

CHAPTER 5 PUBLIC PROCUREMENT

Priority 5.1 Giving an organisation for procurement the task of guaranteeing a coherent policy and steering its implementation

1 Schedule of legislative alignment

Table 5.1.1

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
1		Necessary Legislation for Tasking an Organisation for Developing and Monitoring a Coherent and Applicable Policy within a Comprehensive Approach on Public Procurement	Making arrangements to meet the first opening benchmark of the chapter	Ministry of Finance	2009

2 Schedule of institutional capacity building requirements necessary for legislative approximation and implementation

Table 5.1.2

No	Requirements	Year
(Ministry of Finance)		
1	Strengthening of the administrative capacity of the existing department within the General Directorate of Budget and Fiscal Policy of the Ministry of Finance with a view to develop a coherent and applicable policy within a comprehensive approach on public procurement and ensure effective and efficient monitoring of the implementation of this policy	2009

3 Financial requirements and resources

Table 5.1.3

(Euro)

Requirements (Ministry of Finance)	Year	National Budget	EU sources	Other	Total
I- Investment					
II- Legislative approximation and implementation					
- Personnel					
- Training					
Strengthening the administrative capacity of the existing department within the General Directorate of Budget and Fiscal Policy of the Ministry of Finance	2009		10,000		10,000
- Consultancy					
- Translation					
- Other					
Total			10,000		10,000

Priority 5.2 Presenting a comprehensive strategy which will include all reforms necessary for legislative alignment and institutional capacity building in order to comply with the acquis

1 Schedule of legislative alignment

Table 5.2.1

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
1		Public Procurement Strategy Document	Presenting a comprehensive strategy including all reforms necessary in terms of legislative alignment and institutional capacity building in order to comply with EU acquis under Public Procurement Chapter	Ministry of Finance	2009

2 Schedule of institutional capacity building requirements necessary for legislative approximation and implementation

No institutional capacity building requirement is envisaged under this priority at this stage.

3 Financial requirements and resources

No financial requirement is envisaged under this priority at this stage.

Priority 5.3 Implementing the public procurement strategy

1 Schedule of legislative alignment

Table 5.3.1

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
1	Directive No. 2004/17/EC	Law on the Contracts of Entities Acting in the Fields of Energy, Water, Transport, Postal Services	Regulating procurement procedures within the framework of alignment with the EU acquis, for the entities and enterprises operating in the water, energy, transportation and postal sectors	Ministry of Finance, Public Procurement Authority	2009-2010
2	Directive No. 2004/18/EC	Public Procurement Law	Introducing a new law on Public Procurement, which will bring the scope and exceptions of Turkish PPL in line with the EU acquis and overcome the shortcomings and deficiencies on the implementation of the Law.	Ministry of Finance, Public Procurement Authority	2009-2010
3	Directive No. 2004/18/EC	Legal Arrangement regarding Concessions Awarded for Certain Investments and Services	Regulating the procurement procedures for awarding concessions, which has gradually become a common practice all around the world. Ensuring harmonization of procedures for awarding concessions according to the EU and other international rules	Ministry of Finance Public Procurement Authority Undersecretariat of State Planning Organization Undersecretariat of Treasury	2009-2010
4	Directive No. 2004/18/EC Green Paper No. COM/2004/0327	Law on Realization of Certain Investments and Services within the Framework of Public-Private Partnership Models	Regulating the Public-Private Partnerships procedures (PPPs), which are used widely throughout the world, for realizing infrastructure investments. The Law envisages regulating procedures and principles of realizing certain investments and services of the entities by the real or legal persons through public-private partnership model contracts subject to private law. The tender procedure within this framework will be subject to Public Procurement Law.	Undersecretariat of State Planning Organization	2009-2010

Table 5.3.1 (Continued)

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
5	Directive No. 2004/18/EC	Implementing Regulation on Procedures and Principles of Electronic Procurement, Amendments on existing Implementation Regulations	Implementing the amendment in the Public Procurement Law No. 4734 regarding electronic procurement, and transposing other amendments to current implementing regulations.	Public Procurement Authority	2009
6	Directive No. 2004/17/EC	Implementation Regulation of the Law on Entities acting in the fields of Energy, Water, Transport and Postal Services ¹	Regulating the procurement procedures of the entities operating in water, energy, transport and postal sectors .	Public Procurement Authority	2010
7	Directive No. 2004/18/EC	Secondary Legislation on Concessions Granted for Certain Investments and Services ²	Regulating the procurement procedures concerning concessions awarded for certain investments and services.	Public Procurement Authority	2010
8	Directive No. 2004/18/EC	Implementing Regulation Amending the Implementing Regulation on Procurement of Goods ³	In order to overcome the shortcomings and deficiencies on the implementation of the Law, putting into force the amendments and regulations in Law No. 4734 and Law No. 4735, and bringing the implementation in line with the EU practices, procedures and principles.	Public Procurement Authority	2010
9	Directive No. 2004/18/EC	Implementing Regulation Amending the Implementing Regulation on Procurement of Services ⁴	In order to overcome the shortcomings and deficiencies on the implementation of the Law, putting into force the amendments and regulations in Law No. 4734 and Law No. 4735, and bringing the implementation in line with the EU practices, procedures and principles.	Public Procurement Authority	2010

¹ It will be enacted after the adoption of Law on the Contracts of Entities Acting in the Fields of Energy, Water, Transport, Postal Services (Table 5.3.1., Line 2)

² It will be enacted after the adoption of Legal Arrangement regarding Concessions Granted for Certain Investments and Services (Table 5.3.1., Line 4)

³ It will be enacted after the adoption of Public Procurement Law (Table 5.3.1., Line 3)

⁴ It will be enacted after the adoption of Public Procurement Law (Table 5.3.1., Line 3)

Table 5.3.1 (Continued)

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
10	Directive No. 2004/18/EC	Implementing Regulation Amending the Implementing Regulation on Procurement of Works ⁵	In order to overcome the shortcomings and deficiencies on the implementation of the Law, putting into force the amendments and regulations in Law No. 4734 and Law No. 4735, and bringing the implementation in line with the EU practices, procedures and principles.	Public Procurement Authority	2010
11	Directive No. 2004/18/EC	Implementing Regulation Amending the Implementing Regulation on Procurement of Consultancy Services ⁶	In order to overcome the shortcomings and deficiencies on the implementation of the Law, putting into force the amendments and regulations in Law No. 4734 and Law No. 4735, and bringing the implementation in line with the EU practices, procedures and principles.	Public Procurement Authority	2010
12	Directives No. 2004/18/EC and 89/665/EC, 2004/17/EC and 92/13/EC	Implementing Regulation Amending the Implementing Regulation on Administrative Applications against Procurements ⁷	In order to overcome the shortcomings and deficiencies on the implementation of the Law regarding complaint procedures and ., putting in to force the amendments and regulations of Law No. 4734 and Law No. 4735, and bringing the implementation in line with EU practices, procedures and principles with the enforcement of the Draft Procurement Law on Entities operating in Energy, Water, Transport, and Postal Services.	Public Procurement Authority	2010
13	Directives No. 2004/18/EC and 89/665/EC, 2004/17/EC and 92/13/EC	Communiqué on Administrative Applications against Procurements ⁸	With the enactment of the Draft Procurement Law on Entities Operating in Energy, Water, Transport, and Postal Services, and of the Public Procurement Law, effectuating relevant arrangements and ensuring implementation to be in accordance with EU practices, standards and principles.	Public Procurement Authority	2010

⁵ It will be enacted after the adoption of Public Procurement Law(Table 5.3.1., Line 3)

⁶ It will be enacted after the adoption of Public Procurement Law(Table 5.3.1., Line 3)

⁷ It will be enacted after the adoption of Public Procurement Law(Table 5.3.1., Line 3)

⁸ It will be enacted after the adoption of Public Procurement Law(Table 5.3.1., Line 3)

Table 5.3.1 (Continued)

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
14	Directives No. 2004/18/EC and 2004/17/EC	Communiqué Amending the General Communiqué of Public Procurements ⁹	Making necessary amendments on the General Communiqué for a better understanding and implementation of the regulations within the framework of alignment with the EU acquis by the entities.	Public Procurement Authority	2010
15	Directive No. 2004/18/EC	Implementing Regulation of the Law on the Realization of Certain Investments and Services within the Framework of Public-Private Partnership Models ¹⁰	Enacting secondary legislation on public-private partnerships.	Undersecretariat of State Planning Organization	2010
16	Directive No. 2004/18/EC Regulation No. 2003/2151	Law Amending the Public Procurement Law and Public Procurement Contracts Law	Alignment to EU legislation in terms of domestic preferences and the use of Common Procurement Vocabulary (CPV) of the EU	Ministry of Finance, Public Procurement Authority	Upon accession ¹¹
17	Directive No. 2001/78/EC	Transposing EU Legislation Regarding Standard Forms to Turkish Legislation.	Establishing the infrastructure of the standard forms concerning the publication of the tender notices which will be submitted to Official Journal of the EU upon accession and ensuring uniform application, facilitating the implementation, thereby improving transparency and competition until accession.	Public Procurement Authority	Upon accession ¹²

⁹ It will be enacted after the adoption of Public Procurement Law (Table 5.3.1., Line 3)

¹⁰ It will be enacted after the adoption of Law on the Realization of Certain Investments and Services within the Framework of Public-Private Partnership Models (Table 5.3.1., Line 5)

¹¹ Required arrangements for legislative alignment will be made one year prior to membership and enter into force upon accession.

¹² Required arrangements for legislative alignment will be made one year prior to membership and enter into force upon accession.

2 Schedule of institutional capacity building requirements necessary for legislative approximation and implementation

Table 5.3.2

No	Requirements	Year
(Public Procurement Authority)		
1	Restructuring of the Public Procurement Authority in parallel with the legal arrangements	2009-2013
2	Training program of the trainers for the public procurement experts for the implementation of the aligned Public Procurement Law	2009-2013
3	Restructuring and strengthening of the Electronic Public Procurement Platform in order to disseminate electronic public procurements	2009-2013
4	Training of the users of Electronic Public Procurement Platform	2009-2013
5	Exchange of experience and training in the member states in order to increase the skills of the Authority's staff on the amendments to comply with the EU acquis; especially on the implementation of electronic procurement, dynamic purchasing system and framework agreements	2009-2013
6	Training the stakeholders on the novelties introduced by the alignment process to the EU acquis and their implementation (in terms of electronic auction, dynamic purchasing system and other electronic procurement implementation)	2009-2013
7	Training of stakeholders on the implementation of the legislation on Concessions and Public-Private Partnership	2009-2013
8	Strengthening the capacity of the Public Procurement Authority and other related institutions for the implementation of Law on the Contracts of Entities Operating in the Fields of Energy, Water, Transport, Postal Services	2009-2013
9	Strengthening the capacity of related institutions for effective implementation of the remedies system.	2009-2013
10	Establishment of certification systems relating to qualification of economic operators in order to provide efficiency and standardization in public procurements.	2009-2013

3 Financial requirements and resources

Table 5.3.3

(Euro)

Requirements (Public Procurement Authority)	Year	National Budget	EU sources	Other	Total
I- Investment	2010-2012	4,000,000	12,000,000	-	16,000,000 ¹³
II- Legislative approximation and implementation					
- Personnel					
- Training	2010-2012	1,000,000	3,000,000	-	4,000,000 ¹⁴
- Consultancy	2010-2012	200,000	600,000	-	800,000
- Translation	2010-2012	100,000		-	100,000
- Other	2010-2012	25,000	75,000	-	100,000
Total		5,325,000	15,675,000		21,000,000

Priority 5.4 Promoting the use of electronic means in procurement procedures

1 Schedule of legislative alignment

Legislative alignment measures envisaged under this priority are mentioned in Table 5.3.1.

2 Schedule of institutional capacity building requirements necessary for legislative approximation and implementation

Institutional capacity building requirements envisaged under this priority are mentioned in Table 5.3.2.

3 Financial requirements and resources

Financial requirements envisaged under this priority are mentioned in Table 5.3.3.

¹³ Figures for investment within the tables refer to the investments to be made in order to implement electronic procurement procedures.

¹⁴ Training activities are envisaged on the issues such as concessions and public-private partnership; contracts of entities acting in the fields of energy, water, transport, postal services; framework agreement, dynamic purchasing system, electronic auction, electronic procurement implementations...etc. and also covering other public institutions and administrations.