

Standard text to be used prior to signing a contract (as part of the procurement process)

1. Compliance assessment regarding Council Regulation (Art. 5k (EU) 833/2014) prohibiting the award or the continued execution of any public procurement contracts to companies and individuals with links to Russia

The EU's restrictive measures against Russia were expanded and tightened in particular by the fifth package of restrictive measures (EU Council Regulation 2022/576¹) adopted on 8 April 2022.

As a result, since that date GIZ has been legally prohibited from awarding or continuing to execute contracts as of 10 October 2022 with the persons, entities or bodies with links to Russia as specified in Article 5k of the EU Council Regulation 833/2014² (hereafter referred as the 'Regulation'). Furthermore, GIZ is prohibited from awarding or continuing to execute contracts with persons, entities or bodies if these persons, entities or bodies who intend to employ subcontractors, suppliers or companies with links to Russia, as specified in the Regulation, whose capacities are being relied on within the meaning of the public procurement Directives, and where these subcontractors, suppliers or companies with links to Russia account for more than 10% of the contract value.

The Regulation constitutes a statutory prohibition within the meaning of Section 134 of the German Civil Code (BGB), with the effect that – even in the case of a tender being accepted – no valid contract will be established if the conclusion of such a contract would contravene this Regulation.

GIZ must therefore ensure that the award of contract in relation to a tender is not associated with any violations of applicable legislation. The tenderers are obliged to make a truthful declaration using the self-declaration³ on the EU-Russia-Sanctions, which is included in the tender documents. False statements may lead to an exclusion of the bidder or may render the contract void.

2. Assessment confirming compliance with embargoes and other trade restrictions currently in place

Before entering into any contract, GIZ reserves the right to ascertain the origin of the goods offered. This assessment will be conducted to ensure compliance with embargoes and other trade restrictions in place within the scope of GIZ's due diligence. This is particularly true of the EU sanctions against Russia, Belarus, Crimea and the affected parts of Eastern Ukraine⁴ currently in place (primarily the EU Council Regulations No.: 833/2014 and 765/2006).

By submitting their bid, the bidder undertakes towards GIZ the responsibility that in the event of a probable award, the bidder will provide all necessary support to enable GIZ to ensure compliance with the sanctions regime – this assurance is thus given prior to the award of any

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R0576&qid=1664200083895>

² <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32014R0833>

³ This self declaration has been sent to you by Email from Arved Greiner on 27.04.2022 (German version) and on 05.05.2022 (Russian and English version).

⁴ https://finance.ec.europa.eu/eu-and-world/sanctions-restrictive-measures/sanctions-adopted-following-russias-military-aggression-against-ukraine_en#sanctions

contract. This includes in particular the obligation, if so requested by GIZ, to complete a self-declaration to determine the origin of the goods offered and/or to provide GIZ with the required evidence of the origin of such goods. Should the bidder fail to meet these obligations or fail to do so within a reasonable period of time, this can result in their bid being excluded.

A contract can only be awarded on completion of this assessment of the origin of the goods offered. Should this check give grounds for concern or reveal facts that constitute a contractual impediment, GIZ shall inform the bidder without delay. GIZ shall also reserve the right in such cases to award the contract to the next-ranked bidder in the competitive tender procedure.