

Art. 1

(Notion)

The Public Administration procurement contract is the contract in which the contracting authority is the State or another public Entity, having autonomous representation, and the contractor is an entrepreneur included in a special register to be established at the individual contracting entities.

The Public Administration procurement contract is the contract by which the contractor, through its organisation in the form of a company and in any case with its own means and bearing its own risk, in return for a predetermined or to be established monetary consideration, undertakes to complete one or more works or to provide one or more services.

Art. 2

(Authorisation of subcontracting and transfer of the contract)

Without prejudice to the right of the contracting authority, i.e. the Public Administration, to authorise, only in advance, the subcontract or transfer of the procurement contract, the contractor shall be required to execute the Public Administration procurement contract by carrying out the works personally and with its own means.

Art. 3

(Business characteristics and suitability)

The business characteristics of the contractor and its own means, including tools, labour force and their professional qualification, and the means of work, which it shall necessarily possess, shall be included in one or more regulations for the implementation and enforcement of this Law, to be issued by Regency Decree.

The technical and moral suitability of the contractor shall also be guaranteed, always in accordance with the provisions of the enforcement regulation.

The provisions of this Article shall also extend to the subcontractor and the transferee of the procurement contract.

Art. 4
(Subcontract)

Unless expressly authorised by the contracting authority, i.e. the Public Administration, the contractor shall always be prohibited from subcontracting, in whole or in part, the execution of the contracted work and/or services.

Consortia of companies, established prior to the contract and for the purpose of participating in the relevant tender, in which liability is joint and several among all participants, may also take part in the tender.

Art. 5
(Prohibition of intermediation)

In any case, any intermediation between the contracting authority, i.e. the Public Administration, and the contractor, who alone can and shall be the other party to the contract and the actual executor of the procurement contract, shall be prohibited.

The performance by any person of acts of intermediation in the procurement contract, subcontract or transfer of the procurement contract shall entail the same fraud already identified in supply contracts, as provided for and punished by Article 387 of the Criminal Code in force, with all the consequences envisaged therein.

Therefore, anyone who fails to comply with the prohibition set forth in the first paragraph shall be subject to the same punishment envisaged in Article 387 of the Criminal Code in force.

Art. 6
(Transfer of the contract)

Similarly, the contractor shall be prohibited from transferring the contract to third parties without the express authorisation of the contracting authority, i.e. the Public Administration.

Art. 7
(Procurement contract formation process)

The Public Administration procurement contract formation shall consist of three distinct procedural phases, which in order are respectively: the decision-making phase, followed by the award phase and the approval phase.

In terms of general principles, each of these phases shall be regulated by this Law, with which, however, the individual implementing and enforcement regulations referred to in Article 3 concerning the same phases shall comply.

Art. 8
(Decision-making phase)

In the decision-making phase of the procurement contract, all administrative acts shall be prepared through which the Public Administration, legally represented by the State or by the representative Bodies of the State Autonomous Entities, while acting in its capacity as authority, autonomously and unilaterally establishes the conduct it shall adopt, no longer as a public entity, but as a private autonomous entity.

Art. 9
(Acts of the decision-making phase)

The main acts included in this phase shall be the decision to negotiate the tender modalities and the names of the contracting parties, always accompanied by the draft contract, concerning, as the case may be, the work to be executed or the services to be provided.

At the end of this phase, the Public Administration shall recognise and grant the necessary powers to the entity, office or body, which, together with the Government Syndics, representing the State, or the Directors of the Office with delegated powers, or the legal representatives of the State Autonomous Entities, shall conclude the procurement contract.

Art. 10 *(Award phase)*

The award phase shall identify the private party with whom the contract is concluded, i.e. the contractor.

Usually, the instruments to be used by the Public Administration to award the procurement contract shall be the open invitation to tender or public tender, the restricted invitation to tender, and the contest, but exceptionally, in accordance with the provisions of the regulation, negotiated contracts may also be allowed.

Art. 11 *(Acts of the award phase)*

The award phase shall end with a procurement contract that shall be in full compliance with what has already been decided.

The rules on public tender, open invitation to tender, restricted invitation to tender, contest and negotiated contracts, as well as their admissibility, shall be laid down in the implementing and enforcement regulations referred to in Article 3.

The non-resident successful bidder of a public contract shall establish an address for service for tax purposes in the territory of San Marino for the exercise of the industrial licence referred to in Article 52 of Law no. 7 of 17 February 1961 and subsequent amendments and integrations, in order to fulfil tax obligations relating to direct taxes and import tax within the scope of the contract. ¹

¹ **Original text (Law no. 96/1999):**

Art. 11

(Acts of the award phase)

The award phase shall end with a procurement contract that shall be in full compliance with what has already been decided.

The rules on public tender, open invitation to tender, restricted invitation to tender, contest and negotiated contracts, as well as their admissibility, shall be laid down in the implementing and enforcement regulations referred to in Article 3.

Legislative amendments:

Law no. 179/2005, Article 40

Art.40

(Public procurement contracts: requirements to be met by non-resident entities)

The following paragraph shall be added to Article 11 of Law no. 96 of 17 September 1999:

“The non-resident successful bidder of a public contract shall establish an address for service for tax purposes in the territory of San Marino for the exercise of the industrial licence referred to in Article 52 of Law no. 7 of 17 February 1961 and subsequent amendments and integrations, in order to fulfil tax obligations relating to direct taxes and import tax within the scope of the contract.”.

Art. 12
(Approval phase)

The phase relating to the approval of the execution of the Public Administration procurement contract shall be the one in which the supervisory authority, i.e. the body appointed by the Public Administration, through the verification procedure, namely the testing and technical procedures, establishes the compliance of the works or services performed by the contractor with the procurement contract and with all the acts already agreed, expressing its approval of the performance by the contractor.

The implementing and enforcement regulations shall govern such approval phase and the related acts. ²

Art. 13
(Lack of authorisation)

The lack of prior and formal authorisation of the contracting authority, i.e. the Public Administration, in both the subcontract and the transfer of the procurement contract shall give rise to the presumption, without admitting proof to the contrary, that the agreements and pacts with third parties have been made fraudulently and shall entail the nullity of the subcontract and transfer of the contract, regardless of whether or not the subcontractor and the transferee were aware that the contract concluded was a subcontract or transfer of a contract, where the contracting authority is the Public Administration.

The nullity of the subcontract or transfer of the procurement contract may be invoked by any person at any phase or level of the procedure.

Art.14
(Criminal consequences)

The effects of the provision above shall not exclude personal liability arising

² **Original text (Law no. 96/1999):**

Art. 12

(Approval phase)

The phase relating to the approval of the execution of the Public Administration procurement contract shall be the one in which the supervisory authority, i.e. the body appointed by the Public Administration, through the verification procedure, namely the testing and technical procedures, establishes the compliance of the contract with legislative provisions and with all the acts already agreed, expressing its approval, which shall constitute a requirement for the effectiveness of the contract.

The implementing and enforcement regulations shall govern such approval phase and the related acts.

Legislative amendments:

Law no. 194/2010, Article 90:

Art.90

(Amendments to Law no. 96 of 17 September 1999)

Paragraph 1 of Article 12 of Law no. 96 of 17 September 1999 shall be replaced by the following:

"The phase relating to the approval of the execution of the Public Administration procurement contract shall be the one in which the supervisory authority, i.e. the body appointed by the Public Administration, through the verification procedure, namely the testing and technical procedures, establishes the compliance of the works or services performed by the contractor with the procurement contract and with all the acts already agreed, expressing its approval of the performance by the contractor."

from the criminal consequences, for the contractor, subcontractor and transferee of the procurement contract, and for the officials in charge of the completion and execution of the Public Administration procurement contract.

The execution by the subcontractor of the works or services provided for in the subcontract or transfer agreement of the procurement contract without the prior authorisation of the contracting authority, i.e. the Public Administration, shall entail the same fraud already identified in supply contracts, as is provided for and punished by Article 387 of the Criminal Code in force.

Art. 15

(Effects of termination of the contract)

If the contract, subcontract or transfer of the procurement contract is declared null and void, this shall entail for the contractor the immediate termination of the contract, under penalty of loss of the consideration due for the obligations already performed, without prejudice to compensation to the Public Administration for the damage resulting from the contractor's non-fulfilment.

Art. 16

(Liability in subcontracts and transfers)

The contractor who, even without the authorisation of the contracting authority, i.e. the Public Administration, has subcontracted or transferred the procurement contract, shall be objectively and jointly and severally liable for the works executed or the services provided by the subcontractor or the party to which the contract has been transferred.

Art. 17

(Compulsory joinder)

In any case, the contracting authority, i.e. the Public Administration, shall always join the proceedings as compulsory co-defendant, unless it waives its rights as co-defendant, in all cases concerning the subcontracting agreement or the agreement for the transfer of the procurement contract involving the contracting authority, i.e. the Public Administration.

The Public Administration, always represented by the State, or public Entities with independent representation, shall always join the proceedings as compulsory co-defendants in all proceedings involving the contractor and the subcontractor or transferee of the procurement contract.

However, the Public Administration shall have the right to enter an appearance.

Art. 18

(Non-compliance with compulsory joinder)

Failure to comply with the provisions of the preceding articles relating to the Public Administration as compulsory co-defendant shall result in the absolute nullity of the procedural documents, to be declared at the request of any party and also on the mandatory initiative of the judge at any stage and instance of the proceedings.

Art. 19

(Actions by the contractor, subcontractor and transferee of the contract)

The contractor, subcontractor and transferee of the procurement contract shall have the right to take action to protect their claims arising from the procurement contract against the contracting authority, i.e. the Public Administration, only after the testing or, in any case, after the final technical procedures.

However, actions for a negative declaration shall not be permitted, nor actions for the submission of documents or deeds with respect to the contracting authority, i.e. the Public Administration, or public Entities.

Art. 20

(Judicial competence)

The functional and exclusive competence in all proceedings concerning procurement contracts of the Public Administration and public Entities shall be entrusted to the First Instance Judge, the Judge of Appeal in civil matters in the second instance and the Council of the Twelve in the third instance.

The same judges shall also have exclusive and functional competence in all proceedings concerning subcontracting agreements and agreements for the transfer of procurement contracts, and in all related matters.

When deciding cases arising from the procurement contract, without prejudice to the exceptions that in this Law require the adoption of summary and very summary proceedings, judges shall adopt, in so far as compatible, the summary procedure consisting of the establishment of two time-limits for the submission of evidence before the Labour Judge.

Art. 21

(Arbitration)

If the parties, i.e. the Public Administration and the contractor, in settling disputes arising from the procurement contract or during the contract, choose arbitration, this shall be formal arbitration, i.e. the parties shall establish the procedural forms in the arbitration agreement, or adhere to those commonly used, in any case respecting the principles of adversarial proceedings and defence.

Art. 22

(Prohibition of suspension)

If the dispute arises before the commencement of the works or services already contracted out, subcontracted or transferred, the contractor, subcontractor or transferee of the contract shall nevertheless be required to perform the contract already concluded, failing which they shall be liable for damage compensation and the contract shall be terminated with immediate effect.

If the dispute arises during the performance of the work or services, the contractor, subcontractor or transferee of the procurement contract shall not suspend the performance for any reason, and they shall always be liable for damage compensation and the contract shall be terminated with immediate effect.

Art. 23

(Right of settlement)

The Public Administration shall have the right to reach a settlement, when it deems

it to be in its interest, on all disputes involving it, both in the execution of the procurement contract, subcontract and transfer of the contract and for other related matters.

Art. 24

(Termination in the public interest)

The contracting authority, i.e. the Public Administration, shall have the right to unilaterally terminate the procurement contract in the public interest, paying the amount for the work performed or supplies already provided, the value of the materials already purchased and present on the construction site, and one tenth of the percentage of the works not performed.

Art. 25

(Written form requirement)

Procurement contracts, subcontracts and transfer agreements shall always be drawn up in writing between the parties, under penalty of nullity.

The nullity resulting from non-compliance with the written form requirement may be invoked in the same manner as established in Article 13 above.

Art. 26

(Works management and supervision of services provided)

The power to manage works and supervise services provided, in the public interest, shall always be entrusted by law to the Public Administration and shall be exercised through its own officials or technical bodies, which shall be granted, by appropriate delegation, the powers and authority relating to acceptance of materials, supervision of the execution of works, and the initiative to issue instructions for the best completion of the work and provision of the services.

The Public Administration shall have the right to entrust the management of the works to professionals outside the Public Administration, by means of specific terms of engagement.

The offices responsible for managing the works shall be identified during the procurement contract formation process in the decision-making phase already regulated, relating to the conduct required of the Public Administration, and shall be formally communicated to the contractor, subcontractor and transferee of the procurement contract.

Art. 27

(Methods of execution and changes)

The contracting authority, i.e. the Public Administration, through its technical bodies, shall always have the full right to decide all methods of execution, as well as to correct, add or change the works during execution thereof.

Art. 28

(Determination of the consideration)

The contracting authority, i.e. the Public Administration, shall have the right to unilaterally determine the consideration before the conclusion of the procurement contract during the decision-making phase, to which the contractor may adhere, according to the systems of public tender, restricted invitation to tender or contest, as provided for in the tender notice and established in the

aforementioned implementation and enforcement regulations.

Art. 29

(Determination in an agreement of the consideration for the changes)

If, outside the scope of the previous Article and in the event of changes, the contracting authority, i.e. the Public Administration, and the contractor have not already determined in an agreement the amount of the consideration, or have not established how to determine it, or have not established any other way or form of paying the consideration, the latter shall be calculated with reference to the existing rates determined by the competent authorities or authorised trade unions, or established, also by regulation, by the Public Administration or by current practice in the territory at the time of conclusion of the agreement.

Art. 30

(Judicial determination of the consideration)

In the absence of the aforementioned determinations of the consideration, the amount shall be determined by the judge, again on the basis of current rates or practices, unless the parties jointly request him to decide on a fair basis, or decide by mutual agreement to resort to arbitration.

The judgement determining the consideration shall always be in the form of a dispute, but it shall be settled through summary proceedings, even at the appeal stage.

Art. 31

(Judicial determination of the consideration for changes made during the execution of the works)

The price of changes, whether authorised or necessary, during the execution of the works or the provision of the services, shall be determined in accordance with the same procedures established in Article 29 above.

In any case, even when the contractor has subcontracted or transferred the contract, it shall always be the contractor's responsibility to provide proof of the extent and amount of such changes, as it is never possible to establish the price of goods or services whose value is indeterminate.

Art. 32

(Judicial determination during the execution of the works)

The request for price determination may be submitted to the judge by the contracting authority, i.e. the Public Administration, or the contractor, even during the execution of the works. However, in this case the contractor shall not suspend the works or services, under penalty of incurring liability for damage.

Art. 33

(Provision of materials and services)

Unless otherwise stipulated in any agreements concluded and determined during the decision-making phase, the raw or processed materials necessary to complete the works or perform the services shall be supplied by the contractor.

The use of materials of higher quality than required in terms of value shall not justify any increase in the consideration.

The contracting authority, i.e. the Public Administration, shall have the right to inspect the materials supplied by the contractor, both before the

commencement of the works and during their execution, both before and during the performance of the service, and finally during the process of verifying the works or services.

Art. 34

(Defects in the materials supplied and inadequacy of services)

The contracting authority, i.e. the Public Administration, shall be obliged to give immediate notice, by registered letter, of any defects in the materials supplied by the contractor and to prohibit their use, demanding the use of the agreed materials.

The same procedure shall apply in the event of inadequate services.

Art. 35

(Prohibition to use materials supplied and services performed)

The prohibition action before the First Instance Judge shall be in the form of very summary proceedings, shall not be subject to any appeal and shall conclude with the prescribed adversarial proceedings, which shall be completed without any postponement in a single hearing.

The registered letter signed by the manager of the works in the interest of the contracting authority, i.e. the Public Administration, shall contain, in agreement with the Magistrate, the date of the summons to appear before the Judicial Authority for both the preliminary and decision hearings.

The contracting authority, i.e. the Public Administration, shall be subject to the same regime when it supplies materials or performs services to fulfil the procurement contract.

Art. 36

(Execution of the works and provision of services)

The contractor shall retain its autonomy, derived from the organisation of the necessary means and the management at its own risk of the obligations arising from the contract, with regard to the manner in which the instructions of the manager of the works or the authority supervising the services provided are carried out.

In addition to its general liability in executing the procurement contract, the contractor shall always be liable for damage for failure to comply with its standard practice or the best execution of the services.

Art. 37

(Compliance principle)

The fulfilment of the obligations arising from the procurement contract shall strictly comply with the terms of the agreement between the contracting authority, i.e. the Public Administration, and the contractor. Any changes not agreed upon shall be prohibited, even in case of an improvement.

Art. 38

(Unnecessary agreed changes to the project or services)

Unnecessary changes shall not be made to the methods of execution of works or services without the express authorisation or request of the contracting authority, i.e. the Public Administration.

Written proof shall be provided of the authorisation or request, which shall constitute acceptance of the contractor's proposal.

Art. 39

(Extension or reduction of execution time)

When a change during the execution of the works results in higher prices due to an increase in the size or quality of the works or services, the contractor shall also be entitled to a proportional extension of the execution time-limit.

When the change during the execution of the works results in lower prices due to a reduction in the size or quality of the works or services, the contractor shall be entitled to a proportional reduction in the execution time-limit.

Art. 40

(Necessary changes to the project or services)

When, during the execution of the works or the provision of the services, it becomes necessary, through no fault of the parties to the contract and without the parties reaching an agreement, to make changes in order to execute the procurement contract according to standard practice, recourse shall be made to the judge or to arbitration, if the parties so agree, to determine the necessary changes to be made and the related changes in the determination of the consideration and execution time.

Art. 41

(Withdrawal of the parties)

The parties may always withdraw from the procurement contract if the amount of the changes exceeds at least one fifth of the total consideration already determined, and, in the event of withdrawal by the contracting authority, i.e. the Public Administration, the contractor may obtain fair compensation to be determined by arbitration or, in the absence of an agreement, by the judge.

In accordance with Article 20, the competent judge shall initiate summary proceedings.

Art. 42

(Fair compensation)

Fair compensation, as determined by the competent judge or arbitration panel, unless settlement agreements have been reached between the parties, shall never take on the character and nature of reimbursement, but shall only restore the balance that has been lost in the contract, covering the additional costs that may be incurred by the contractor, subcontractor or transferee of the procurement contract, expressly excluding any possibility of profit or damage compensation.

Art. 43

(Changes ordered by the Public Administration)

The contracting authority, i.e. the Public Administration, shall have the unilateral right to make changes to the project, provided they do not exceed at least one fifth of the total consideration already determined.

REPEALED. ³

The contractor, subcontractor or transferee shall be entitled to reimbursement of costs for any additional work performed or services provided in excess of the consideration already determined.

The regime established for unnecessary changes made during the execution of the works or the provision of services shall apply to changes ordered by the Public Administration, whether in terms of increase or reduction.

Art. 44

(Verifications during the execution of the works and the provision of services)

During the execution of the works and the provision of services, the contracting authority, i.e. the Public Administration, shall have the right to perform any verifications and inspections it deems appropriate.

The methods by which the contracting authority, i.e. the Public Administration, may perform inspections and verifications shall be determined by means of a specific enforcement regulation.

Art. 45

(Fixing the time-limit for compliance)

Without prejudice to the right to compensation for damage, when the contractor, subcontractor or transferee of the procurement contract fails to execute the works or provide the services in accordance with the terms agreed in the contract or in accordance with standard practice or the usual rules governing the service, the Public Administration, as the contracting authority, shall set a reasonable time-limit by which the contractor, subcontractor or transferee of the contract shall comply with such terms.

In case of non-compliance with the time-limit established, the procurement contract shall in any case be terminated, with effects also on the subcontract or contract transfer agreement.

³ **Original text (Law no. 96/1999):**

Art. 43

(Changes ordered by the Public Administration)

The contracting authority, i.e. the Public Administration, shall have the unilateral right to make changes to the project, provided they do not exceed at least one fifth of the total consideration already determined.

This procedure shall only be carried out once and shall in any case be granted the authorisations provided for in the approval phase referred to in Article 12.

The contractor, subcontractor or transferee shall be entitled to reimbursement of costs for any additional work performed or services provided in excess of the consideration already determined.

The regime established for unnecessary changes made during the execution of the works or the provision of services shall apply to changes ordered by the Public Administration, whether in terms of increase or reduction.

Legislative changes

LAW no. 148 of 25 October 2022, Art. 24

(Amendment to Article 43 of Law no. 96 of 17 September 1999)

1. Article 43, paragraph 2 of Law no. 96 of 17 September 1999 shall be repealed.

Art. 46

(Difficult or excessively expensive execution)

The consideration determined shall not be changed, except in cases already regulated and related to execution changes.

If events or circumstances arise that were unforeseeable at the time the agreement related to the procurement contract was concluded, such as increases or decreases in the cost of materials or labour force, which make the execution difficult or excessively expensive, both the contracting authority, i.e. the Public Administration, and the contractor, subcontractor or transferee of the contract may always request a new determination of the consideration.

The execution shall be considered difficult or excessively expensive only when the increases or decreases exceed one tenth of the consideration already determined.

A request for a price revision shall never entitle the contractor, subcontractor or transferee of the contract to suspend the execution of the works or the provision of services.

Art. 47

(Geological and water-related causes)

In the execution of works, for the purposes of accepting any request for termination of the contract or revision of the consideration, circumstances arising from geological and water-related causes that were unforeseen and in any case unforeseeable by both parties at the time of conclusion of the procurement contract shall not be considered as grounds for termination and revision of the contract between the contracting authority, i.e. the Public Administration, and the contractor, subcontractor or transferee of the contract.

The procedure for the revision of the price determination shall be carried out in accordance with the same procedures laid down in Article 29 for the determination of the consideration.

Only a proven situation of danger, which may arise due to geological or water-related causes, shall justify the suspension of the execution of works already contracted out.

Art. 48

(Impossibility of executing the works or providing the services)

When, during the execution of the works or the provision of services, an impossibility arises that is not attributable to either party, the procurement contract shall be terminated, albeit at the expense of the contractor. The Public Administration shall be liable for payment only for works already completed, limited to the benefit that the contracting authority, i.e. the Public Administration, can derive from them and in proportion to the consideration determined for the entire work or for the entire provision of services.

In the event of unexpected impossibility, the benefit deriving from the works or services already partially performed shall be commensurate and considered as such when it can be used in the manner and for the purposes provided for in the procurement contract.

Art. 49

(Facts attributable to third parties and validity of the contract)

Any difficulties in the execution arising from one or more facts attributable to third parties shall not cause the termination of the procurement contract.

Art. 50

(Final verification of the work and services)

Verifications of the work completed and the services provided shall always precede delivery and shall be performed in accordance with the implementing and enforcement regulations established by law.

The procedure for verifying the work completed or the services provided shall always be aimed at establishing the compliance of the work or services with the commitments already undertaken and derived from the contract and the standard practice, as well as the best performance of the service by the contractor, subcontractor or transferee of the procurement contract.

Art. 51

(Verification initiative)

The initiative to perform verifications shall not be entrusted to the manager of the works, who shall be considered responsible for the completed work, together with the contractor, subcontractor or transferee of the procurement contract.

The contractor, subcontractor or transferee of the contract shall be required to place the contracting authority, i.e. the Public Administration, in the best possible position to perform both the verifications during the execution of the works and the final verifications prior to the delivery of the work or services.

Art. 52

(Testing of the work)

The testing report shall be the final declaration by which the outcome of the verification performed by the contracting authority, i.e. the Public Administration, is communicated to the contractor, subcontractor or transferee of the procurement contract.

The testing procedure shall be carried out in cases where the regulations so require.

The final verification declaration that the contracting authority, i.e. the Public Administration, communicates to the contractor, subcontractor or transferee of the procurement contract may have a positive outcome of approval and, in this case, it shall be a release agreement that produces bilateral effects of establishing the compliance of the project and standard practice with the work completed or the services provided.

Art. 53

(Testing report with a positive outcome)

The testing report, which shall follow the positive outcome of the verification by the contracting authority, i.e. the Public Administration, shall fulfil the obligation, in accordance with the procedures set out in the tender specifications, to declare that

the work or services comply with the procurement contract, or that in any case the contracting authority, i.e. the Public Administration, is ready to receive the relevant delivery.

In case of real estate properties, the delivery shall take place at their location, while for movable goods it shall always take place at the contracting party's premises or according to its timely instructions.

Art. 54

(Unsuccessful testing)

If, on the other hand, the outcome of the inspection of the work completed or the services provided is negative, the contracting authority, i.e. the Public Administration or public Entity shall notify the contractor, subcontractor or transferee of the procurement contract of the negative outcome, which shall not allow the delivery of the work to be accepted or the performance of the services to be approved.

The testing report communicating the negative outcome shall not be necessary for the contracting authority, i.e. the Public Administration, to take the actions deemed appropriate and shall not allow it to declare itself ready to receive delivery of the work and final performance of the services.

Art. 55

(Payment of the work and of services)

Upon delivery of the work and acceptance of the services, the work and services provided by the contractor, subcontractor or transferee of the contract shall be deemed to have been accepted.

Without prejudice to any contrary agreements or practices and specific rules laid down in regulations, when the work or services are accepted and received by the contracting authority, i.e. the Public Administration, the contractor, subcontractor or transferee of the contract shall be entitled to payment of the consideration.

Art. 56

(Procedure for the verification of individual lots)

When the work or services shall be executed in individual lots, the verification procedure may, at the request of one of the parties, also be carried out for individual lots, in accordance with the procedures and rules set out above.

Once the individual lot has been accepted, the contractor, subcontractor or transferee of the procurement contract may also request payment in proportion to the work and services performed.

Art. 57

(Defects and non-compliance of the work and services)

The contractor, subcontractor or transferee of the procurement contract shall be required to issue a guarantee for any defects and non-compliance of the works executed and the services provided.

Any defects and non-compliance identified may be reported to the contractor, subcontractor or transferee of the procurement contract within eighteen months of their identification. The liability action for any defects and non-compliance shall be subject to the ordinary limitation period of ten years from the delivery of the work or

the performance of the services.

The contractor, subcontractor or transferee of the procurement contract liable for the non-compliance with the performance of the works or services, regardless of any negligence, shall be required to remedy defects and non-compliance in the work or services.

When they are liable at least on the basis of negligence, the contractor, subcontractor and transferee of the procurement contract shall be jointly and severally required, in addition to remedying defects and non-compliance, to compensate the damage suffered by the contracting authority, i.e. the Public Administration.

Art. 58

(Guarantees, security deposits and insurance coverage)

For the execution of the procurement contract and for any future damage, after the testing or final technical procedures and for a maximum period of eighteen months, the Public Administration, in its capacity as contracting authority, shall retain one tenth of the final consideration as a guarantee and security deposit; the contractor shall remain obliged to provide an insurance guarantee or policy for the same amount and for a period of ten years in respect of the the work completed.

The contractor shall provide adequate insurance coverage for the entire duration of the works, in accordance with the terms and conditions set out in the tender specifications.

Art. 59

(Liability of the Manager of the Works)

The Manager of the Works or the authority responsible for supervising the services or verifying performance, in addition to the liabilities arising from his position, shall be jointly and severally liable with the contractor, subcontractor or transferee of the procurement contract for the implementation of technically incorrect instructions or instructions that exceed his powers, which the contractor, subcontractor or transferee of the procurement contract has recognised or should have recognised as such.

Art. 60

(Contractor's liability in relation to the project)

When the contractor, subcontractor or transferee of the procurement contract are called upon to execute a project belonging to another party, even if it was drawn up by the contracting authority, i.e. the Public Administration, they shall always be liable for any defects in the work or services provided if they have not reported any defects, even minor ones, in the project, which they have become aware of or could have become aware of, based on standard practice or the best performance of services.

Art. 61

(Content of the guarantee for defects and non-compliance)

Without prejudice to the right to compensation for damage in the event of

negligence or wilful intent, in case of proven defects and non-compliance, the contracting authority, i.e. the Public Administration, shall always have the right to request either the remedy of the non-compliance and defects at the expense of the contractor, subcontractor or transferee of the procurement contract, or a proportional reduction in price.

Art. 62

(Termination of the contract)

The contracting authority, i.e. the Public Administration, may request termination of the contract when the defects and non-compliance are such as to render the work or services completely unsuitable for the purpose for which they were requested, without prejudice to the right to claim compensation for damage.

Art. 63

(Expressing the intention to withdraw from or terminate the contract)

In the Public Administration, only those bodies that are recognised as having the power to negotiate shall be entitled to express their intention to withdraw from and terminate the contract, by participating in the stages for the conclusion of the contract.

The expression of such intention shall be communicated in writing.

Art. 64

(Immovable goods: collapse and defects)

The contractor, subcontractor or transferee of the procurement contract, in the construction of immovable property intended to be long-lasting, after completion of the work, and always for a period of ten years, shall be jointly and severally liable for compensation for damage on the basis of alleged negligence, unless proven otherwise, with respect to the contracting authority, i.e. the Public Administration, for any collapse, obvious danger of collapse or construction defects, occurring in whole or in part.

Art. 65

(Unilateral withdrawal from the contract)

Even when the works or services have already started to be executed or provided, the contracting authority, i.e. the Public Administration, shall have the right to withdraw from the contract, at its sole discretion, justifying the reason therefor; however, it shall undertake to compensate the contractor, subcontractor or transferee of the procurement contract for the amount of expenses already incurred, for the works already executed and for the loss of income, equal to 10% of the amount of the works that will not be performed, which is understood to be the net profit that the contractor, subcontractor or transferee of the procurement contract could have earned from the completion of the work or the entire provision of services.

Art. 66

(Contractor's heirs)

In the event of the contractor's death, the contract shall be terminated unless the heirs provide sufficient guarantees that they can complete the work.

In the event of termination of the contract, the contracting authority, i.e. the Public Administration, shall be required to pay for the works already executed, on the basis of the consideration determined, and to reimburse the expenses incurred for the remaining execution, provided that the works and expenses entail a profit for the contracting authority.

The profits of the work, including the value of the construction site and of services already performed, shall be determined on the basis of the direct use of what has already been completed, taking into account the completion of the work or services in accordance with the content of the procurement contract.

Art. 67

(Disqualification, incapacitation, insolvency)

The death of the contractor shall be equated both with disqualification, natural incapacitation and absence, and with insolvency, which entails the request for the transfer of assets to creditors, composition with creditors and the opening of competition among creditors.

Art. 68

(Transformation of the company)

When the contractor, subcontractor or transferee of the procurement contract is a company, the death of the contractor, already regulated in the previous articles, shall be equated with the company's transformation, liquidation and state of insolvency.

Art. 69

(Auxiliaries of the contractor, subcontractor and transferee of the procurement contract)

In order to obtain what is due to them, those who, as employees, have performed their activities to execute the works or provide the services, or in any case as creditors of the contractor, subcontractor or transferee of the procurement contract, shall not be allowed to take direct action or adopt precautionary measures or enforcement acts against the contracting authority, i.e. the Public Administration.

Art. 70

(Effectiveness of enforcement regulations)

Without prejudice to the principles and procedures laid down in this Law, the legislation governing accounting systems for consideration due to the contractor, testing procedures, price revision mechanisms and model specifications shall be laid down in the regulation or regulations implementing and enforcing this Law, of which they form an integral part.

Art. 71

(Extension to public Entities)

The provisions of this Law on Public Administration procurement contracts shall also apply to public Entities with autonomous representation.

Art. 72

(Statutory reservation)

Public Administration procurement contracts shall be subject only to this Law and the principles contained therein, as well as to the regulations implementing and enforcing this Law, in consideration of the public interest claimed by the Public Administration in these contracts.

Art. 73

(Repeal)

All laws, rules, regulations and practices relating to the procurement contracts that conflict with this Law shall be repealed.

Art. 74

(Entry into force)

This Law shall enter into force on the 60th day following that of its legal publication.