

# REGULATION ON APPLICATIONS TO PUBLIC PROCUREMENTS

## CHAPTER I

### Purpose and Scope, Foundation and Definitions

#### Purpose and scope

**ARTICLE 1** – (1) The purpose of this Regulation is to establish the principles and procedures regarding the complaint and appeal applications to be made by candidates, tenderers or potential tenderers by claiming illegality of acts or actions in procurement process and regarding the review of these applications and their resolution in public procurements realised within the scope of Public Procurement Law numbered 4734 and dated 4/1/2002.

#### Foundation

**ARTICLE 2** – (1) This Regulation is issued on the foundation of Article 53 of Law numbered 4734.

#### Definitions

**ARTICLE 3** – (1) In addition to the definitions taking place in Article 4 of the Law numbered 4734, in the application of this Regulation;

a) (**Amended: 22/7/2009–27296 O.G. / Article 1**) Procurement process means the process which begins on the confirmation date of the procurement by the procurement officer and which is completed with the notarization and registry of the contract or framework agreement after its signing by the parties or with the signing of the contract or framework agreement by the parties in cases where notarization and registry are not needed,

b) First notice means the one which is published in Public Procurement Bulletin among others published in the place where the work and/or procurement will be performed (**Repealed phrase: 1/4/2023–32150 O.G. / Article 1**),

c) Working day expresses the days excluding national holidays and general holidays besides weekends and including administrative leaves,

ç) The Law expresses the Public Procurement Law numbered 4734,

d) Final decision means the decision of the Board finalizing the application within the scope of principles and procedures in this Regulation,

(e) (**Inserted: 22/7/2009–27296 O.G. / Article 1**) Tenderer means the supplier, service provider or works contractor submitting tender for procurement of goods, services or works or the natural or legal person or their business partnership with whom a framework agreement is signed,

(f) (**Inserted: 22/7/2009–27296 O.G. / Article 1**) Individual contract process expresses the process which begins on the confirmation date of the procurement by the procurement officer and completed with the signing of the individual contract within the scope of the framework agreement.

## CHAPTER II

### Application Procedures, Qualifications and Time Limits

#### Application paths

**ARTICLE 4** – (1) The application procedures to be pursued regarding public procurements are complaint and appeal applications.

(2) Complaint: The application made by candidates, tenderers or potential tenderers by claiming illegality of acts or actions in the procurement process to the contracting authority.

(3) Appeal application shall be made to the Authority in the following cases:

a) Disapproval of the decision taken by the contracting authority upon complaint application or the failure of making a decision before the deadline,

b) Against the cancellation decision of the procurement due to any reason on or after the date of the registration of the complaint petition by the contracting authority upon complaint application,

c) Against the cancellation decision of the procurement by the contracting authority after the decision of rejection of the application or of the determination of corrective action by the Board upon appeal application.

### **Application qualifications**

**ARTICLE 5** – (1) The following persons who claim that they have suffered or are likely to suffer a loss of right or damage due to the illegality of acts or actions during the procurement process may file an application regarding the following issues:

a) Potential tenderers; issuance of the pre-qualification and/or procurement document, the arrangements made to the pre-qualification and/or procurement notice or to the pre-qualification and/or procurement document and/or the incompatibility between these arrangements and the administrative applications,

b) Candidates; administrative acts and actions regarding the presentation, evaluation and finalization of pre-qualification applications to the procurements realised with restricted procedure; in consultancy service procurements realised with restricted procedure, provided that the candidates are short-listed, the sending of an invitation to tender and/or the procurement document, the arrangements made in the procurement document and/or the incompatibility between these arrangements and administrative applications,

c) Tenderers; the submission and evaluation of qualification applications or tenders and administrative acts and actions regarding the award of the procurement.

(2) Technical specifications whose conditions are clarified in the procurements realised in accordance with the subparagraphs (a), (d) and (e) of Article 21 of the Law, shall be considered as administrative act or action within the scope of subparagraph (c) of paragraph 1.

(3) **(Inserted paragraph: 07/06/2014–29023 O.G./Article 1; enforcement: 1/1/2015) (Amended first sentence: 16/03/2019-30716 O.G./Article 1; enforcement: 01/06/2019)** In order to download the pre-qualification document or the procurement document using e-signature through EPPP (Electronic Public Procurement Platform), it is obligatory for natural or legal persons in behalf of whom the documents will be downloaded, to be registered in EPPP system. For joint ventures, this condition shall be met by all of the natural partners who are citizens of Republic of Türkiye and legal partners established according to the laws of Republic of Türkiye.

### **Application time limits**

**ARTICLE 6** – (1) Deadline of the complaint to be made to the contracting authority shall be; five days in applications for procurements made in accordance with subparagraphs (b) and (c) of the first paragraph of Article 21 of the Law, starting from the day following the date on which the acts or actions that are the subject matter of the complaint during the procurement process are noticed or should have been noticed and ten days in other cases.

(2) However, complaints regarding the notice, pre-qualification or procurement document may be made no later than three working days prior to the procurement date or application deadline before the application or tender is submitted, provided that the time limits specified in the first paragraph are not exceeded.

(3) Appeal applications to be made to the Authority shall be five days for applications made against the cancellation decision by the contracting authority upon complaint or appeal applications and ten days in other cases.

### **General principles regarding time limits**

**ARTICLE 7** – (1) The time limits begin as from the day following the below;

- a) First notice date in applications regarding notices,
- b) The date on which the document (**Amended phrase: 16/03/2019-30716 O.G./ Article 2; enforcement: 01/06/2019**) is downloaded by using e-signature on EPPP (**Repealed phrase: 30/09/2020-31260 O.G./Article 1**) for provisions of the pre-qualification or procurement document which do not take place in the notice and the date on which the addendum is notified for applications regarding addendum,
- c) The date on which the situation which is the subject matter of the complaint is noticed or should have been noticed for applications to be made against the act or actions of the contracting authority,
- ç) The date on which the decision taken by the contracting authority upon complaint is notified or is presumed to be notified or after ten days in cases where no decision is taken,
- d) The date on which the cancellation decision is notified or is presumed to be notified for appeal applications made against the cancellation decision of the procurement.

(2) Holidays shall be included in the time limits. In cases where the deadline of the time limits falls on the last day of holidays, the period shall prolong to the end of the first working day following the holiday. However, complaint applications regarding the notice and pre-qualification or the procurement document shall be made until three working days before the procurement date or application deadline.

### **Form elements of the applications**

**ARTICLE 8** – (1) Complaint applications shall be made to the contracting authority and appeal applications shall be made to the Authority, both with signed petitions.

- (2) The petitions shall include the following;
- a) Name, surname or title, address and (...)¹ fax number of the applicant or their representative, if any.
  - b) Name of the contracting authority and the subject matter of the procurement or the procurement registration number.
  - c) The date on which the subject matter situation is noticed or is notified.
  - ç) The subject of application, the reasons and the evidences thereof.
  - d) For appeal applications, the date of the complaint submitted to contracting authority and the date of notification of the contracting authority's decision, if any.

(3) In applications for notices, the date of the first notice shall be specified as the date when the situation that is the subject matter of the application is realized or notified. In applications for the provisions of the pre-qualification or procurement document that are not reflected in the notice, the date on which the document (**Amended phrase: 16/03/2019-30716 RG/Article 3; enforcement: 01/06/2019**) was downloaded through EPPP using e-signature shall be specified as the date on which the situation which is the subject matter of the application was noticed or notified.

(4) (**Amended paragraph: 30/09/2020-31260 O.G./Article 2**) The following rules shall apply to the attachment of the documents demonstrating the authorization to make an application and of the original of the declaration of signature (**Amended phrase: 20/06/2021-31517 O.G./Article 1, enforcement: 20/07/2021**) or its copy approved by authorized authorities to the petitions of complaint filed by hand or by mail, or to the statement of the information regarding the mentioned documents in the applications made via e-complaint:

- a) Documents demonstrating the authorization to make an application, the original of the declaration of signature (**Amended phrase: 20/06/2021-31517 O.G./Article 1, enforcement: 20/07/2021**) or its copy approved by authorized authorities shall be attached to

¹ With the 2nd article of the Regulation on the Amendment of the Regulation on Applications to Public Procurements, which was published in the Official Gazette dated 07/06/2014 and numbered 29023 and entered into force on 1/1/2015, the phrase "e-mail address, if any, subject to notification and " is repealed.

the complaint applications, or the information regarding these documents shall be presented in the applications.

b) In applications made via e-complaint (**Amended phrase: 20/06/2021-31517 O.G./Article 1, enforcement: 20/07/2021**), it is not necessary to specify the information regarding the signature declaration.

c) In cases where the candidate or the tenderer has presented the documents proving the authorization to apply and the original of signature declaration (**Amended phrase: 20/06/2021-31517 O.G./Article 1, enforcement: 20/07/2021**) or its copy approved by authorized authorities in the application documents or in the tender envelope, the documents in question shall not be sought in the applications submitted by hand or by mail, and information regarding the documents demonstrating the authorization to make an application shall not be sought in the applications made via e-complaint.

ç) In e-procurement, in cases where there is information regarding the documents demonstrating that the candidate or the tenderer is authorized to make an application in the qualification information table, the documents showing the authorization to make an application in hand or mail applications, and information on the mentioned documents in applications made with e-complaints shall not be sought.

d) (**Inserted subparagraph: 20/06/2021-31517 O.G./Article 1, enforcement: 20/07/2021**) In cases where the applications for natural persons are made by representatives who are not lawyers, and for legal persons made directly or by representatives who are not lawyers, by hand or by mail; provided that the information suitable for confirmation in electronic environment is specified regarding the notarized letter of attorney belonging to the representative of the natural person, the certificate of trade registry or the Turkish Trade Registry Gazette in the direct application and the notarized letter of attorney belonging to the representative in the applications made through the representative for legal persons, the mentioned documents shall not be presented within the scope of the application.

(5) It is obligatory to attach the following documents to appeal application petitions; documents proving the authorization to make an application and the original of the signature (**Amended phrase: 20/06/2021-31517 O.G./Article 1, enforcement: 20/07/2021**) declaration or its copy approved by the authorized authorities, (**Inserted phrase: 25/01/2017-29959 O.G./Article 1**) a copy of the complaint petition submitted to the contracting authority, a copy of the response given to the complaint by the contracting authority, if any and the document proving the payment of the application fee and of the application security in cases where necessary, to the accounts of the Authority. (**Inserted sentence: 20/06/2021-31517 O.G./Article 1, enforcement: 20/07/2021**) In applications made with e-appeal, the documents proving the authorization to make an application and the information on the original of the signature declaration or its copies approved by the authorized authorities shall not be sought. Moreover, in cases where the applications for natural persons are made by representatives who are not lawyers, and for legal persons made directly or by representatives who are not lawyers, by hand or by mail; provided that the information suitable for confirmation in electronic environment is specified regarding the notarized letter of attorney belonging to the representative of the natural person, the certificate of trade registry or the Turkish Trade Registry Gazette in the direct application and the notarized letter of attorney belonging to the representative in the applications made through the representative for legal persons, the mentioned documents shall not be presented within the scope of the application.

(6) In cases where the appeal application fee is not stated in the notice or in the document, the application fee to be calculated according to subparagraph (2) of paragraph (j) of Article 53 of the Law, may be clarified through an inquiry to be made on the website of the Authority via the Procurement Registration Number.

(7) In cases where the application fee cannot be determined within the framework of the sixth paragraph, the application fee is deposited over the highest amount specified in subparagraph 2 of paragraph (j) of Article 53 of the Law numbered 4734 according to the nature of the work and the amount that is found to be overpaid according to the estimated cost shall be reimbursed to the applicant by the Authority.

(8) Complaint or appeal applications on behalf of the joint venture shall be made by the lead partner/coordinating partner or the private partner or all of the partners who are authorized to represent. These applications shall be accompanied by the joint venture declaration or the contract, and the document stating that the private partner is also authorized to represent in the applications made by the private partner.

(9) A person shall not apply against more than one procurement and more than one person shall not apply against the same procurement with a single petition.

(10) Except for the matters stated in the decision taken by the contracting authority upon complaint, any subject matter not specified in the complaint application shall not be the subject matter of the appeal application.

(11) **(Inserted paragraph: 25/01/2017-29959 O.G./Article 1)** In the applications made by **(Inserted phrase: 30/09/2020 31260 O.G./Article 2)** hand or by mail regarding the notice, pre-qualification or procurement document, it is obligatory to attach a document indicating activity in the area of the subject matter of the procurement to the complaint petition. **(Inserted sentence: 30/09/2020-31260 O.G./Article 2)** In the petitions sent through EPPP using e-signature (e-complaint), the document in the EPPP indicating activity in the area of the subject matter of the procurement or the information about this document is transferred from EPPP to the petition attachment.

#### **Addressees of the applications**

**ARTICLE 9 – (1) (Amendment: 30/09/2020-31260 O.G./Article 3)** Complaint applications shall be made to the contracting authority by hand or by mail or by using e-signature through EPPP (e-complaint), and appeal applications shall be made to the Authority by hand or by mail or **(Inserted phrase: 20/06/2021-31517 O.G./Article 2, enforcement: 20/07/2021)** by using e-signature (e-appeal) through EPPP.

(2) All documents attached to the petition shall be presented with two copies of list of contents indicating the names of documents, number of pages, original/certified/photocopy etc.

(3) It shall be checked by the contracting authority whether the information and documents attached to the list of contents are as specified in the list of contents, and if they are as specified, it shall be signed by the recipient contracting authority officer with an annotation "attachments are as specified in the list of contents" and a copy is returned to the applicant. In applications made by mail, an annotation shall be added on the list of contents as to whether the attachments are as specified in the list of contents.

(4) Application petitions shall be immediately registered, the registration date and number shall be written on the petition, and a certified receipt indicating the date and number of registration shall be given to the applicant in applications made by hand.

(5) **(Amendment: 24/09/2013–28775 O.G. /Article 1; Amendment: 07/06/2014–29023 O.G. /Article 3, Enforcement:19/02/2014)** In case that the applications are made to the administrative or judicial authorities other than the contracting authority or the Authority and the application petitions are sent by these authorities to the contracting authority or the Authority according to their relevance, the date on which these petitions are put on the records of the contracting authority or the Authority according to their relevance, shall be considered as the application date. In these applications, in cases where the application period has not

expired yet, the deficiencies in the petition may be corrected until the end of the application period.

(6) In the complaint applications made directly to the Authority and sent to the contracting authority in accordance with Article 15, the date of receipt of the petition in the records of the contracting authority shall be accepted as the application date to the contracting authority.

(7) Postal delays shall not be taken into account for applications submitted by post.

### **CHAPTER III Review by the Contracting Authority**

#### **Review upon complaint application**

**ARTICLE 10** – (1) Regarding the procurement, firstly, a complaint application shall be filed to the contracting authority. If these complaint applications are duly made on time and before the contract is duly signed, they shall be reviewed and finalized by the contracting authority.

(2) In the complaint applications that do not contain the information and documents specified in Article 8 and which shall be included in the petition and its annex, the mentioned deficiencies may be corrected by the applicant until the end of the application period. In case that the deficiencies are not completed within the application period, the contracting authority shall decide to the rejection of the application.

(3) As a result of the review made by the contracting authority, one of the decisions in Article 11 shall be taken and the application shall be concluded within ten days. However, it is essential that the complaint applications regarding notice, pre-qualification or procurement document are finalized before the procurement date or the deadline of the application.

(4) The review may be carried out by the contracting officer themselves or by one or more reporters assigned by the contracting officer. As a result of this review, a justified decision shall be taken by the contracting officer.

#### **Decisions to be taken**

**ARTICLE 11** – (1) The following justified decisions shall be taken as a result of the review made by the contracting authority upon complaint;

a) Cancellation of the procurement in case of detection of violation of law which would constitute an obstacle for the continuation of the procurement process and which cannot be remedied by taking corrective action,

b) Ordering corrective action in cases where the problem may be remedied through correction and where it is not necessary to interrupt the procurement process,

c) Rejecting the application in cases where the application does not comply with related rules on application periods, procedure and form, the contract has been duly signed or no infringement of law could be detected requiring the cancellation of the procurement or the determination of any corrective action.

#### **Issues to be included in the decisions**

**ARTICLE 12** – (1) The following issues shall be included in the decisions to be taken by the contracting authority upon complaint application:

a) Title and registration number of the procurement,

- b) Name, surname or title and address of the applicant, and of the agents or representatives if any,
- c) The date on which the application is put on the records of the contracting authority and its number,
- ç) Other decisions taken upon the application and the summary of performed actions,
- d) Summary of alleged claims, events and their legal grounds,
- e) Evaluation of claims and events,
- f) Legal grounds, justifications and the outcome of the decision,
- g) Corrective actions to be taken in cases where the complaint is found partially or completely justified,
- ğ) Date of the decision and name, surname and signature of the decision makers.
- h) **(Inserted: 17/07/2010-27644 O.G./Article 1; Amendment: 07/06/2014–29023 O.G./Article 4, enforcement: 1/1/2015)** Depending on the notification type of the decision; the date on which the decision is sent via registered letter with return receipt, delivery by hand by signature, via fax or through EPPP<sup>2</sup>,
- 1) **(Inserted: 17/07/2010-27644 O.G./Article 1)** Authority of complaints against the decision and its application period.

### **Fulfillment of decision requirements**

**ARTICLE 13** – (1) The decision of the contracting authority which concludes the complaint, shall be notified to the applicant and candidates or tenderers within three days at the latest. However, potential tenderers shall be notified in the applications for complaints regarding the notices and pre-qualification or procurement document and complaints regarding the inconsistencies between the arrangements in the notices or in the document and the administrative practices and the candidates shall also be notified in the consultancy service contracts made with restricted procedure. If an appeal application has not been filed to the Authority within the deadline as of the day following the last notification date, the required action or actions of the decision shall be carried out by the contracting authority.

(2) The contract shall not be signed in the following cases; for complaint applications made to the contracting authority; within ten days as from the date following the last notification date of the decision taken upon application or where a decision is not taken within due time, following the expiry of that time limit, without inquiring in the website of the Authority whether there is an appeal application or not; and for appeal applications made to the Authority, without concluding the appeal application with final decision.

## **CHAPTER IV Review by the Authority**

### **Appeal applications**

**ARTICLE 14** – (1) In cases where the decision taken by the contracting authority upon complaint application is not found appropriate or the decision is not taken within the time limit, or against procurement cancellation decisions taken by the contracting authority upon a complaint or appeal, an appeal application may be made directly to the Authority.

(2) Responses given by the contracting authority to subsequent complaint applications made by the same person to the contracting authority, which are of the same nature as the first application, shall not restart the application period.

<sup>2</sup> With the 4th article of the Regulation on the Amendment of the Regulation on Applications to Public Contracts, which was published in the Official Gazette dated 07/06/2014 and numbered 29023 and entered into force on 1/1/2015, the phrase "with e-mail address" is amended as "through EPPP".

(3) (**Amendment: 03/05/2011- O.G. 27923/Article 1**) Those who claim that they have suffered or are likely to suffer a loss of right or damage with the decision taken by the contracting authority upon the complaint application, shall file the application regarding this matter directly to the Authority as an appeal application.

#### **Actions to be taken upon application**

**ARTICLE 15** – (1) The applications to be made to the Authority shall primarily be reviewed within the scope of Article 16.

(2) Applications which are made directly to the Authority while it should be made to the contracting authority and applications regarding the notification of the Authority as well as applied to the contracting authority, or applications which are filed without waiting for the contracting authority's ten-day decision-making period, shall be sent to the contracting authority.

#### **Preliminary review subjects and actions thereof**

**ARTICLE 16** – (1) Primarily, the applications shall be reviewed in terms of the following respectively;

- a) Whether the subject matter of the application is included in the Authority's field of duty,
- b) Application qualification,
- c) Whether the application is made within its application period,
- ç) Whether the application includes the name, surname, title, address and signature of the applicant or their representative if any and documents demonstrating the authorization to make an application and the original of the declaration of signature (**Amended phrase: 20/06/2021-31517 O.G./Article 3, enforcement: 20/07/2021**) or its copy approved by authorized authorities,
- d) Whether the title of the contracting authority and the contract or procurement registration number are indicated,
- e) Whether the date on which the situation which is the subject matter of the application has been noticed or notified is indicated,
- f) Whether the date of the application to the contracting authority and the date of the response given by the contracting authority if any, is indicated,
- g) (**Amended subparagraph: 25/01/2017-29959 O.G./Article 2**) Whether a copy of the complaint petition submitted to the contracting authority and a copy of the decision taken by the contracting authority upon complaint if it is notified to the applicant are attached,
- ğ) Whether the application fee and in cases where security payment is required, the application security is paid,
- h) Whether the application is made with a single petition by a person against more than one procurement, more than one person against the same or more than one procurement,
- ı) Whether the subject matter, reasons and evidences thereof are indicated or not.

(2) If there is no contradiction in the application petition and its annex in terms of the above-mentioned preliminary review subjects, the substance shall be reviewed.

(3) In appeal applications that do not contain the information and documents in the first paragraph and for which the application period has not expired, the mentioned deficiencies may be corrected by the applicant until the end of the application period.

(4) As a result of the preliminary review, if a contradiction is detected, a preliminary review report regarding this issue shall be prepared.

#### **Decisions to be taken upon any contradiction to preliminary review subjects**

**ARTICLE 17** – (1) Upon detection of a contradiction in terms of the first paragraph of Article 16, the Board shall decide to reject the application.

(2) If deemed necessary by the Board, it shall be decided to send a copy of the application petition and its annexes to the contracting authority or its bodies or relevant/related authority thereof or the authorized Chief Public Prosecutor's Office due to its relevance.

### **Review by the Authority**

**ARTICLE 18** – (1) Regarding the review of appeal applications;

a) Applications made to the notice or prequalification/procurement document shall be reviewed limited to the claims of the applicant and to the issues specified in the decision taken by the contracting authority upon complaint.

b) Reviews shall be conducted in terms of whether the principle of equal treatment is violated in respect to the applicant's claims and the issues stated in the decision taken by the contracting authority upon complaint and the disputed transactions, with regard to the submission of the procurement or pre-qualification document, the submission and evaluation of applications or tenders and the award of the procurement.

(2) In the review to be made in terms of equal treatment principle; in terms of its basis, it shall be checked whether the appealed action has been carried out in relation to other candidates or tenderers in accordance with the provisions of the Law and relevant legislation.

(3) As for appeal applications to be made against the cancellation decision of the procurement taken by the contracting authority upon complaint or appeal applications, the review shall be made within the limits of the cancellation grounds of the contracting authority.

(4) The fact that the contract is signed without complying with the deadlines and procedures specified in the Law or that the appeal application is waived, shall not prevent the Authority from reviewing and concluding the appeal application.

(5) The Authority shall make its final decision on the procurements made in accordance with subparagraphs (b) and (c) of the first paragraph of Article 21 of the Law, and on the appeal applications to be filed against the decision to cancel the procurement taken upon complaint or appeal, within ten working days from the date of receipt of the procurement process file and of the necessary information and documents regarding the procurement in the Authority's records and within twenty days in other appeal applications.

### **Requirement of information and document**

**ARTICLE 19** – (1) Documents and information regarding the application and, if deemed necessary, the procurement process file shall be requested by the relevant department.

(2) The Authority, when deemed necessary, may ask opinions of expert public or private law legal persons and natural persons on the technical issues which requires certain expertise. In this case the amount of the payment to be made to the private law legal persons, natural persons and civil servants shall be determined by the Board which does not exceed the limits set forth in the Article 56 of the Law.

(3) In addition, all kinds of information and documents needed regarding the application and review shall be requested in written from all public and private institutions, organizations and individuals by the relevant department.

(4) It is obligatory to provide the required information and documents within the specified period.

### **Hearing meeting**

**ARTICLE 20** – (1) When deemed necessary by the Board, the decision to hear the parties and related persons shall be taken. In this case, the parties and related persons shall be heard on a date determined by the Board. The date and time appointed for the hearing meeting shall be notified to the parties and related persons.

**(Inserted: 22/7/2009–27296 O.G. / Article 2)<sup>3</sup>**  
**CHAPTER V**  
**Framework Agreements and Individual Contracts**

**Qualification**

**ARTICLE 20/A** – (1) In the framework agreement contracts, the tenderers may file complaint and appeal applications regarding the administrative acts or actions in terms of the submission and evaluation of tenders and the award of the procurements and the tenderers with whom a framework agreement has been signed may file complaint and appeal applications about the administrative act or actions regarding the qualification evaluation to be held every twelve months.

(2) Tenderers with whom a framework agreement has been signed may also file an appeal application directly to the Authority about the administrative acts or actions regarding the invitation to the individual contract, the evaluation of the tenders, the determination of the most economically advantageous tender and the signing of the individual contract. However, the tenderers who were invited to the individual contract but didn't submit tender shall not make applications for administrative acts or actions taken after the deadline and submission of the tender, except for the arrangements in the procurement document and/or inconsistencies between these arrangements and administrative practices.

**Application periods**

**ARTICLE 20/B** – (1) The application periods in complaint and appeal applications to be made against administrative acts or actions in the procurement process, including the signing of the framework agreement, and administrative acts or actions regarding the qualification evaluation to be carried out every twelve months, shall be calculated and applied in accordance with the procedures and principles in the Second Chapter.

(2) The period for filing an appeal application against administrative acts or actions in the individual contract process shall be three working days from the day following the date on which the administrative act or action was or should have been noticed.

(3) In applications made against administrative acts or actions in the individual contract process, the period starts from the day following the date on which the invitation letter for the individual contract was or should have been notified to the tenderer, and if the invitation was not sent, the date on which this situation was noticed or should have been noticed.

**Review by the Authority**

**ARTICLE 20/C** – (1) Appeal applications may be made directly to the Authority against administrative acts or actions in the individual contract process.

(2) Appeal applications to be made against administrative acts or actions in the individual contract process shall be reviewed and finalized by the Authority, if they are applied on time and before the individual contract is duly signed.

<sup>3</sup> With this amendment, the fifth chapter was added to come after the fourth chapter of the Regulation, and the current “CHAPTER V” expression in the Regulation was replaced as “CHAPTER VI”, the current “CHAPTER VI” expression as “CHAPTER VII”, the current “CHAPTER VII” expression as “CHAPTER VIII”.

(3) The appeal application fee shall be determined by the contracting authority in accordance with subparagraph (2) of paragraph (j) of Article 53 of the Law, based on the estimated cost of the procurement/work subject to the individual contract, and shall be stated in the letter of invitation to tender for the individual contract. If the application fee is not specified in the letter of invitation to tender, the appeal application fee may be determined in accordance with the sixth paragraph of Article 8.

(4) An individual contract cannot be signed before an inquiry is made on the website of the Authority whether an appeal application has been filed or not, and without finalizing the appeal application in cases where an appeal application is made to the Authority.

(5) The Authority shall review the appeal applications made against the procurement actions in the individual contract process in terms of whether the principle of equal treatment has been violated in respect to the applicant's claims and the appealed actions, and gives its final decision within ten working days from the date on which the individual contract process file and the necessary information and documents related to the procurement are recorded by the Authority.

(6) Complaint and appeal applications to be made against administrative acts or actions in the process from the first notice of the framework agreement contract until the signing of the framework agreement by the parties, as well as complaints and appeal applications to be made against administrative acts or actions in the process of qualification evaluation to be carried out every twelve months, shall be reviewed and finalized in accordance with the regulations in the other parts of this Regulation.

## **CHAPTER VI Decisions and Their Results**

### **Decisions to be taken by the Board**

**ARTICLE 21** – (1) The following justified decisions shall be taken by the Board upon appeal applications;

a) Cancellation of the procurement in case of detection of violation of law which would constitute an obstacle for the continuation of the procurement process and which cannot be remedied by taking corrective action,

b) Ordering corrective action in cases where the problem may be remedied through correction by the contracting authority and where it is not necessary to interrupt the procurement process,

c) Rejecting the application in cases where the application does not comply with related rules on application periods, procedure and form, the contract has been duly signed or no infringement of law could be detected requiring the cancellation of the procurement or the determination of any corrective action in the proceedings subject to the complaint cannot be determined, or the subject of the appeal application is not within the scope of the Authority's jurisdiction.

(2) In addition, in cases where the application security is deposited, the decision of recording the application security as revenue in case the appeal application is rejected shall be taken, except in cases where the subject of the application is not within the jurisdiction of the Authority.

(3) In cases deemed necessary by the Board, the decisions of notifying the relevant contracting authorities and/or filing a criminal complaint to the authorized Chief Public Prosecutor's Office in order to take necessary action in administrative and/or criminal aspects regarding the contradictions detected shall be taken.

#### **Issues to be included in the decisions**

**ARTICLE 22** – (1) The following issues shall be included in the final decisions to be taken by the Board:

- a) Title and registration number of the contract,
- b) The contracting authority,
- c) Name, surname or title and address of the applicant, or its agents or representatives, if any,
- ç) The date on which the application is put on the records of the Authority and its number,
- d) Subject matters of the complaint,
- e) Legal reasons and grounds of the decision and its results, dissentive vote reasons and its results, if any,
- f) Date and number of the decision and the unanimity and plurality distinction,
- g) Names and signatures of the Chairman and members of the Board attending the meeting.

#### **Implementation of the decisions**

**ARTICLE 23** – (1) The contracting authority shall be obliged to immediately carry out the procedures required by the Board decisions that change the legal situation.

(2) (**Amendment: 03/05/2011- O.G. 27923/Article 2**) Those who claim that the Board decisions that change the legal situation are implemented incompletely or incorrectly, shall file an application regarding this matter directly to the Authority as an appeal application.

(3) In case that the decisions taken by the Board are not implemented at all, a criminal complaint may be filed directly with the Office of the Chief Public Prosecutor.

## **CHAPTER VII Announcement and Notification Principles**

#### **Announcement and Notification Principles**

**ARTICLE 24** – (**Amendment: 16/12/2010– 27787 O.G. / Article 1**) (1) All final decisions taken by the Board upon applications and those taken again by the Board for the implementation of court decisions filed against final decisions shall be notified to the parties in five working days following the date of decision and shall be published in the Authority's website in the following five days.

(2) Access to the Board decisions which are published in the Authority's website are free of charge.

(3) (**Amendment: 07/06/2014–29023 O.G./Article 5, enforcement: 1/1/2015**) The announcement of the decisions taken upon appeal applications and those taken by the Board in order to ensure the implementation of the decisions taken by the courts as a result of the lawsuits filed against these decisions may be made by the Authority through EPPP.

(4) (**Amendment: 24/09/2013–28775 O.G. / Article 2; Amendment: 07/06/2014–29023 O.G./Article 5, enforcement: 1/1/2015**) The announcement of the decisions taken by the contracting authorities upon complaint applications (**Amended phrase: 30/09/2020-31260 O.G./Article 4**) shall be made through EPPP.

(5) (**Amendment: 07/06/2014–29023 O.G./Article 5, enforcement: 1/1/2015**) Notification through EPPP shall be carried out within the framework of the principles and procedures specified in the Electronic Procurement Implementation Regulation published in the Official Gazette dated 25/2/2011 and numbered 27857.

(6) (**Amendment: 07/06/2014–29023 O.G./Article 5, enforcement: 1/1/2015**) In case the notification cannot be made using the methods specified in the third and fourth paragraphs for justified or compulsory reasons, other methods listed in subparagraph (a) of the first paragraph of Article 65 of the Law shall apply.

(7) (**Amendment: 07/06/2014–29023 O.G./Article 5, enforcement: 1/1/2015**) In the notification made by registered mail with return receipt, the date of delivery of the letter shall be considered as the date of notification.

(8) (**Inserted paragraph: 07/06/2014–29023 O.G./Article 5, enforcement: 1/1/2015**) In the notification made by fax, the date of announcement shall be considered as the date of notification. Such notification shall be confirmed by the contracting authority on the same day. In order for the confirmation process to be accepted, it shall be sufficient for the notification to be sent by registered mail with return receipt. The notification shall be documented separately, covering the confirmation process and the date of notification. Otherwise, the notification shall be deemed to have been made unduly and the provisions regarding undue notification of the Notification Law dated 11/2/1959 and numbered 7201 shall apply.

(9) (**Inserted paragraph: 07/06/2014–29023 O.G./Article 5, enforcement: 1/1/2015**) Announcements and notifications to be made by the contracting authority to the joint ventures shall be made to the lead or coordinator partner within the framework of the specified principles. However, in joint ventures where the lead or coordinator partner is a foreign tenderer, if the notification cannot be made via (**Amended phrase: 30/09/2020-31260 O.G./Article 4**) EPPP or with other methods listed in subparagraph (a) of the first paragraph of Article 65 of the Law, the notification shall be made to;

- a) the domestic tenderer whose share percentage is the highest,
- b) in cases where there are more than one domestic tenderer whose share percentage is the highest, anyone of those tenderers.

## **CHAPTER VIII**

### **Miscellaneous and Final Provisions**

#### **Correction of spelling errors**

**ARTICLE 25** – (1) Errors in the information regarding the parties or the procurement in the Board decisions, contradictions between the justification and the decision result and spelling errors arising from calculation errors may be corrected by the Board.

(2) The Board decision, the errors of which have been corrected, shall be notified to the relevant parties and published on the Authority’s website.

#### **Repealed Regulation**

**ARTICLE 26** – (1) Regulation on Applications to Public Procurements published in the Official Gazette dated 22/6/2007 and numbered 26560 is repealed.

**Obligation to make applications as e-complaint and e-appeal (Inserted article: 01/04/2023-32150 O.G./Article 2; enforcement: 15/04/2023)**

**ADDITIONAL ARTICLE 1** – (1) Complaint and appeal applications regarding procurements shall be made using e-signature through EPPP, based on the provisions of this Regulation regarding complaints and appeal applications to be made electronically.

#### **Current applications**

**INTERIM ARTICLE 1** – (1) The provisions of the Regulation published in the Official Gazette dated 22/6/2007 and numbered 26560 shall apply to the applications made and the reviews initiated before the effective date of this Regulation.

#### **Notifications**

**INTERIM ARTICLE 2** – (1) Until the effective date of the provisions whose enforcement is regulated in subparagraph (a) of Article 27, the provisions of the Notification Law dated 11/2/1959 and numbered 7201 shall apply to notifications to be made pursuant to Article 41 of the Law and to all notifications to be made within the scope of this Regulation.

**Applications made before 2/8/2010 (Inserted article: 17/07/2010-27644 O.G./Article 2)**

**INTERIM ARTICLE 3** – (1) The provisions of the Regulation in force at the date of application shall apply to the applications made and the reviews initiated before the date of 2/8/2010.

**Transition provisions (Inserted article: 07/06/2014–29023 O.G./Article 6, enforcement: 1/1/2015)**

**INTERIM ARTICLE 4** – (1) The procurements that were announced or notified in writing before the effective date of this article shall be concluded in accordance with the provisions of the Regulation in force on the date of the announcement or notification.

#### **Transition provisions (Inserted article: 25/01/2017-29959 O.G./Article 3)**

**INTERIM ARTICLE 5** – (1) Applications made to the contracting authority or to the Authority before the effective date of this article shall be concluded in accordance with the provisions of the Regulation in force at the date of application.

**Already initiated tenders (Inserted article: 16/03/2019-30716 RG/Article 4; enforcement: 01/06/2019)**

**INTERIM ARTICLE 6** – (1) The procurements that were announced or notified in writing before the effective date of this article shall be concluded in accordance with the provisions of the Regulation in force on the date of the announcement or notification.

**Already initiated tenders (Inserted article: 20/06/2021-31517 O.G./Article 4; enforcement: 20/07/2021)**

**INTERIM ARTICLE 7** – (1) procurements that were announced or notified in writing before the effective date of the Regulation that put this article into effect, shall be concluded in accordance with the provisions of the Regulation in force on the date of the announcement or notification.

**Transition provision regarding the implementation of Additional Article 1 (Inserted article: 01/04/2023-32150 O.G./Article 3; enforcement: 15/04/2023)**

**INTERIM ARTICLE 8** – (1) In terms of the procurements announced or notified before the decision taken by the Board to determine that the necessary technical infrastructure

regarding e-complaint and e-appeal applications is published on the official website of the Authority, , applications for procurements made with negotiated procedure pursuant to subparagraphs (a), (d) and (e) of the first paragraph of Article 21 of the Law and applications made via lawyers shall continue to be made by hand or by mail.

(2) Applications for procurements announced or notified before 15/4/2023 shall be concluded in accordance with the provisions of this Regulation, which are in force at the time of the announcement or notification.

### **Enforcement**

**Article 27** – (1) The following articles of this Regulation shall be effective on the following dates;

- a) Paragraphs 3, 4, 5, 6 and 7 of Article 24 on 5/3/2009,
- b) Other articles on 4/1/2009.

### **Execution**

**ARTICLE 28** – (1) The President of Public Procurement Authority shall execute the provisions of this Regulation.

<b>Official Gazette in which the Regulation is Published</b>		
	<b>Date</b>	<b>Number</b>
	3/1/2009	27099
<b>Official Gazette in which the Regulations Amending the Regulation are published</b>		
	<b>Date</b>	<b>Number</b>
1-	22/7/2009	27296
2-	17/7/2010	27644
3-	16/12/2010	27787
4-	3/5/2011	27923
5-	24/9/2013	28775
6-	7/6/2014	29023
7-	25/1/2017	29959
8-	16/3/2019	30716
9-	30/9/2020	31260
10-	20/6/2021	31517
11-	1/4/2023	32150