

CONCESSIONS

Excluded concessions

Which concessions are not covered by the Directive?

Concessions for drinking water

- Concessions for 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 or the supply of drinking water to such networks;**
- Concessions for **the disposal or treatment of sewage, which are connected with the provision or the operation of the above mentioned water provision networks or with the supply of water to such networks;**
- Concessions concerning **hydraulic engineering projects, irrigation or land drainage which are connected with the provision or the operation of the above mentioned water provision networks or with the supply of water to such networks, 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.

Concessions related to services of general economic interest in the area of public passenger rail and road transport

- Services concessions falling within the scope of Art. 5 of Regulation 1370/2007 are not covered by the Concessions Directive.
- By contrast, services of transport of goods are covered by the concessions Directive. Likewise the award of works concessions either by public authorities, public undertakings or private entities with exclusive rights (in other words in the 'classic' or 'utilities' sectors), is covered by the rules of the Directive.

Concessions awarded by public authorities as well as contracting entities other than public undertakings and private entities enjoying of exclusive rights, both in the 'classic' and 'utilities' sectors.

Concessions awarded to an economic operator on the basis of an exclusive right

- This exclusion applies **only** to service concessions awarded to economic operators which are active **in the 'utilities' sector.**
- It is **subject to two conditions:**

- The economic operator has a prior exclusive right to provide the services that are the subject of the concession;
- This right was granted under a published national law or administrative act in accordance with the Treaty and with EU acts that lay down common rules on access to the market applicable to any of the 'utilities' activities (e.g. concessions in the electricity sector covered by Directive 2003/54/EC, modified by Directive 2009/72/EC and gas concessions covered by Directive 2009/73/EC).

Lottery services

- Concessions for lottery operating services **awarded on the basis of a prior exclusive right** which has been **granted pursuant to applicable national laws, regulations or administrative provisions in accordance with the Treaties** are **not covered**.
- However, in other cases, gambling activities are covered by the Directive when they assume the form of concession contracts (e.g. casino concessions). Gambling activities pursued on the basis of **authorisations/licences** are **not covered**.

What rules apply to awarding concessions not covered by the Directive?

The Treaty principles of **equal treatment and transparency** apply.