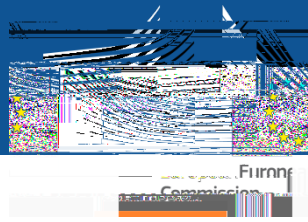


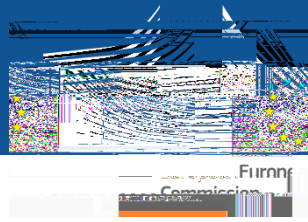


European  
Commission



# Current Rules

## Classical Directive (2004)



# New Rules: Preparatory works

**Green paper on modernisation** (January 2011)

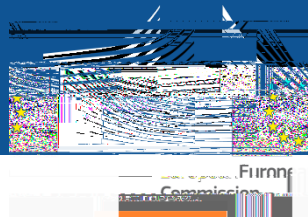
**Evaluation of existing rules – Impact Assessment**

**Results of public consultation** (June 2011)

*623 replies (Business, public authorities, civil society, academics & legal experts, citizens...)*

**Public procurement conference** (June 2011)

**European Commission proposal** (December 2011)



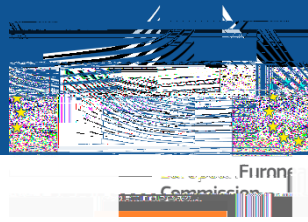
# New Rules: Legislative process

*February 2014: Adoption*

*Directive – needs to be transposed by EU Member States*

*2 years for transposition*

*4.5 years for e-procurement (at the latest)*



# New Rules: Legislative process

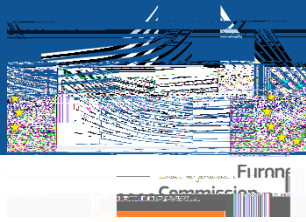
*Directive 2014/24/EU on public procurement*

*Directive 2014/25/EU on procurement in water, energy, transport and postal services sectors*

*Directive 2014/23/EU on the award of concession contracts*

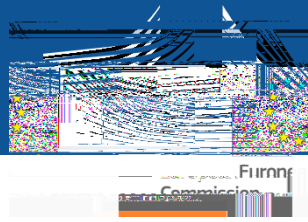
*Published in the Official Journal L94 of 28.03.2014*

[http://ec.europa.eu/internal\\_market/publicprocurement/modernising\\_rules/index\\_en.htm](http://ec.europa.eu/internal_market/publicprocurement/modernising_rules/index_en.htm)



# Objectives of the reform

1. Simplification,  
fl



# I: Simplification, more flexibility

*Increased use of negotiated procedure*

**competitive procedure with negotiations**

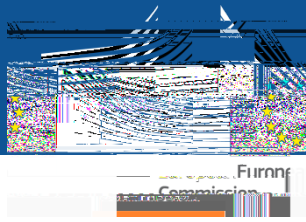
**New: Innovation Partnership (Research and development)**

*Simplified advertising for sub-central authorities*

**Prior information notice**

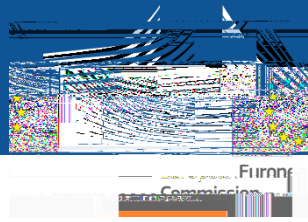
*Reduced time limits*

*Light touch regime for social and other services*



# I: Reduction of administrative burden<sup>96d3</sup>.

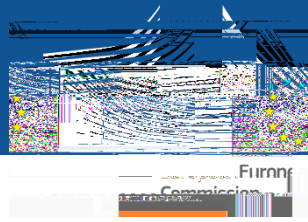




## II: Strategic procurement

- (1) Strategic policies may be considered in award decision
- (2) Technical specifications may refer to production process
- (3) Integration of disabled & disadvantaged workers
- (4) Innovation Partnership
- (5) Use of labels





## III: SME-friendly measures

### Division into lots

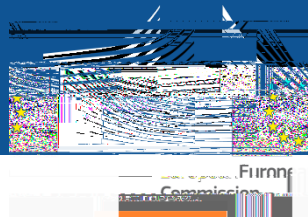
*"apply or explain" principle;*

### Proportionate criteria for financial standing

*limited to twice contract value*

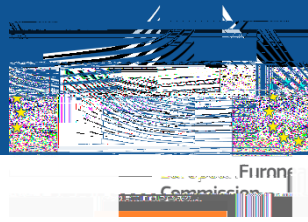
### Reduced documentary requirements

*"European Single Procurement Document"*



## IV: Sound procedures

- Conflicts of interests clarified
- Exclusion grounds strengthened and extended
- Compulsory exclusion in case of abnormally low tender
- Modifications of contracts simplified



## IV: Sound procedures

### Main changes:

#### Competitive procedures with negotiation

Replaces current negotiated procedure with publication

#### Competitive dialogue

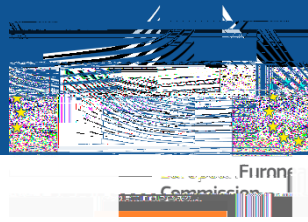
slightly broader scope for negotiations in the final stages

#### Innovation partnership

**Research** services for the development of an innovative product by one or more providers **plus supply** contract

#### Negotiations without publication

no substantial changes



## V: Governance

*Monitoring, reporting (3 years)*

***level of SME participation***

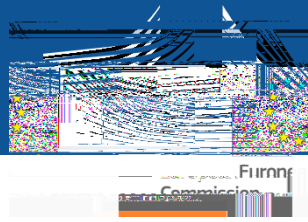
***procurement fraud, corruption, conflict of interest and other serious irregularities***

***Keeping of contracts (1 million, 10 million)***

*Guidance and support*

*Statistical reports (below threshold estimates)*

*Individual reports*

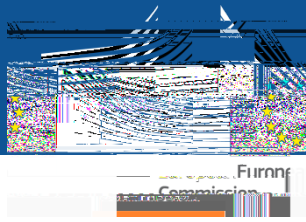


# Utilities Directive

- Procurement for services, supplies or works
- By utilities (public or private)
- Utility activity (water, energy, transport, postal)

*Private entities subject to procurement rules if "operating on the basis of special and exclusive rights"*

*More flexible regime for utilities*



# Utilities Directive

Essentially same changes for the Utilities as for the Classic Directive

## Differences

### **Framework contracts:**

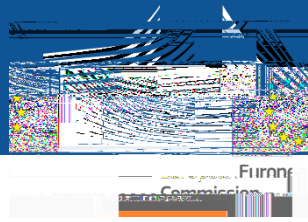
max 8 years (classic 5 years)

### **Contract modifications**

Unforeseen circumstances: unlimited (classic: max 50%)

### **Definition of special or exclusive rights**



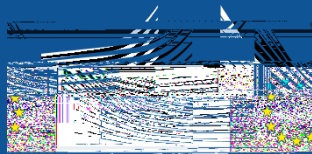


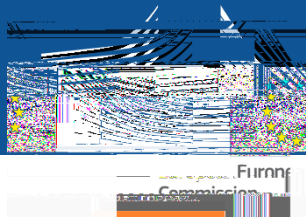
# New Directive on Concessions

**Works & service concessions € 5 million**

**Classical & utilities sector**

**Contracting authorities and entities**





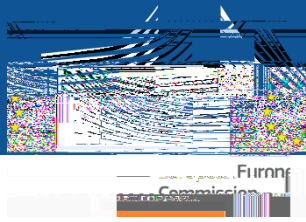
## Duration of Concessions

**The duration of concessions shall be limited**

**General principle for concessions lasting more than 5 years:**

Shall not exceed time necessary to recoup investments made for operating works/services with return on invested capital

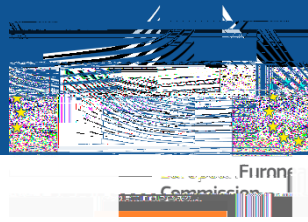
Possibility to take into account investments at beginning and during life of concession and those necessary to achieve specific contractual objectives.



## Concessions: few procedural rules

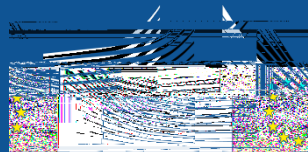
- Publication (ex-ante & ex-post)
- Transparency, equal treatment, non-discrimination
- Procedural guarantees, not defined procedures
- Exclusion (=), selection criteria (light)
- Objective award criteria





# Introduction

- Single Market Scoreboard – 28 Member States
  - First published 2013, paper scoreboard successor.
  - [http://ec.europa.eu/internal\\_market/scoreboard](http://ec.europa.eu/internal_market/scoreboard).
- Raises awareness and provides information about important policy issues.
- Functions as a motivating benchmark, highlights strengths and weaknesses, helps finding best practice.



Firm  
Commission

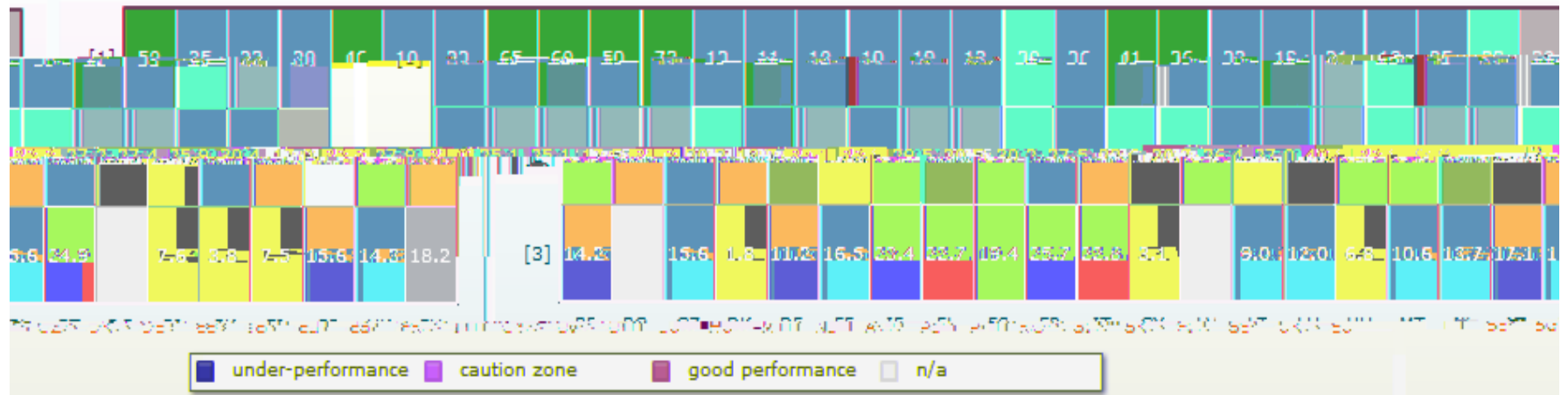
TOP ▲ Performance

per indicator

Performance

readings (in months)

[2] Duration of infringement proce

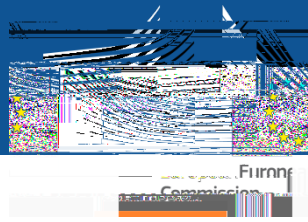


and [2]: An average (+/- 10 %) score was rated as "yellow": a score below it as "red" and a score above it as "green". Indicators [1] and [2]: An average (+/- 10 %) score was rated as "yellow": a score below it as "red", between 8 and 18 months, as "yellow", and less than 8 months as "green". Indicator [3]: Duration of more









# A simplifying yet useful perspective

- Indicators provide rough and simplifying information. They disregard:
  - Structure of procurement
  - Structure of the economy
  - Interdependency of tendering options
- They still reflect crucial aspects of public procurement.
  - Clear normative interpretation
  - Comparable even with underlying differences
  - Transparent and simple

