

Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (Text with EEA relevance)

TITLE I

SCOPE, DEFINITIONS AND GENERAL PRINCIPLES

CHAPTER II

Activities

Article 7

Common provisions

For the purposes of Articles 8, 9 and 10, ‘supply’ shall include generation/production, wholesale and retail sale.

However, production of gas in the form of extraction falls within the scope of Article 14.

Article 8

Gas and heat

1 As far as gas and heat are concerned, this Directive shall apply to the following activities:

- a the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of gas or heat;
- b the supply of gas or heat to such networks.

2 The supply, by a contracting entity other than a contracting authority, of gas or heat to fixed networks which provide a service to the public shall not be considered to be a relevant activity within the meaning of paragraph 1 where all of the following conditions are met:

- a the production of gas or heat by that contracting entity is the unavoidable consequence of carrying out an activity other than those referred to in paragraph 1 of this Article or in Articles 9 to 11;
- b the supply to the public network is aimed only at the economic exploitation of such production and amounts to not more than 20 % of the contracting entity’s turnover on the basis of the average for the preceding three years, including the current year.

Article 9

Electricity

1 As far as electricity is concerned, this Directive shall apply to the following activities:

- a the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of electricity;

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- b the supply of electricity to such networks.

2 The supply, by a contracting entity other than a contracting authority, of electricity to fixed networks which provide a service to the public shall not be considered to be a relevant activity within the meaning of paragraph 1 where all of the following conditions are met:

- a the production of electricity by that contracting entity takes place because its consumption is necessary for carrying out an activity other than those referred to in paragraph 1 of this Article or in Articles 8, 10 and 11;
- b supply to the public network depends only on that contracting entity's own consumption and has not exceeded 30 % of that contracting entity's total production of energy, on the basis of the average for the preceding three years, including the current year.

Article 10

Water

1 As far as water is concerned, this Directive shall apply to the following activities:

- a the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of drinking water;
- b the supply of drinking water to such networks.

2 This Directive shall also apply to contracts or design contests awarded or organised by contracting entities which pursue an activity referred to in paragraph 1 and which are connected with one of the following:

- a hydraulic engineering projects, irrigation or land drainage, provided that the volume of water to be used for the supply of drinking water represents more than 20 % of the total volume of water made available by such projects or irrigation or drainage installations,
- b the disposal or treatment of sewage.

3 The supply, by a contracting entity other than a contracting authority, of drinking water to fixed networks which provide a service to the public shall not be considered to be a relevant activity within the meaning of paragraph 1 where all of the following conditions are met:

- a the production of drinking water by that contracting entity concerned takes place because its consumption is necessary for carrying out an activity other than those referred to in Articles 8 to 11;
- b the supply to the public network depends only on that contracting entity's own consumption and has not exceeded 30 % of that contracting entity's total production of drinking water, on the basis of the average for the preceding three years, including the current year.

Article 11

Transport services

This Directive shall apply to activities relating to the provision or operation of networks providing a service to the public in the field of transport by railway, automated systems, tramway, trolley bus, bus or cable.

As regards transport services, a network shall be considered to exist where the service is provided under operating conditions laid down by a competent authority of a Member State, such as conditions on the routes to be served, the capacity to be made available or the frequency of the service.

Article 12

Ports and airports

This Directive shall apply to activities relating to the exploitation of a geographical area for the purpose of the provision of airports and maritime or inland ports or other terminal facilities to carriers by air, sea or inland waterway.

Article 13

Postal services

- 1 This Directive shall apply to activities relating to the provision of:
 - a postal services;
 - b other services than postal services, on condition that such services are provided by an entity which also provides postal services within the meaning of point (b) of paragraph 2 of this Article and provided that the conditions set out in Article 34(1) are not satisfied in respect of the services falling within point (b) of paragraph 2 of this Article.
- 2 For the purpose of this Article and without prejudice to Directive 97/67/EC of the European Parliament and of the Council⁽¹⁾:
 - a 'postal item' means an item addressed in the final form in which it is to be carried, irrespective of weight. In addition to items of correspondence, such items also include for instance books, catalogues, newspapers, periodicals and postal packages containing merchandise with or without commercial value, irrespective of weight;
 - b 'postal services' means services consisting of the clearance, sorting, routing and delivery of postal items. This shall include both services falling within as well as services falling outside the scope of the universal service set up in conformity with Directive 97/67/EC;
 - c 'other services than postal services' means services provided in the following areas:
 - (i) mail service management services (services both preceding and subsequent to despatch, including mailroom management services);
 - (ii) services concerning postal items not included in point (a), such as direct mail bearing no address.

Article 14

Extraction of oil and gas and exploration for, or extraction of, coal or other solid fuels

This Directive shall apply to activities relating to the exploitation of a geographical area for the purpose of:

- (a) extracting oil or gas;
- (b) exploring for, or extracting, coal or other solid fuels.

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- (1) Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service ([OJ L 15, 21.1.1998, p. 14](#)).