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ICS

Will supersede CEN/CLC/ETSI TR 101551:2014,
CEN/CLC/ETSI/TR 101 552:2014

English version

Guidelines for public procurement of ICT products and
services in the European Union: accessibility award
criteria and conformity assessment.

Leitlinien für die öffentliche Beschaffung von IKT-
Produkten und -Dienstleistungen in der Europäischen
Union: Vergabekriterien für Barrierefreiheit und
Konformitätsbewertung.

This draft Technical Report is submitted to CEN members for Vote. It has been drawn up by the Technical Committee
CEN/CLC/ETSI/JWG eAcc.

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European foreword

This document (FprCEN/CLC/ETSI/TR 101551 rev) has been prepared by Technical Committee CEN/CLC/ETSI/JWG eAcc “eAccessibility”, the secretariat of which is held by UNE.

This document is currently submitted to the Vote on TR.

This document will supersede CEN/CLC/ETSI TR 101551:2014 and CEN/CLC/ETSI/TR 101 552:2014.

FprCEN/CLC/ETSI TR 101551 rev includes the following significant technical changes with respect to CEN/CLC/ETSI TR 101551:2014 and CEN/CLC/ETSI/TR 101 552:2014:

- It merges the scope of the two earlier TRs into one coherent framework, covering technical specifications, selection, exclusion and award criteria, conformity assessment, and contract management and has been updated to reflect the latest legislative and standardisation framework.
- It has been aligned to the EU public procurement legislation of 2014, the European Accessibility Act (Directive (EU) 2019/882) and the Web Accessibility Directive (Directive (EU) 2016/2102).
- It has been aligned with the ongoing revision of European standard EN 301 549 and considers European standard EN 17161 and other relevant standards.
- It provides extended guidance with more comprehensive coverage of the procurement lifecycle, including preparatory activities and post-award contract follow-up.
- It includes two new annexes that provide practical examples (Annex A) and give examples of tools to support the identification of relevant EN 301 549 requirements (Annex B).
- It has an increased focus on implementation, emphasising methods for ensuring genuine accessibility in practice, bridging gaps between legal requirements and market readiness.

This document has been prepared under a standardization request addressed to CEN by the European Commission. The Standing Committee of the EFTA States subsequently approves these requests for its Member States.

Introduction

This document supports contracting authorities who need to ensure that mandatory accessibility requirements are integral to their public procurement procedures – from the technical specifications down to awarding contracts and to managing contracts with suppliers. To that aim, it provides guidance to contracting authorities on how to determine technical specifications to meet the accessibility requirements of Directive (EU) 2019/882 (European Accessibility Act, EAA) and Directive (EU) 2016/2102 (Web Accessibility Directive, WAD) as well as award criteria to ensure better accessibility; and on how to verify the conformance of publicly procured ICT products and services with these requirements.

This document describes how the accessibility requirements for ICT to be procured should be specified, documented and assessed in the frame of the procurement process under the EU public procurement directives. The different mechanisms for conformity assessment based on the applicable accessibility requirements are explained. The role of these mechanisms is discussed in the pre-award phase, during contract awarding, and in the post-award stage, as part of contract management. The Technical Report also provides a useful guidance for bidders who prepare an offer for public procurement of ICT products and services, as well as for private organisations wanting to ensure that the ICT they procure will be accessible.

This document is the result of the revision of CEN/CLC/ETSI TR 101551:2014 “Guidelines on the use of accessibility award criteria suitable for public procurement of ICT products and services in Europe”, and of CEN/CLC/ETSI/TR 101 552:2014 “Guidance for the application of conformity assessment to accessibility requirements for public procurement of ICT products and services in Europe”. The technical reports CEN/CLC/ETSI TR 101551:2014 and CEN/CLC/ETSI TR 101 552:2014 have been combined in this revision.

The specific aims of the revision have been:

- to support the implementation of Directive (EU) 2019/882,
- to align the Technical Report with the current public procurement directives,
- to align the Technical Report with the ongoing revision of European standard EN 301 549 “Accessibility requirements for ICT products and services”,
- to facilitate the use by stakeholders of the revised harmonised European standard EN 301 549 in the procurement process in support of Directive (EU) 2019/882 and Directive (EU) 2016/2102.

The document was prepared in response to Standardisation request M/587 (Commission Implementing Decision of 14.9.2022, C(2022) 6456 final) to CEN, CENELEC and ETSI.

1 Scope

This document provides guidance to contracting authorities on how to determine contract award criteria to meet the accessibility requirements of Directive (EU) 2019/882 (European Accessibility Act, EAA) and Directive (EU) 2016/2102 (Web Accessibility Directive, WAD); and on how to verify the conformance of publicly procured ICT products and services with these requirements. The present document describes how the accessibility requirements for the ICT should be specified, documented and assessed in the frame of the procurement process, under the EU public procurement directives¹. The different mechanisms for conformity assessment with the applicable accessibility requirements are explained. It discusses how these mechanisms can be applied both in the pre-procurement research phase and when awarding a contract, as well as part of contract management in the post-award stage.

This document also provides a useful guidance for bidders who prepare an offer for public procurement of ICT products and services, and others aiming to procure accessible ICT.

Aspects that do not deal with accessibility in ICT procurement in Europe are outside the scope of this document.

2 Normative references

There are no normative references in this document.

3 Terms, definitions and abbreviations

For the purposes of this document, the following terms and definitions apply.

ISO and IEC maintain terminology databases for use in standardization at the following addresses:

- ISO Online browsing platform: available at <https://www.iso.org/obp/>
- IEC Electropedia: available at <https://www.electropedia.org/>

3.1 Terms and definitions

3.1.1

accessibility

extent to which products, systems, services, environments, and facilities can be used by people from a population with the widest range of user needs, characteristics, and capabilities to achieve identified goals in identified contexts of use

[SOURCE ISO 9241-11:2018]

3.1.2

assistive technology

equipment, product system, hardware, software or service that is used to increase, maintain or improve capabilities of individuals

[SOURCE ISO/IEC Guide 71:2014]

¹ Directive 2014/24/EU on public procurement; Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors; Directive 2014/23/EU on the award of concession contracts

3.1.3

award criteria

criteria by which the award of a contract is judged

3.1.4

conformity assessment

structured process to evaluate, through manual and/or automatic testing, if a product or service meets each applicable requirement of an accessibility regulation, standard (such as EN 301549), guideline or specification

3.1.5

contracting authority

state, regional or local authorities, bodies governed by public law, or associations of such bodies

3.1.6

economic operator

contractor, supplier or a service provider

3.1.7

open procedures

procedures whereby any interested economic operator can submit a tender

3.1.8

public contract

contracts for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities

3.1.9

restricted procedure

procedures in which any economic operator can request to participate and whereby only those economic operators invited by the contracting authority can submit a tender

3.1.10

selection criteria

criteria by which the eligibility or ability of a contractor is judged

3.1.11

usability

extent to which a system, product or service can be used by specified users to achieve specified goals with effectiveness, efficiency and satisfaction in a specified context of use

[SOURCE ISO 9241-11:2018]

3.2 Abbreviations

For the purposes of the present document, the following abbreviations apply:

API	application programming interface
EAA	Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services. Also known as the European Accessibility Act.
EN	European Standard
ICT	Information and communication technology
OPD	Organisation of Persons with Disabilities
PPD	Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC
SME	Small or Medium-sized Enterprise
TR	Technical Report
WAD	Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies. Also known as the Web Accessibility Directive.

4 Framework: accessibility and public procurement

4.1 Introduction

This section provides an overview of the EU accessibility legislation and how the public procurement directives relate to the requirement of accessibility.

4.2 Accessibility, Design for all users, Usability

4.2.1 Accessibility

Accessibility is the extent to which products, systems, services, environments and facilities can be used by people from a population with the widest range of user needs, characteristics and capabilities, to achieve identified goals in identified contexts of use (ISO 9241-11:2018). The context of use can include direct use or use supported by assistive technologies.

Accessibility concentrates on the environment surrounding a person, to break down the barriers in the environment that limit access, and not on the condition or disability of a person. For example: a person in a wheelchair has equivalent access to a building if there is a ramp next to (or instead of) the stairs. The limitations are not grounded in the disability but in the environment, and accessibility means that the environment is formed so that it creates no barriers for any person with a disability.

The same principle holds for digital environments. ICT can be built in a way that allows persons with disabilities to use it equitably in their preferred mode of use. Users in general are diverse, but there is also diversity within the specific user groups of persons with disabilities, and one solution never fits all. Keeping that in mind, here are some examples of user needs:

- users with low vision might need good contrast and the ability to magnify a screen-based user interface in order to navigate and understand content;
- users who are blind often use screen readers to interpret and navigate the interface, which is presented to them via audio and/or Braille output;

- users who are hard-of hearing need videos with subtitles;
- users with motor impairments, who use assistive technology such as eye gaze control or sip-and-puff switches, need keyboard navigable interfaces;
- users with motor impairments, who use a mouse or their finger to interact, benefit from large controls;
- users with cognitive impairments benefit from multimodality, clarity in layout, easy-to-understand language, clear links, stepwise interaction, explanations, and so on.

Addressing the needs of persons with disabilities makes products, services and information more usable and accessible for all users. For example, good contrast makes an ATM screen easier to read outdoors; large controls are helpful in shaky environments such as public transport; subtitles help people understand audio who are not native speakers, and help in situations where turning on the sound would disturb others; and easy-to-understand language makes content easier to understand for everyone and improves the quality of automatic translation.

4.2.2 Design for all users

Design for all users – a term used in EU public procurement legislation – is achieved by application of the “Design for All” approach. In the “Design for All” approach, a product or service is designed, developed and provided so that it can be accessed, understood and used by the widest range of users, including (but not only) persons with disabilities.

The Design for All approach focuses on accessibility and usability from the earliest possible stages of development and continues to guide the decisions throughout the entire lifecycle of a product or service. A key element of the Design for All approach is interoperability across the chain of use, ensuring that ICT products and services function effectively for all users. For example, they perform as expected regardless of differences in underlying systems or the use of assistive technologies. This is achieved by identifying diverse needs, characteristics, capabilities and preferences, by involving users and using knowledge about accessibility and usability in the relevant procedures and processes.

In practice, accessibility outcomes are results of an organisation’s policies, processes and activities that aim for products and services that the widest range of users can access, understand and use.

4.2.3 Usability

Accessibility is about making sure that products and services in a way that there are no barriers to equivalent access for people with disabilities. Usability is about ensuring that products and services are easy to use. ISO 9241-11:2018 defines usability as the “extent to which a system, product or service can be used by specified users to achieve specified goals with effectiveness, efficiency and satisfaction in a specified context of use”, and provides a framework for understanding the concept of usability and applying it to situations where people use products and services.

For people with disabilities, accessibility is in many cases a precondition for successful use and, in turn, usability. Increasing usability leads to an overall better user experience. However, it is important to note that while it is required to ensure accessibility, there is no legal requirement to ensure usability in public procurement.

4.3 Accessibility legislation and applicable standards

4.3.1 General

This section provides a short description of the accessibility legislation and how it sets accessibility requirements, as well as the role of accessibility standards in the presumption of conformity.

4.3.2 Web Accessibility Directive

The Web Accessibility Directive (Directive (EU) 2016/2102, WAD) sets the accessibility requirements for public sector websites and mobile applications in the EU, and requires providing an accessibility statement on how those websites and mobile applications comply with the directive.

4.3.3 European Accessibility Act

The European Accessibility Act (Directive (EU) 2019/882, EAA) aims to harmonise accessibility requirements for certain products and services. The accessibility requirements set in the act also clarify the existing accessibility obligation in other EU law, particularly in public procurement and structural funds.

4.3.4 Accessibility requirements in other EU legal acts

The Audiovisual Media Services Directive (Directive 2010/13/EU, AVMSD) requires media service providers to make their content progressively accessible (by offering features like subtitles, audio description, and sign language), and to ensure that the interfaces, menus and electronic program guides are accessible. (Access to audiovisual media services is covered by the EAA.)

The European Electronic Communications Code (Directive (EU) 2018/1972, EECC) requires that persons with disabilities have equivalent access to electronic communications services (like mobile and fixed telephony, internet access, messaging apps); contracts, billing and customer support are available in accessible formats; and emergency communications are accessible.

The Electronic Identification, Authentication and Trust Services Regulation (Regulation (EU) No 910/2014, eIDAS) requires that electronic identification means, trust services (e.g., electronic signatures and website certificates) and end-user products used in those services are available in plain and intelligible language, following the EAA requirements. In addition, European Digital Identity Wallets need to be accessible by following the EAA requirements.

The EU Passenger Rights Regulations² set accessibility requirements for air, rail, bus and boat passenger transport.

The Artificial Intelligence Act (Regulation (EU) 2024/1689, AI Act) sets accessibility requirements for high-risk Artificial Intelligence (AI) systems, for the EU database for high-risk AI systems, and for transparent information about certain AI systems.

4.3.5 European accessibility standards

The accessibility requirements in European accessibility legislation are supported by harmonised European standards. The EAA will be supported by:

- European standard EN 301549, specifying accessibility requirements for checking the conformance of ICT products and services with the EAA and the WAD;³

² Regulation (EC) No 1107/2006, Regulation (EU) 2021/782, Regulation (EU) No 181/2011 and Regulation (EU) No 1177/2010.

³ Annex I Table 2 in Standardisation request M/587.

- European standard EN 17161, specifying requirements for the development process based on the Design for All approach in products, goods and services so that accessibility is incorporated, and can also be used to define, require and assess the technical capacity of the supplier;⁴
- European standard EN 17210, setting requirements for accessibility and usability of the built environment;⁵
- a new European standard on support services;⁶
- a new European standard on information about accessibility;⁷
- a new European standard on the accessibility and interoperability of emergency communications.⁸

All harmonized European standards are required to contain an Annex Z where it is shown which technical requirements can be used to meet the legal obligations.

4.4 Public procurement legislation (with focus on provisions regarding accessibility)

4.4.1 Introduction

This section provides an overview of the logic and provisions of the public procurement directives in relation to accessibility and explains how the EAA affects procurement.

This report is based on the provisions of the public procurement directives, and not on the national legislation of EU Member States resulting from the EU legislation. It is important to underline that national implementations might differ, and the use of the guidance in this report might be influenced by such differences.

Tenders with a value estimated to be below specified thresholds are not covered by the public procurement directives, and so it is for Member States to decide whether such contracts are subject to national rules. These thresholds were originally specified in Article 7 of Directive 2004/18/EC, and are now regularly updated by regulation.

4.4.2 Public Procurement Directive (Directive 2014/24/EU)

The Public Procurement Directive (Directive 2014/24/EU, PPD) provides the general legal reference for the obligatory requirements for public procurement. For all procurement that falls under the PPD and is intended for use by natural persons, the technical specifications need to set accessibility criteria and require a Design for All approach, except in duly justified cases. These requirements are not limited to products and services for the general public, but also need to be set for those used by the staff of the contracting authority or other public authorities. This helps accessibility and inclusion in the workplace, both for current staff with disabilities and facilitating future hires.

⁴ Annex I Table 2 in Standardisation request M/587.

⁵ Annex I Table 2 in Standardisation request M/587.

⁶ Harmonised standard(s) setting up requirements on the accessibility of non-digital information related to products, see Annex I Table 1 in Standardisation request M/587.

⁷ Harmonised standard for the accessibility of support services related to products and services (help desks, call centres, technical support, relay services and training services), see Annex I Table 1 in Standardisation request M/587.

⁸ Harmonised standard for the accessibility and interoperability of emergency communications and for the answering of emergency communications by the public safety answering point (PSAPs) (including to the single European Emergency number 112), see Annex I Table 1 in Standardisation request M/587. A blueprint for the EN 303 919 has been published as ETSI TS 103 919 and can already be reviewed.

If EU law sets mandatory accessibility requirements (e.g., the EAA⁹), the technical specifications will reference those requirements. However, the technical specifications do not need to be limited to them: it is possible to set further accessibility requirements, as long as they do not create unjustified obstacles for competition.

When there is no EU legislation that sets mandatory accessibility requirements, they need to be set in the technical specifications, as usual, in terms of performance or functional requirements and/or by reference to technical specifications (e.g., standards).

Beyond establishing the requirement of accessibility in the technical specifications, the contracting authorities can also establish selection and award criteria to ensure the accessibility of the procured product or service.

Below is an overview of the aspects where the PPD refers to accessibility:

- Technical specifications need to consider accessibility, meaning setting requirements ensuring that the procured product / service is accessible, apart from duly justified cases. (See: Recital (76), Article 42(1), Annex VII Section(1)(a-b).)
- Labels (e.g., EC marking) might be required (in the in the technical specifications, the award criteria or the contract performance conditions) to prove that the product / service complies with the accessibility requirements. (See: Recital (75), Article 43(1).)
- Selection and/or exclusion criteria might consider the ability of the bidders to deliver accessible products or services, or their history of violating accessibility rules. (See: Recital (101), Article 58(4).)
- Award criteria and contract performance conditions might consider accessibility beyond the mandatory requirements, and be part of identifying the most economically advantageous tender with best price-quality ratio. (See: Recital (99), Article 67(2)(a), Article 76(2).)
- Quality assurance certificates might be required regarding accessibility. (See: Article 62(1).)
- Electronic communication in the public procurement procedure should take accessibility in due account. (See: Recital (53).)

The principle of proportionality has implications for the selection of the types of evidence requested, in particular with respect to cost and time resources needed for producing the evidence. Proportionality means that the contracting authority does not impose restrictions on the tenderers by setting out more requirements than necessary to meet the needs in the procurement in question. In addition, proportionality means that the personnel and financial resources spent on the procurement process are reasonable, considering the scope and cost of the subject-matter of the procurement.

4.4.3 Concession Directive (2014/23/EU) and Utilities Directive (2014/25/EU)

Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors (Utilities Directive) contains similar provisions to those in the Public Procurement Directive. Where this report refers to the PPD, those parts are also applicable to procurements under the Utilities Directive.

Directive 2014/23/EU on the award of concession contracts (Concession Directive) makes it possible – but not mandatory – to address accessibility in the technical and functional requirements.

⁹ The EAA expressly states that it constitutes mandatory accessibility requirements within the meaning of the public procurement directives. (See Article 24.)

4.5 ICT products and services in public procurement

4.5.1 General

This section describes in general the products and services that are covered by accessibility legislation; as well as covering the accessibility aspect for products and services where there are no mandatory accessibility requirements adopted by a legal act of the EU.

4.5.2 Products and services with mandatory accessibility requirements

A number of EU laws set mandatory accessibility requirements, that need to be referenced in the technical specifications. (See the legislation listed in section 4.3.)

The EAA requires that a wide range of products and services are designed and produced to maximise the (foreseeable) use by persons with disabilities. These products and services, beyond being accessible themselves, also need to be accompanied by accessible information on their functions and features.

- Examples of products that fall under the EAA include personal computers (PCs), mobile phones, smart TVs, e-book readers, payment terminals, ATMs (automated teller machines), ticketing machines, check-in machines, and interactive self-service terminals.
- Examples of services that fall under the EAA include web- or app-based communication services, access to TV broadcast and streaming, passenger transport, consumer banking, e-commerce and e-books.
- For the full list of products and services, refer to Article 2 of the EAA.

Future legislation might adopt mandatory accessibility requirements for further ICT products and services.

The EAA sets a thorough list of accessibility requirements, both at the general level and for the specific product/service categories, covering the provision of information about the product/service (including packaging and user instructions as well as the available accessibility features), the user interface and support services. These requirements can also be used – and be referenced in technical specifications – for products and services that are covered by accessibility legislation other than the EAA, whenever they are applicable technically.

The accessibility requirements set in the EAA will be supported and further detailed in harmonised European standards¹⁰. From the legal point of view, these standards are voluntary: it is permitted to fulfil the legal requirements in other ways. However, these standards provide a structured set of technical requirements, and they also provide the presumption of conformity: if a harmonised standard is followed, the product/service is considered conforming to the legislation in regard to the aspects the standard covers.

It is important to note that these standards can also contain technical requirements that are not necessary for conforming with the relevant law. For that reason, harmonised European standards have an Annex Z (earlier Annex A) that lists the parts of the standard that correspond the requirements in the legislation.

The WAD covers public sector websites, web applications, and mobile apps and sets accessibility requirements by referring to the four accessibility principles: perceivable, operable, understandable and robust. These requirements are further detailed in the Harmonised European Standard for the directive: EN 301549. Annex A of the standard lists the relevant technical requirements that correspond the requirements in the Directive. (Annex A is being moved to Annex Z, and EN 301549 will have two

¹⁰ A harmonised European standard is a European standard that can be used to demonstrate that products, services, or processes comply with relevant EU legislation.

‘Annex Z’s: Annex ZA listing the technical requirements relevant for the WAD, Annex ZB listing the relevant technical requirements for the EAA.)

For more details on harmonised standards related to accessibility legislation, see section 4.3.5.

4.5.3 Products and services without set accessibility requirements

There is a wide range of ICT products and services that do not fall under EU accessibility legislation, for example, internal IT systems used by public administrations for electronic document management, process management, or other internal functions. However, when they are the subject of public procurement, according to the Public Procurement Directive the technical specifications need to set accessibility requirements.

The accessibility requirements in the EAA can also be used for products or services not directly in the EAA scope or not in the scope of any EU accessibility legislation. The EAA requirements can help clarifying how to comply with accessibility requirements set in other EU laws or provide the accessibility requirements where there are none set in EU legislation. They also help complying with the requirement of accessibility set in the Public Procurement Directive.

For products and services that are not directly covered by the EAA, but whose features, elements or functions correspond to those set in the Directive, the technical specifications can refer to the EAA – at least to the extent of those features, elements and/or functions. For example: an intranet website, that is not covered by any EU accessibility legislation, but that is not technically different from any websites that are covered under the EAA. The EAA establishes that if there is another EU law requiring accessibility for a product or service, the requirements of the EAA can be applied.¹¹

For the contracting authority, on the other hand, referring to the EAA in the technical specifications also provides the presumption of compliance with the Public Procurement Directive: it ensures that accessibility is adequately considered.

For ICT products and services that have no features, elements or functions covered in the EAA, accessibility requirements need to be set in the technical specifications in terms of performance or functional requirements and/or by reference to standards (see Article 42(3) of the PPD). The selection of standards depends on the specific features, elements, and functions of the ICT; options might include the European standard EN 301549, other applicable standards, and notably European standard EN 17161, which addresses the Design for All approach.

Section 6.2 provides further details on identifying relevant accessibility requirements.

5 Incorporation of ICT accessibility considerations

5.1 Introduction

As indicated in section 4.4.1, the Public Procurement Directive has been requiring since 2017 that accessibility is taken into account in the procurement process for products and services intended for natural persons (Article 42). Still, contracting authorities were lacking a clear guidance on what specific accessibility requirements to use. Consequently, such requirements have often not been included as part of the technical specifications or were included only in a general manner. The EAA equips the contracting authorities with a clear guidance on the minimum level of accessibility that needs to be ensured for the various products and services, making it easier to arrive at better specifications.

However, currently there is an apparent gap between the degree of accessibility that needs to be achieved for the products and services procured, and the ability of the market to deliver accessibility. This gap poses a severe problem for a successful procurement. The subsequent subclauses elaborate on how to bridge and prevent such gap from occurring in the future.

¹¹ See Article 24(2) of the EAA.

The primary goal of this document is to offer guidance on integrating accessibility considerations into procurement processes. At the time of the writing of the present document, the market frequently falls short of meeting even the basic accessibility requirements immediately. This section provides recommendations on how to address these shortcomings and promote necessary changes, to ensure the successful procurement of accessible products and services.

5.2 Preparing the market: Early information to economic operators

5.2.1 General

One of the fundamental remedies to facilitate the market adaptation to the new accessibility requirements is an active and forward-looking planning on the side of the contracting authorities.

5.2.2 Understanding and tracking user accessibility needs

Contracting authorities might involve end-users, particularly persons with disabilities or Organisations of Persons with Disabilities (OPDs) to ensure that users' accessibility needs are considered in the procurement and reflected in the public procurement documents. This is more important for products and services without accessibility requirements in European legislation, and even more for those that use novel solutions. The involvement of end-users can happen in various phases: when defining the product/service, when conducting market consultations, and when verifying compliance.

Following technological developments, user needs regarding accessibility are continuously evolving. It is important that contracting authorities monitor these changes. Such monitoring is realistically achievable only at regional or national levels, where sufficient resources, data infrastructure, and coordination mechanisms are in place. To support this process, it is advisable for the contracting authorities to maintain an active dialogue with OPDs. This can include:

- involving disability organizations in preliminary market consultations to define accessibility needs,
- creating advisory panels with accessibility experts and user representatives to review procurement plans—focusing on how well these plans reflect user requirements and address existing barriers.

The national or regional authorities are also encouraged to coordinate sharing and exchange of good practices among contracting authorities. This could be achieved by:

- organisation of regular meetings where contracting authorities share their experiences,
- an online repository of good practices, with practical tips on how to achieve best results.

An example for the latter: a municipality partnering with a local OPD to define accessibility requirements for a new ticketing app, resulting in a 20% increase in user satisfaction among persons with disabilities

While the inclusion of users and user organisations is strongly recommended, it has to be noted that not all users are equally well-positioned to inform accessibility requirements. Preferably, input is not restricted to isolated or individual opinions, but rather on contributions from various users or representatives with demonstrated knowledge and experience in accessibility. This ensures that the requirements are both relevant and technically sound. (See also section 7.4.4.3 below.)

5.2.3 Awareness raising

It is recommended that the contracting authorities actively inform economic operators, as soon as possible, that adherence to accessibility standards in current and future procurements will be / is mandatory – i.e. potential bidders cannot win the contract if they cannot meet these requirements. The information needs to outline a broad scope of accessibility requirements that are likely to become a part of the technical specifications and selection criteria, as well as possible award criteria in future procurement activities. Section 4.3.5 of this document presents standards that can be used as guidance in this context.

This general awareness raising campaign is essential. At the time of starting a procurement process, the bidders will usually not have enough time for any significant re-design or remediation that would turn inaccessible products and services into accessible ones.

Instruments for informing the market are, for example, publications on online platforms or in trade journals, and early requests to potential suppliers for an accessibility strategy regarding the upcoming procurement of products and services. It is important that contracting authorities ensure that the information also reaches the relevant SMEs. A continuous dialogue is likely to alert existing suppliers to consider the new requirements for future releases of ICT. The earlier economic operators know that they need to deliver accessibility, the more likely the contracting authority will have a selection of suitable offers to choose from.

It is important to note that while awareness raising addresses the current shortcomings of the market at the time of writing this document, it will be needed continuously. Accessibility requirements will continue to evolve over time. There are constantly new technical developments where functions and features are introduced into products and services that might impair access for users with disabilities. Standards development reacts to these changes and addresses them in additional requirements in new versions of the standard. For example, WCAG 2.2 introduced new requirements like target size and dragging movements that responded to the spread of touch interfaces long after these became common. Advancement in Augmented Reality (AR), Virtual Reality (VR) and Artificial Intelligence (AI) are similarly expected to lead to new accessibility requirements in future versions of standards. By following these developments, both the contracting authorities and the market operators need to ensure products and services will be, and remain, accessible.

5.2.4 Preliminary market consultations

Considering the perceived general market gap, it is important to obtain the correct picture on what the market offers in relation to the specific areas of planned procurement through preliminary market consultations. This helps ascertaining the maturity of the market and assessing the possibility of setting additional accessibility requirements in the technical specifications or in the award criteria, as well as the availability and strength of the different types and ways of conformity assessment. Monitoring of the market supply by contracting authorities and the identification of any current accessibility gaps in products and services facilitates the successful inclusion of all necessary accessibility requirements in the procurement process.

5.2.5 Prior information notice

Prior information notices¹² for specific future procurements, as foreseen in the PPD, are another useful tool. However, their use is limited, as they cannot provide information on the accessibility requirements (or other details) of the future procedure earlier than one year before the launch of the public procurement procedure. If they are released shortly before procurement begins, these notices give economic operators even less time to adjust.

Nevertheless, prior information notices still extend the time available for bidders to take into account accessibility requirements: to enhance their products or services (see section 6.2), to improve their competence and capacity (see section 6.3 and section 6.4), to carry out conformity assessments (see section 7), or to find the right partners or subcontractors.

It is advised to plan prior information notices in coordination with the accessibility awareness raising activities – that is, to raise awareness first before putting out an information notice when the market of suppliers is not yet mature enough.

¹² See Article 48 of the PPD.

5.3 Towards genuine incorporation of accessibility

Because of the mismatch between the formal requirements and the market's actual ability to meet these requirements, there is a danger that the products and services procured will be accessible only "on paper".

Given that contracting authorities are obliged to incorporate the minimum accessibility requirements in the technical specifications, that need to be met by any bid to be considered eligible, there is a risk that bidders will be tempted to claim accessibility without any detailed documentation, and that contracting authorities will be accepting these claims without the necessary scrutiny.

To avoid such situations, it is essential that contracting authorities, in addition to formulating accessibility requirements, are also clear in their specifications on the conformity assessments/declarations that need to be provided by the bidders. While it might not be feasible for the contracting authorities to conduct such assessments of the different offers, they need the competence to assess the validity of any conformity assessment documentation presented by bidders. Section 7 of the present document delivers specific guidance on this aspect.

5.4 Working together to ensure accessibility

One of the challenges mentioned above is that at the time of writing the present document, many economic operators might not be ready to deliver the required level of accessibility in the timeframe of on-going or soon-to-come procurements.

To address this problem, some contracting authorities consider contracts where the bidder's obligation to deliver accessibility is set with a delay, i.e. to meet all accessibility requirements within a contractually defined timeframe, in order to ensure a procurement process with a sufficient number of bidders. (See also in section 8.5.1.) While not ideal, such constructs might be needed to successfully conduct the procurement at all. If this approach is followed, contracting authorities are encouraged to create strong incentives for economic operators to achieve the required accessibility as soon as possible. One mechanism for facilitating this can be specifying the delay in accessibility delivery as an award criterion (see section 6.4) – the sooner accessibility is delivered, the higher the offer will be rated.

Contracting authorities need to ascertain explicitly and carefully the successful implementation of the requested degree of accessibility, particularly in cases where there is a contractually agreed delay. By means of conformity assessments or other reliable checks, the contracting authority is able to rigorously evaluate whether the promised accessibility integration has indeed been achieved.

A follow-up process is crucial even for contracts with no anticipated delays in accessibility delivery. Contracting authorities need to ensure that appropriate, up-to-date conformity assessment or remediation documentation is required and evaluated, as detailed in section 7 of this document.

6 Defining technical specifications, selection criteria and award criteria

6.1 Introduction

A public procurement procedure has various elements that can ensure accessibility. First of all, it is good practice that the technical specifications set the accessibility requirements clearly, with the adequate level of detail, and in a way that can be assessed and enforced during the delivery of the product or service. Furthermore, setting award criteria related to accessibility helps selecting the tender with the highest potential to deliver an accessible product or service, or even one with relevant accessibility aspects beyond the mandatory requirements.

To ensure that the ICT procured will be accessible, it might be important to assess the general ability of the bidder to deliver accessible ICT, by using selection criteria.

For ICT products and services that are in the scope of the EAA, the technical specifications need to be defined by reference to the EAA.

As indicated in section 4.3.5 and section 4.5.2, the accessibility requirements of the EAA are to be supported by a set of harmonized standards that are considered as a source of specific accessibility requirements to be met by a product or a service under procurement.

It is good practice to use the harmonised standards to identify the minimum set of relevant accessibility requirements to be included in technical specifications so that conformance with the applicable EU Directives is ensured.

NOTE 1 The harmonised standards can be referenced together with the accessibility legislation in the technical specifications, or in themselves. If they are referenced in themselves, it is important that the technical specifications allow bidders to use other, equivalent standards or other technical reference systems. (See Article 42(3)(b) of the PPD.)

By using the relevant harmonized standards for the definition of relevant requirements, public authorities can ensure that the ICT procured are accessible. This approach helps align procurement with legal accessibility requirements, such as those in the EAA.

NOTE 2 Some of the harmonised European standards for the EAA are not yet finalised and/or published at the time of writing the current document: only three of the standards exist (EN 301549, EN 17161 and EN 17210), and only EN 301549 v3.2.1 has been harmonized in the past. Consequently, guidance provided in the current version of the report is restricted to the currently available standards' framework.

6.2 Technical specifications: identification of relevant requirements

6.2.1 How to identify the relevant accessibility requirements for an ICT product or service

6.2.1.1 General

Although compliance with a specific standard is not mandatory to satisfy legal accessibility requirements, it is advisable to reference harmonized standards, as they are verified to incorporate the criteria necessary to meet minimum legal obligations.

In the context of identification of the core accessibility requirements for an ICT product or service, the most relevant among the standards is EN 301549.

Procurement can concern a broad spectrum of ICT products and services— from self-service terminals, ticketing machines, and ATMs to web-based platforms and mobile applications. These solutions can also incorporate hardware components, such as fingerprint scanners for authentication, barcode readers for ticket validation, or cameras for image recognition.

ICT serving very different purposes often share common functionalities. For example, an online learning platform and a public transport ticket machine serve very different purposes, but have in common a text-based interaction; for accessibility they both need to provide alternative to text output and input, and compatibility with assistive devices. EN 301549 includes generic accessibility requirements related to functionalities rather than any particular type of ICT product or service.

To determine the applicable requirements for a procurement, a contracting authority needs to identify the desired functionalities of the product or service. The specifications need to be adequate to meet the needs and goals of the contracting authority, but not overly detailed. Overspecification in terms of requested functionality or how to address accessibility needs to be avoided, when possible, as it could lead to unduly restrictive specifications that might exclude products and services that otherwise meet the essential objectives of the procurement. Once the set of requested functionalities is defined, the applicable technical requirements of the harmonised standards that ensure accessibility of the different functions of the product or service can be identified.

At the time of writing the present document, there are several automated tools under development that facilitate the selection of all applicable requirements of the EN 301549, relevant to a given ICT, focusing on specific functionalities of the product or service rather than its general category (see Annex B). Such tools, when certified to be reliable, can effectively help in identifying the applicable accessibility requirements. It is advisable to use the tools that are based on negative selection, i.e. eliminating (sets of) requirements not relevant for the product or service.

It is good practice to use such tools in order to ensure that all applicable requirements are identified in the procurement documentation, and that the bidders can document conformance with these requirements.

In general, it is not advisable to specify any particular group of users to be the target group for a publicly procured product or service. However, in the rare cases where it can be justified, it might be easier to identify the relevant accessibility requirements starting with the requirements addressing the needs of a specific group of users. For these cases, Annex B of EN 301549:2021 can be consulted. The annex helps to establish for specific 'functional performance criteria' (reflecting user needs) which technical requirements of EN 301549 (contained in clauses 5 through 13) must be met for the product or service to be accessible. The set of technical requirements of EN 301549 identified as critical for a particular user group, can be further filtered according to the desired functionality using Annex ZB in the EN 301549:2021 as a reference.

The EAA lists the same functional performance criteria, to be followed when there are no accessibility requirements set out in the directive. For a function, a feature or a mode of operation that is not covered by the accessibility requirements in the EAA, following the functional performance criteria would ensure accessibility. The same approach can be followed for products and services that are out of the EAA scope and where no accessibility standards exist.

6.2.1.2 Products and services to be developed

It is important to realise that with some services or products, the exact set of applicable requirements might not be known from the outset and can depend on agreed implementation choices down the line. For example, a new release of an online service might add video conferencing as a feature which would then introduce Real-Time-Text communication requirements as covered in clause 6 of EN 301549:2021. The procurement documentation can cover those cases by demanding adherence to the entire standard beyond the requirements that are explicitly covered in the technical specifications at the time of the tender.

It is encouraged to define additional requirements addressing accessibility, extending the minimum required by the legislation – if the maturity of the market allows for that. Any additional requirements could also be defined and included as part of the award criteria (see section 6.4). The contracting authority needs to determine and decide which of the additional requirements are included as part of the mandatory technical specifications, and which are included as part of the award criteria.

In addition to the requirements of EN 301549, the requirements in the other harmonised standards will also be considered.

6.2.2 How to identify the accessibility requirements for a process of developing accessible ICT products/services

The process followed during the development of new products or services – as well as for altering or updating them – has a significant impact on the success of achieving a fully accessible result. In many current development contexts, accessibility is hardly a definite set of aspects of a product or service. Rather, it needs to be developed incrementally based on the accumulated results of various examinations and testing. It needs to be integrated in a gradual way throughout the process of development.

Contracting authorities therefore also includes procedural requirements in the technical specifications to ensure that the development process takes accessibility into account at the earliest possible stage – when this is required in the EAA. It is advisable to consult EN 17161 in order to identify more specific requirements that the development process needs to meet.

NOTE At the time of writing the present document, the EN 17161 revision work is not yet completed.

Drawing on the version published at the time of writing this guidance, EN 17161:2019, the following accessibility and usability aspects might be considered for inclusion in the set of technical specifications to ensure a process that facilitates development of accessible ICT products and services. However, including usability, while important for any product or service, is not a legal obligation.

A. Use of Design for All approach in development

- Assess whether the supplier integrates a Design for All approach throughout the product/service development, including the early, conceptual requirements, definitions and design phases.
- Request documentation of design processes and methodologies, with a particular focus on how users are involved (e.g., through focus groups or user prototype testing schemes).

B. Product/service testing to prove accessibility and usability

- Require suppliers to conduct accessibility testing with users, including persons with disabilities.
- Request documented results of usability studies and improvements made based on user feedback.

C. Compatibility with assistive technologies

- Ensure that ICT products and services are tested for compatibility with assistive technologies as required by EN 301549.
- Require proof of adherence to technical standards, e.g., addressing full keyboard operability that will make products and services accessible for assistive technologies relying on the keyboard interface, such as screen readers, speech input, and switch input devices.

D. Contractual requirements to maintain accessibility standards

- Include contractual obligations requiring suppliers to adhere to EN 17161:2019 throughout the contract duration.
- Require periodic accessibility audits and compliance reports.
- Specify penalties or corrective measures if accessibility requirements are not met.

Declarations and certificates of applying the Design for All approach in development can be required to confirm that the bidder deploys the process. It is advisable that the contracting authorities also ask for more information with details on how the process affects in practice the work on a product or service. Acquisition of more detailed information is especially important in cases where the procurement concerns development of a new product or service, or adjustments of existing ICTs. Any development or alteration of an ICT benefits from taking into account the Design for All approach, increasing the chances that accessibility is successfully integrated.

In case of procurement concerning the delivery of off-the-shelf ICT, the requirements for a given development process might be less prevalent. Still, in those cases, implementation of work processes based on Design for All principles can be relevant, for example where ICT meant for the use by natural

persons is modified, customized or integrated with other systems. In such cases, the contracting authority might consider including aspects that go beyond the legal requirements as part of the award criteria.

6.2.3 Responding to the requirement in the technical specifications to follow the Design for All approach (EN 17161) – in practice

In addition to providing a general statement that the bidder follows the Design for All approach, the contracting authority can request a short description of the practice, especially in cases where the product is new or to be developed. Relevant elements of such a description might be:

- including a dedicated accessibility expert or team as integral part of the development to ensure that accessibility is considered at all stages;
- where the product or service replaces an existing product or service, establishing with its users – wherever possible – what accessibility and usability issues exist that will need to be addressed in a redesign or replacement;
- commenting on early drafts and design sketches / wireframes and pointing out potential accessibility issues;
- testing the accessibility of component libraries to be used in development and giving feedback on what needs to be fixed;
- checking the accessibility of pages, views, widgets or workflows during development and giving feedback on what needs to be fixed;
- conducting standards-based accessibility audits at the prototype stage, also involving user testing where applicable;
- involving users in the different stages of the design and development (e.g., through user panels or user testing);
- carrying out user acceptance tests.

6.3 Selection and exclusion criteria

Selection criteria are the criteria by which economic operators qualified to submit tenders are judged.

Expertise in developing accessible ICT is suggested to be an integral part of the selection criteria (see Article 58 of the PPD). Aspects that might be assessed are:

- documented knowledge of ICT accessibility, including knowledge of the Design for All approach;
- experience and track record in developing accessible ICT, including the application of the Design for All approach.

It is advisable to develop specific points for suppliers to provide consistent information about their capacities and expertise. Such points might be questions about accessibility policy, training for the staff, accessibility-related tools used for development, testing and quality assurance methodology, or examples of past accessible products or services. These aspects need to be considered also for any subcontractors that would be engaged in the delivery.

The EN 17161 on the Design for All approach is a good source to specify in more detail the criteria for assessing suppliers' technical and professional abilities. Possible selection criteria focusing on the ability of the supplier to deliver accessibility include (unless they are set as legal requirements and therefore need to be included in the technical specifications):

A. Supplier Experience and Competence in Accessibility

- Requiring suppliers to demonstrate prior experience in applying Design for All principles and approach.
- Requesting case studies, previous contracts, or references that showcase successful implementation of the Design for All approach and the resulting accessibility in the supplier's products or services.
- Proof of the suppliers' ability to meet the accessibility requirements of EN 301549 for ICT-based services and products.

B. Organisational Capability and Resources (product/service development processes deployed)

- Proof that the internal accessibility management system is aligned with EN 17161: Does the supplier implement a process that accounts explicitly for accessibility aspects?
- Proofs that the supplier has dedicated personnel or teams responsible for accessibility and the Design for All approach: Is there a dedicated expert or team with accessibility competence to lead and supervise the development process?

C. Certification and Compliance with EN 17161

- Requiring suppliers to provide independent verification or certification that they follow EN 17161:2019 principles – if available in the Member State.
- Requesting third-party assessments or internal audits showing compliance with the requirements/standards.

D. Training and Competence of Staff

- Evaluating whether the supplier provides accessibility training for their workforce.
- Requiring suppliers to demonstrate ongoing professional development in accessibility and the Design for All approach.

When contracting authorities require or want to consider certificates drawn up by independent bodies, the validity of such certificates needs to be assessed in accordance with Article 62 of the PPD. In this context it is essential to identify the relevant accredited certification bodies and schemes. The eCertis information system¹³ can be consulted to identify the relevant certificates or to verify the certificates provided by the bidders from across the EU.

Contracting authorities also have the possibility to set exclusion criteria that directly exclude economic operators that have proven unreliable: either when evidence exists of poor accessibility of products or services procured earlier from an operator, or evidence that the operator was unwilling or unable to remedy accessibility issues as part of contractual obligations. The relevant exclusion criteria are to be applied before the selection criteria, irrespective of whether the economic operator would otherwise have the knowledge and/or ability to perform the contract.

The use of exclusion criteria is limited by the PPD provisions. The possible types of exclusion criteria are listed in Article 57(5) of the PPD; and if the bidder provides sufficient evidence of measures taken to re-establish its reliability, they cannot be excluded from the procurement procedure.

¹³ <https://ec.europa.eu/tools/ecertis/#/overview>

6.4 Award criteria

It is vital to recognise that the minimum set of accessibility requirements for ICT products and services that are covered by EU accessibility legislation ought to be specified as part of the technical specifications (see section 6.2), and need to be delivered by the tenderer.

Award criteria allow the contracting authority to identify best offers among those that meet – or exceed – the technical specifications. Setting accessibility requirements in the award criteria that go beyond the technical specifications has the potential to create competition on accessibility among bidders and can result in innovative bids.

Article 67 of the PPD explicitly mentions “accessibility, design for all users, social ... characteristics” as possible award criteria linked to the subject-matter of the public contract. Accessibility and usability aspects beyond the accessibility requirements set in the technical specifications could be therefore incorporated into award criteria.

The harmonised standards (see section 6.1) can be also consulted to identify relevant award criteria. As indicated, each of the standards will contain an Annex Z specifying the minimum scope of the requirements (see section 4.5.2.6.2). However, the standards contain a number of additional requirements that increase accessibility and that could be used as award criteria.

It is important to emphasize that the award criteria do not have to be limited to additional accessibility features of ICT products or services. They can also involve aspects related to the development process, usability or conformity assessment.

As indicated in section 5.4, given the mismatch between the contracting authorities’ requirements for accessibility and the accessibility of the actual market offer, the contract might foresee meeting the accessibility requirements with a delay. In such case, the length of the delay can be used as an award criterion differentiating among the offers. However, it is important that contracting authorities always set a maximum permissible delay.

Award criteria could also be linked to the ability or capacity of the bidder (unless it is set as a selection criteria). The bidders who can engage more experts with documented competence in ICT accessibility or who involve more users (users with diverse needs/disabilities) can be given higher marks as they are more likely to ensure the accessibility of the procured products and services. For the development of these award criteria, the EN 17161 can be a good source of reference.

The PPD assumes that the chosen award criteria are publicly set out either in the original contract notice or in the invitation to tender. Article 67 of the PPD requires that the weighting of each criterion is disclosed, together with the same information on any award sub-criteria. The weightings are required to be given as an exact number, (e.g., quality 25 %) or alternatively as a meaningful range (e.g., quality 20 % - 30 %). Where weighting is not possible for objective reasons, the contracting authority needs to indicate the criteria in decreasing order of importance.

Nevertheless, weighted scores can also be considered for other aspects related to accessibility and inclusion in order to differentiate among the different offers. Scores can also be assigned for additional accessibility features beyond the required minimum.

Weighted scores can also be assigned to the reliability and/or quality of the conformity assessments provided by the tenderer to certify that the applicable accessibility requirements are or will be met.

Methods and forms of conformity declarations, as well as their evaluation by the contracting authority, are discussed in section 7. When evidence of conformance is part of the award criteria, low scores are assigned in cases of low confidence evidence, and evidence with the highest confidence levels results in higher scores.

7 Conformity assessment

7.1 Introduction

Ideally, contracting authorities require that the tenderers provide a documented assessment to prove the conformity of the product or service with the requirements in the technical specifications, the award criteria or the contract performance conditions. It can take many forms: apart from the EU declaration of conformity (required for products in the scope of the EAA), it can range from a test report or a certificate from an independent conformity assessment body to a self-assessment by the economic operator. For services to be developed, a full conformity assessment will usually stand at the end of the development process. Other more targeted methods can be applied during development to ensure that at the time of delivery, the product or service is accessible. This would then be confirmed by a final audit (or the audit will only report few issues to be remedied).

Put in simple terms, a conformity (or conformance) assessment checks that a product or service meets all applicable requirements laid out in a technical standard like EN 301549 or EN 17161 or other set of requirements.

There are many methods to perform conformity assessment. It is important that the contracting authority requires a documentation that allows for scrutinizing the conformity reports. (See sections 7.4.2, 7.4.4 and 7.5.2.) As contracting authorities might not have the capacity or the detailed accessibility knowledge to carry out accessibility audits themselves, therefore the following guidance focuses on methods for scrutinising evidence provided by suppliers that do not rely on in-depth checks against detailed requirements.

It is important to note that each conformity assessment can only capture the accessibility of the product or service at a given point in time. There are products and services that frequently add or change content, features or functionality, which means any assessment can and often will be quickly out of date. This also means that the contracting authority needs to require up-to-date assessments, for example, in cases where existing products or services are modified or extended as part of the normal product or service life cycle, or the state of accessibility needs to be verified after remedial actions.

7.2 Conformity assessment in practice

Typically, not every single aspect of a product or service is assessed because of the effort it would entail. Instead, a representative sample of elements (such as pages, views, or hardware interfaces) of the product or service is defined. For each applicable requirement, the conformity assessment then involves running one or several tests to check whether the requirement is satisfied. These tests differ depending on the requirement. Some will involve visual or even tactile inspection (for example: can physical controls, like buttons, be discerned both visually and tactilely? do they not only rely on colour as the means of differentiation?), others will involve operation (for example: can all elements in a web-based interface be focused and operated with the keyboard?), still others will involve measurements (for example: is the text contrast above a required threshold?). A full conformity assessment will check all applicable requirements against each element in the sample.

When the EN 301549 is the basis of a conformity assessment, a requirement is only applicable if the precondition specified for it is met (the preconditions are listed in Annex C Determination of conformance). For example, the requirements in clause 6 of the standard, Real-Time Text (RTT) functionality, will only apply if the ICT provides a means for two-way voice communication. If it doesn't, the requirement is not applicable.

When all applicable requirements are met, the product or service is deemed conformant. If some requirements are not met, a report can claim partial conformance and list those requirements that were not satisfied. Reasons can be given why these requirements could not be satisfied, sometimes indicating remedial actions or timelines for meeting them in the future.

For conformity assessment to bring real value, the contracting authority needs to consider its detailed results. A conformity assessment report limited to a general statement confirming that all the accessibility requirements were satisfied is not sufficient. The report needs to document how the conformity assessment was conducted, including both description of the methodology and the results obtained. Only based on such documentation can the contracting authority determine the actual conformity with the accessibility requirements.

7.3 Aspects for selecting the type of conformity assessment

In assessing the likely conformity of a product or service to be tendered, one important distinction is whether the product or service already (largely) exists on the market and the procurement process aims at selecting the most suitable offer from a group of bidders, or whether the product or service is novel and specific to the needs of the contracting authority, i.e. the product or service has to be developed according to specifications given by the contracting authority or developed in part following details that are specified in the negotiating process.

Examples of existing products or services would be a computer, an airport self-service check-in station, or an intranet application. Examples of a product or service to be developed would be a new website or application, a novel biometric service developed by a bank for customer authentication, or a new, app-based public transport information and ticketing system.

This distinction (product or service exists / product or service is to be developed) is not absolute: existing products or services will often be customised to serve the needs of the contracting authority, or the existing functionality might be extended. Even where novel products or services are developed, these are often based on similar products or services for which accessibility evidence can exist or could be generated. Usually, developments also use existing building blocks. For example, web applications often make use of pre-existing component libraries that might be more or less accessible. It is important that the following guidance is be used with that in mind.

7.4 The product or service exists

7.4.1 General

When the object of the procurement process is an ICT product or service that already exists, a conformity assessment is possible. For these products or services, a full conformity assessment report or some other, more limited type of evidence regarding the state of accessibility, provided by the bidder or by a third party, can already exist or be carried out by a potential bidder preparing to bid.

For products already on the market, the EAA requires an EU declaration of conformity which contains the necessary information to declare compliance with the legal requirements. The declaration of conformity needs to be kept/provided for 5 years after placing a product on the market. Annex IV of the EAA provides some details about this documentation and about carrying out the conformity assessment procedure.

For services already on the market, the EAA requires that information is published on meeting the accessibility requirements. This information is kept available as long as the service is in operation. Annex V of the EAA provides details about what information is included.

A conformity assessment report ideally includes information about the following aspects (most of them covered in more detail below):

- **Name of product or service:** The name of the product or service, including information to identify the particular instance or variant assessed (if applicable).
- **Summary of outcome:** A summary of the conformity assessment outcome (possibly listing the number of requirements out of the total number that were found to fail to conform).

- **Identification or location:** A means to locate the product or service where applicable, e.g., the root URL of a website, the URL of an app in an app store, the location of a self-service terminal, or the exact model of a laptop.
- **Version:** Where applicable, details on the product or service version that was assessed.
- **Product owner:** Details about the product owner and/or commissioner of the assessment (name, contact details).
- **Evaluator:** Details (including contact details) of the person and/or the organisation who carried out the assessment.
- **Date:** The timespan during which the assessment was carried out, and the completion date.
- **Scope:** Information on the scope of the assessment, especially if parts have been excluded.
- **Sample:** When the assessment was based on a selected sample: a list of the elements (pages, views) that was included in the sample assessed.
- **Standard or point of reference used:** A reference to the set of requirements or standard on which the conformity assessment is based, e.g., EN 301549. This might include the selection of applicable clauses, or when WCAG is used, the conformance level used. When the assessment is not based on a standard, but instead uses other relevant sources (e.g., legal accessibility requirements without reference to a standard), this reference point is stated.
- **Method:** Reference to the method or procedure according to which the assessment was carried out. This might be done by referencing a published methodology, for example the WCAG EM or a national conformance evaluation method for websites.
- **Environments:** Where applicable, a description of the environment(s) used in the assessment. For web audits, for example, this would be the operating systems, browsers, and assistive technologies used.
- **Tools:** Where applicable, the list of tools used for conducting automatic or manual checks as part of the assessment.
- **Technologies:** Where applicable, the list of technologies used in the assessment.
- **Processes:** Where applicable, the list of complete processes checked.
- **Issue identification:** Where applicable, the means to locate each issue (fail results, violations of conformity). This includes identifying the unit of conformity (such as a web page as defined by its URL and possibly, enumerated steps to reach the state where the issue occurs), as well as the location of the issue on that unit.
- **Issue description:** Where applicable, a description of the issue or violation.
- **Issue recommendation:** Where applicable, recommendations for remediation of issues.

7.4.2 Scrutinising conformity reports

7.4.2.1 General

When evidence regarding the degree of accessibility of an existing product or service is provided in the form of a conformity report, the quality of evidence needs to be scrutinised. There are several parameters that can be checked:

7.4.2.2 Recency

- **Time stamp of the conformity report:** How recent is the assessment?
- **Latest version of standard:** Has the latest or some older version of applicable standards been used?
- **Changes to applicable requirements since the conformity report:** Newer versions of the applicable set of requirements or standard can contain additional requirements that must be met by the product to conform.
- **Timeliness of the scope of the assessment:** Has the product or service been extended by functions or content that were not in scope at the time of testing?
- **Changeable nature of product or service:** The more the product or service is subject to frequent content updates, system upgrades or structural changes, the more important is a recent assessment result.

7.4.2.3 Content scope

- **Representative sample:** Does the conformity assessment cover a representative sample of the product or service? The sample ideally includes all relevant functionalities of the overall product or service, such as an assessment of hardware and documentation where applicable, as well as full processes from the end user perspective (for example, a complete purchasing process including checkout and payment). For websites falling under the WAD, Commission Implementing Decision (EU) 2018/1524¹⁴ provides an example for creating a representative sample in Annex 1, Section 3. Sampling of the pages. This can be used for other websites, as well.
- **Exclusions from scope:** In the conformity assessments available, are there any omissions or exclusions from scope that indicate that not the full product or service is covered? For example, a report can cover the accessibility of a web-based end user interface, but neglect interfaces of hardware involved in operation – for example, the interface and handling of a card reader used for authentication. The report might also omit the assessment of product or service documentation.
- **Exclusion of third-party elements:** Have important parts of the product provided by other suppliers, that might be critical for users, been considered out of scope in the conformity assessment? Examples are payment or authentication processes provided via third parties that are required to complete processes and must therefore be covered, as indicated in EN 301549:2021, clause 9.6. When it is clear that the available conformity assessment does not cover the full product or service, does additional evidence exist for those parts that are not covered?

¹⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32018D1524&from=EN>

7.4.2.4 Coverage

- **Completeness of requirements:** Have all requirements that should apply to a given product or service actually been covered in the conformity assessment?
 - Conformity assessments might leave out individual requirements that were deemed irrelevant or not applicable. For example, keyboard operability checks might be found missing in conformity assessments of mobile apps.
 - The conformity assessment ideally covers both the requirements in the applicable EN 301549 clause, such as clause 9 Web or clause 11 Software, and any additional requirements in other clauses referenced in mapping tables provided in Annex Z. For example, if a web-based application involves the use of a bar code scanner, a card reader, or a mobile app, the requirements in appropriate clauses of the standard need to be applied here in addition to clause 9 Web.
 - Irrespective of the scope of evidence (degree of coverage) in available conformity reports, the minimum accessibility requirements specified in the procurement documentation need to be met in the offer and during the execution of the contract.

7.4.2.5 Automated testing

For some types of products or services such as websites and web-based applications, options exist to run automated tests on content, either by using browser plugins, or by using web-based services that allow the insertion of a page URL that will then run an automated check on the given page. However, the results can only be taken as indicative. Many accessibility issues cannot be caught by automated checks because they require human evaluation. Also, some results of such tests might turn out to be “false positives”, i.e. they can report an error when there is actually no failure. Still, a high number of errors and warnings reported in automated tests will usually indicate poor accessibility of the content.

7.4.2.6 Quality

- **Quality and transparency of the conformity assessment:** Does the report back up scores or ratings with issue descriptions? Does it provide a rationale why a particular requirement is rated a “Fail”? Typically, any element or aspect that fails a requirement needs to be unambiguously identified and/or briefly described. The identification might refer to an element under test by name, position or other clear characteristics.
- **Contextual data:** Does the report contain sufficient contextual information about exclusions from the assessment’s scope where present, assessment date(s), the auditor involved, and the standards, tools and methods that were applied?

7.4.2.7 Originator

- **Independence of auditor:** The audit function is to be separate from other supplier functions and ideally be carried out by an independent party (not the developer of the product or service). The affordability of an independent assessment needs to be considered, and whether it is proportional to expect/require it.
- **Quality of self-assertion:** Do organisational processes exist to vet the quality of self-assertion, such as an independent quality assurance or a transparent and documented, verifiable audit procedure? An ISO 9001 quality management certification of the self-asserting organisation can be an indicator here.

- **Verifiable credentials of auditor:** Does the third-party auditor have a track record of audits? Is it recognised in the field? Is the audit process transparent and documented? Is the third-party supplier certified? (Note that general quality or process-oriented certifications usually do not demonstrate relevant accessibility domain knowledge.)

7.4.3 Using labelling systems

For products, the manufacturers are obliged to declare conformity with the requirements of the relevant European directives. The EAA is one of such directives, and the CE marking will indicate the conformity of a product with all applicable accessibility requirements. The CE marking is affixed, see Regulation (EC) No 765/2008.

The PPD indicates in Recital (75) that the contracting authorities can also refer to acknowledged labelling schemes linked to the subject-matter of the contract in order to determine that the purchased works, supplies or services meet the requirements. At the time of writing this document, there is no established accessibility label linked to the accessibility requirements for ICT services. However, if the contracting authority has concerns regarding the validity of a label, it is advisable to verify accessibility and/or request a conformity assessment upon delivery.

7.4.4 Scrutinising the results of usability tests involving persons with disabilities

7.4.4.1 General

Another type of evidence can be reports of usability testing of the product or service where testing involved persons with disabilities.

Users with disabilities show a large variety regarding modes of use, and, like other users, vary regarding general ICT skills, and also regarding their competence in using assistive technology like a screen reader, a magnification software or built-in assistive functionality like voice control. There can also be differences in domain-specific skills that can influence the outcome of a usability test, so it is expected that usability reports will reflect the scale of experiences users had.

7.4.4.2 Assessing the quality of usability testing

It is important to note that since usability is not legally required, the main purpose of scrutinising usability reports here is to identify aspects in the results that clearly indicate accessibility issues. For this, the inclusion of users with disabilities in usability tests is vital.

While usability reports, in themselves, cannot offer conclusive proof of accessibility and usability, the contracting authority can look at several parameters that give an indication of their quality:

- **Recency:** As with conformity reports, the more recent the usability testing, the better.
- **Content scope:** In contrast to conformity reports that are based on a representative sample in order to cover all functional aspects of a product or service, usability testing is often more limited, for example, by selecting a particular task sequence.
- **Number of users involved:** How many users were included in usability testing? Due to the diversity of abilities, modes of use, and user skill levels, usability tests involving persons with disabilities usually do not result in statistically valid results. Nevertheless, they have great value in identifying accessibility issues that need to be addressed, and in turn can give some indication of the level of usability and accessibility of the product or service tested. (See also section 7.4.4.3.)
- **Users with different types of ability / disability included:** Did the usability test include users with a range of (dis)abilities, educational or professional backgrounds, skill levels, languages, or ages? If so, it is likely to give a more comprehensive picture of the state of accessibility of a product or service than using one particular group, e.g., screen reader users. Including a wide range of abilities can also

better indicate that while a product or service might perform well for some user groups, others might still experience significant issues.

- **Information on the method used:** Does the usability report state which approach was followed or what methods were used? This includes information on the setting (remote or in-person), the sample of users, the type of introduction, and the method of testing (participant observation, think-aloud method, question-asking, self-reporting, debriefing interviews, etc.). Different methods have their pros and cons and reveal different aspects of the object tested, so the aim here is not to put one method above another, but to verify that the testing followed a particular, defined and repeatable approach. Whichever method was used, the report needs to show that users were given adequate instructions, and that technical documentation was available to the extent that it can be expected to be used in the relevant context of use.
- **Quality and detail of documented results:** Does the usability test report document the tasks that were the basis of testing, and does it report the results? The report needs to document to what extent individual users in the sample were able to complete the tasks. Did they get stuck? At what points? What problems were encountered? Were users invited to comment on the product or service in debriefing, and what did they say? Did users recommend improvements?

7.4.4.3 Assessing the results (evidence) from usability testing

Generally, the evidence from usability testing with persons with disabilities is based on results from tests with several users and include several types of disability and modes of use.

In assessing the evidence presented in usability reports regarding the accessibility of the product or service, it is good to treat statements and conclusions with some caution. If a usability report states that users fared well with a product or service and could complete all tasks, this does not necessarily mean that there would be no problems for other users, especially if particular user groups were not represented in the sample and their needs therefore did not surface in the results. Whether users could successfully complete tasks might also hinge on contextual aspects, for example, whether users were tutored in advance, are familiar with similar systems, or were allowed to consult documentation or ask questions during testing.

By the same token, problems reported by individual users might indicate a valid issue, but can also reflect a lack of knowledge of the product or service and its technical documentation, or a limited understanding of the assistive technologies that were employed during use.

Feedback from a range of users with different disabilities provides a more balanced view of the accessibility of the product or service than isolated feedback by one user, resulting in a wider coverage of accessibility aspects, especially on cognitive barriers, considering the spread and diversity of the cognitive conditions. The results are ideally vetted to account for a possible lack of user knowledge regarding the product or the assistive technology used. Such vetting of user testing results or user feedback through technical experts is helpful in distinguishing between genuine accessibility and usability issues and cases where a lack of assistive technology skills or other extraneous or situational factors substantially contributed to the issue reported.

7.5 The product or service is yet to be built

7.5.1 General

In cases where the object is a product or service to be developed to serve a need that the contracting authority has defined in a specification, a full conformity assessment does not yet exist. Here, other types of evidence come into play, for example:

- conformity assessments of similar products by the same bidder;
- conformity assessments of component libraries or other pre-existing elements that will be used in the development of the product or service;
- documented additional measures, use of accessibility APIs;
- user evidence supporting or questioning the accessibility of comparable products or services, or of components to be used;
- evidence of relevant personnel qualifications or certifications;
- general claims.

7.5.2 Scrutinising the types of evidence

7.5.2.1 Conformity assessments of similar products by the same bidder

Evidence that some other, preferably similar, product or service that the supplier has developed is accessible (fully or to a high degree) can be used. Where possible, it is good practice to clarify what aspects or parts of that product or service would be used, or used with modification, in the product or service to be built, in order to assess the relevance of any evidence relating to different products or services. Documentation such as conformity reports, audit reports, reports of user testing involving persons with disabilities, customer testimonials including statements of accessibility and the like can then be provided for these similar products to underpin any claim.

Conformity assessments of similar products or services by the same bidder can be scrutinised in the same way as described above for conformity reports of existing products or services.

7.5.2.2 Conformity assessments of component libraries

If a product or service uses to a large extent well-tested, accessible component libraries, it is likely to achieve a good degree of accessibility. This is to be documented in a conformity report for the chosen component libraries.

7.5.2.3 Documented additional measures, use of accessibility APIs

Bidders can offer a description of additional measures that will be taken during design and development that will ensure that the result will meet accessibility requirements. This could include:

- user focus groups involving persons with disabilities in the early design stages;
- subcontractor selection criteria (proof of accessibility competence);
- automated or manual accessibility checks, full or partial assessments/audits of the ICT during various stages of development;
- evidence that the bidder's processes involve accessibility experts and/or end users with disabilities in the different stages of planning, design, development and acceptance testing.

Bidders can show in other ways that maintaining the accessibility of development outcomes is a quality aspect built into the organisation's design and development process. This could be evidenced by demonstrating that accessibility APIs are used as an integrated part of the development environment.

Another way to demonstrate that the bidder follows the Design for All approach and integrates accessibility requirements from the start would be a reference to EN 17161, backed up by documentation about the bidder's processes followed during design and development (see also the recommendation to use the EN 17161 as reference in the context of the selection and award criteria, in section 6.3 and section 6.4 respectively).

It is recommended that any additional measures to safeguard the accessibility of the product or service to be developed are costed and form an integral part of any bid.

7.5.2.4 Personnel qualifications / certifications

National or international training certificates or proof of relevant qualifications, such as IAAP certifications, can be used in the assessment of bidder competence. It needs to be checked, whenever possible, that qualifications are recent, valid and specific to the internal or external staff involved in the design and development of the product or service. Such qualifications or certifications might be used when assessing selection criteria (see section 6.3).

7.5.2.5 General claims

General (tender-independent) accessibility competence claims pointing to strategies and mission, tech stack used, customers, products, awards are perhaps the weakest type of evidence since they are not specific to the product or service to be tendered. Nevertheless, they are better than no evidence at all, and can serve to guide specific requests by the contracting authority directed at bidders, such as requests for written proof of assertions made, audit or testing results for similar products or services developed by the bidder, etc. Such claims might be used when assessing selection criteria (see section 6.3).

7.6 Long term framework contracts and incremental products and services

7.6.1 General

There are specific contract types where the content of the product or service is inherently not well-defined at the time of signing the contract.

7.6.2 Framework contracts

Framework contracts aim at selecting a bidder for the provision of products or services for a particular time frame, simplifying the contractual and administrative element when products and services are expected to be needed for an extended period or are likely to be requested repeatedly. For the safeguarding of accessibility, this creates the problem that neither the technical details of future products and services nor the exact nature of future versions of applicable accessibility standards are fully known.

For framework contracts, a way to ensure that accessibility will be an integral part of the delivery is to state clearly in the tender documents that the continued safeguarding of accessibility will be a contractual requirement, i.e. the contract will clearly require the accessibility of any product or service commissioned. Contractual obligations can include mandatory conformance checks, and that failure to comply to accessibility requirements will force the bidder to remedy deficiencies at their own cost. The tender documents need to make it clear that the continuation or extension of the framework contract and requests guided by it will also depend on the bidder's explicit commitment to maintaining accessibility of all products and services provided.

7.6.3 Innovation partnerships (Research and development contracts)

In research and development (R&D) work, the exact shape of products and services to be developed is often still unclear. This poses a problem for the tendering process since the scope of applicable requirements might not be fully known. In addition, technologies under development might reveal new accessibility issues and in turn new requirements that are not yet covered in the standards and regulations. The functional performance criteria set in the EAA and in EN 301549 can help derive relevant accessibility criteria for novel technologies or novel technical solutions. For example, an application using augmented or virtual reality to provide information on objects in three-dimensional space would need to devise novel ways for non-visual users to access those objects. Tenders for research and new technical developments will therefore need to emphasize that the resulting products and services will need to be assessed based on whatever regulations and pre-regulatory accessibility recommendations are applicable to new technologies. This can cover products and services that employ virtual and augmented reality as well as generative AI. While firm standards for these new technologies might not yet exist, they are under development and likely to be included in updated standards and regulations. Bidders are expected to show awareness of the accessibility impact of these technologies and to commit to following future accessibility standards and practices where applicable.

8 The use of criteria and conformity assessment in the public procurement process lifecycle

8.1 Types of procedures

Public procurement can use different procedures depending on the type and complexity of the tender and the value of the contract. If the value is estimated to be below the threshold amount for public contracts (low value contracts and below threshold contracts), simpler procedures are also permitted, and addressing accessibility in the technical specifications is not legally required – however, it is still advisable.

This section shows how the aspect of accessibility can be taken into account in the different stages of the procurement process. The main types of award procedures for contracts above threshold are:

A. Open procedure

An open procedure is one where an authority invites providers to bid directly for a contract in response to a public invitation to tender. All interested contractors are permitted to submit tenders, and the winning provider is selected from those bidding.

B. Restricted procedure

This is a two-stage procedure where bidders express an interest following publication of a contract notice, but only those invited by the authority after a screening process are allowed to submit tenders. The first stage of the process is the selection of suitable bidders. The invited bidders can then submit a complete bid in the second stage. Selection and/or exclusion criteria can be used to decide which bidders to invite.

C. Competitive procedure with negotiation

The negotiated procedure is an exceptional procedure that can only be used in certain defined cases. In a negotiated procedure, the contracting authorities consult the suppliers of their choice and negotiate the terms of contract with one or more of the suppliers. Bids can be submitted by invitation (see restricted procedure). Details and solutions can be negotiated while the minimum requirements and the award criteria cannot be modified. Selection and/or exclusion criteria and award criteria can be used for pre-selection. The negotiations can influence the solution, and in turn the accessibility requirements; they can also aim to clarify how to prove compliance.

D. Competitive dialogue procedure

In the case of particularly complex contracts, it is permitted that where procurement bodies consider that open or restricted procedures will not allow the award of the contract, the competitive dialogue procedure can be used. In this procedure, following pre-qualification, the contracting authority discusses the possible form of the contract and the technical specifications with at least three bidders before issuing the tender. When the contracting authority considers that a proposed solution meets its requirements, the dialogue ends, and the bidders submit tenders based on the solutions discussed.

E. Innovation partnership

As described in section 7.6.3, innovation partnerships allow the contracting authority to procure innovative products, services, or works that are not currently available on the market. The information provided by the contracting authority, including minimum requirements, needs to enable bidders to understand the nature and scope of the required solution and to decide whether or not to participate. This includes specifying the necessary performance level for accessibility. During the identification of the innovative solution, accessibility requirements and the steps necessary to meet them are likely to be further defined.

8.2 Pre-award phase

8.2.1 Preparatory aspects

In the phase before launching the public procurement, the contracting authority needs to identify the mandatory accessibility requirements and the possible accessibility related award criteria. This is influenced by the needs behind the public procurement and the aim to set proportional award criteria. The following general considerations influence the approach to setting accessibility requirements:

- Is accessibility the direct subject of the procurement? (E.g., the tender is about making a service or a product more accessible.)
- Will they be used by people (general public or public authorities' staff)?
- Is there any other relevant factor that can influence accessibility? (Such special factors to consider might be the use of digital displays in challenging environments – for example, outdoor where glare and reflections might occur, or on public transport, where the display is likely to be in movement when used.)

The contracting authority might conduct preliminary market consultations to gather knowledge about the availability of accessible solutions with regard to the product or service to be procured.

The preliminary market consultations can inform the contracting authority about the readiness of the market to meet the accessibility requirements. The results can lead to the decision to issue a prior information notice to add additional preparation time for the potential bidders.

8.2.2 Selection and exclusion criteria

If the nature or subject of the procurement requires assurances that the bidders are capable of delivering accessible products or services, it can be done by setting selection and/or exclusion criteria. Setting accessibility-related selection or exclusion criteria can be particularly relevant, for example, when

- the main goal of procurement is to make an existing product, service or process accessible;
- the contracting authority is aware that it is challenging for the majority of the suppliers to deliver an accessible product or service due to a general lack of expertise in the field.

When establishing exclusion criteria, the following aspects related to previous contract breaches might be considered, while ensuring that the criteria are relevant and proportionate:

- size of previous contract where the breach occurred;
- relevance of the breach;
- impact of the breach on the risk to the delivery of the contract;
- evidence of the bidder having adopted measures remediating the circumstances that led to their previous misconduct, as well as ensuring that it is not repeated.

When setting selection criteria (as discussed in section 6.3), the following aspects need to be considered:

- setting proportionate criteria;
- defining a scheme that helps reduce a large bidder pool, but ensures a competitive participation;
- when using the European Single Procurement Document (ESPD) for exclusion and selection, only shortlisted bidders need to provide certificates/evidence that they meet the criteria.

The same approach can be used for identifying potential bidders in low value and below threshold procedures, as well as in phased procurement procedures (e.g., restricted or competitive procedures).

8.2.3 Conformity assessment

It is necessary to establish a way to verify compliance with the accessibility requirements, both for the technical specifications and the award criteria. The decision to take in the preparatory phase is whether:

- the tender documentation establishes a specific way of proving compliance in the bid;
- it is left to the bidders to offer a way of assessing the conformity of the expected results;
- the means of proof and the expected result form a part of the award criteria (making the bidders to compete on this aspect).

In any case, it is crucial that a conformity assessment is carried out and the results are taken into account when deciding on awarding a contract.

The demonstrated level of results will create a baseline for assessing conformity during delivery.

8.2.4 Contractual obligations

It is essential that the contractual obligations outlined in the tender documentation (draft contract) guarantee the fulfilment of the accessibility requirements at delivery. These requirements need to encompass both technical specifications and aspects of the bid that address the accessibility award criteria.

For this purpose, when establishing the contractual framework, the contracting authority might:

- set the necessary contractual terms that ensure accessibility (accessibility requirements, key objectives and key performance indicators);
- set contractual terms that ensure the enforceability of the accessibility requirements in the post-award, contract management phase – including proof of conformance during the contract period;

- consider future-proof provisions for framework and R&D contracts to ensure that products and services will need to be accessible with reference to future (but yet unknown) mandatory requirements;
- establish a life-cycle costing framework, defining the costs borne by the contracting parties.

It is important that the contract notice and any other public notices are published in an accessible manner online.

8.3 Awarding phase

Considerations for applying the award criteria and evaluating the evidence provided by the bidders is described in section 6.4 and section 7.

If in line with Article 44 of the PPD, the contracting authority has asked for proof of conformity with requirements or criteria set out in the technical specifications and/or the award criteria, that proof needs to be assessed in the awarding phase. It needs to be checked whether the proof reliably shows that the product or service offered fulfils the requirements defined in the technical specifications. For the award criteria the proof might be assessed in order to assign a score to the related criterion.

8.4 Post-award phase / follow-up for long-term contracts

Following contract award, contracting authorities might consider the following points in order to ensure that the product or service procured is accessible:

- mobilisation and implementation of the contract in relation to the accessibility requirements;
- contract management considerations, focussing on the accessibility of the product or service to deliver:
 - how will conformity with the accessibility requirements be measured, recorded and maintained?
 - what information should the bidder provide?
 - how will accessibility issues be remedied (including who pays for it)?
 - how will processes ensuring accessibility be improved?

When verification at delivery does not guarantee the accessibility of the product or service, the contracting authority can set up a monitoring plan in the contract, to ensure ongoing accessibility compliance.

The monitoring plan might include:

- scheduled audits: requiring suppliers to submit updated conformity reports with set regularity (e.g., every year, after every major update, or using an automated monitoring scheme – depending on what is the most efficient approach for the type of product or service);
- involvement of users, establishing a feedback mechanism for users, including persons with disabilities, to report accessibility issues;
- an escalation mechanism, requiring the suppliers to submit a remediation plan within a set timeframe (e.g., 30 days) when issues have been identified, and verification (e.g., by a third-party audit);
- rules for document compliance, with the requirement to maintain a log of all accessibility audits, user feedback, and remedial actions for contract reviews.

Setting up these obligations in the monitoring plan does not necessarily mean that all the costs are to be borne by the supplier.

The complexity of the monitoring plan, as well as the cost distribution between the supplier and the contracting authority, is to be set so that it is proportional with the object of the procurement. The monitoring plan needs to reflect the obligations set out in the tender and lay out the distribution of responsibilities and financial risks in a way that it reflects the degree of control the contracting parties have over the contributing aspects that determine the accessibility of the product or service.

8.5 Delay and non-compliance

8.5.1 Foreseeing accessibility with a delay

Contracting authorities might be faced with a situation where no economic operators can be identified that offer an accessible product or service. In these cases, the following fallback approach might be applied to ensure that the result will meet requirements, even though with a delay:

- a) Set up the contractual framework to accommodate bidders that are currently not able to meet the requirement: with phased delivery, requiring that full accessibility will be realised by the supplier at its own expense within a defined time frame (for a normal software product a typical timeline might extend to 18 months). Bidders can compete on the delay they offer, if it is set as an award criterion (see in section 6.4).
- b) Also require that the ICT product or service be audited, to check process at regular intervals. This can happen through external experts or, where available, through a pool of users with disabilities provided or organised by the contracting authority. The supplier is informed about the results of such audits or tests, with the demand that issues identified will be remedied.
- c) Set contractual clauses that include obligations of remediation and ultimately penalties, including contract termination, when accessibility is not successfully implemented as set out in the contract.

8.5.2 Managing contractually agreed remedial actions

Contracting authorities can minimise the risk of additional cost through remedial actions that are contractually agreed at the time of award by insisting on the inclusion of the cost of necessary remedial activities in the contract price. The financial risk is thereby moved to the successful bidder, and would be priced in the offer.

When an agreement is made with the supplier to provide additional remedial work that could not be anticipated at the time of tendering, an option that limits financial risk for the contracting authority is to set a fixed price for such work and specify the acceptance criteria for its successful delivery. This means that the contract defines precisely what has to be delivered for a fixed budget, without any time-based compensation.

To demonstrate full accessibility of a product or service after remediation, it is appropriate to require a representative audit conducted by a qualified and independent third-party provider resulting in confirmation of "full conformance," except in cases where insurmountable technical constraints temporarily prevent full compliance with specific requirements.

In addition, the acceptance of the service or product after remedial work can include the successful completion of task-based testing of core processes based on a sample of users that include users with disabilities.

8.5.3 Dealing with delays and non-performance

The tender documentation needs to address delays and non-performance clearly to protect the contracting authority's interests and ensure accountability. To that aim, the contract needs to define the required degree of accessibility (as the outcome of the tendering procedure) as well as milestones and delivery deadlines. In case the product or service is delivered without the required degree of accessibility, the contract needs to include clear, proportionate and enforceable measures that:

- set financial penalty for delay,
- sets remediation obligations,
- ensure that the supplier bears the cost of third-party remediation if that becomes necessary.

Annex A (informative)

Practical examples of including accessibility in ICT procurement

A.1 Introduction

The following annex presents four different cases of procuring ICT products or services. The cases illustrate how the overall process of procurement can ensure that the result will be accessible.

Please note that the listing of applicable requirements for the respective type of ICT product or service under 'Defining accessibility requirements in the technical specifications' is only indicative, showing the applicable clauses but not a complete list of requirements within clauses that can or cannot apply.

A.2 Example: Procuring an ATM (automated teller machine)

A.2.1 Product/service description

The contracting authority is a state-owned postal savings bank that wants to procure a new generation of wall-mounted ATM (automated teller machine). It is important that the ATM supports different modes of interaction (e.g., card-based and wireless) and different functions such as cash withdrawal or charging a cash card. The ATM is a typical example of a hardware product running software with closed functionality, meaning that it does not allow the use of assistive technologies (like screen readers or magnifiers) or the connection of an external keyboard. It is good practice that it offers, however, a dedicated audio instructions mode for headset users via the 3,5 mm audio jack and additionally, a Bluetooth connection to a headphone.

A.2.2 Relationship with EU accessibility legislation

ATMs used for consumer banking services are covered by the European Accessibility Act (EAA).

A.2.3 Preparing the market

Since the postal savings bank aims to purchase an off-the-shelf ATM, and the market seems to offer accessible ATMs, there might appear to be no need for market preparation. However, as the mandatory requirements have been updated as a result of the new legislation it is important to raise the market operators' awareness of the current set of requirements.

A.2.4 Defining accessibility requirements in the technical specifications

Since ATMs are in scope of the EAA, the postal savings bank sets the relevant accessibility requirements by referring to the EAA, requiring compliance with its Annex I. (See Article 42(1) of the PPD.) Unless the product incorporates novel functionality or modes of interaction that are not yet addressed in the harmonised standards, those standards cover all accessibility requirements to be met in the product.

NOTE The postal savings bank can also refer to the national standards transposing the harmonised European standards as a means of presuming conformity with the legal accessibility requirements (see Article 42(3)(c) of the PPD).

The postal savings bank defines the overall functional and user interface requirements for the ATM based on the processes the banking service is meant to support. To identify the applicable accessibility requirements, the contracting authority uses one of the EN 301549 selection tools (see Annex B below) to identify which clauses of the standard are applicable. To list some relevant aspects: the ICT is not web-based, it runs software with closed functionality, which means built-in assistive technologies like screen readers or magnification functions are not available and external assistive technology cannot be connected or used. The use of the selection tool shows that the following clauses are applicable:

- **5 Generic Requirements**, covering 5.1 Closed functionality (ensuring, for example, that audio output of visual information is provided) and 5.5 Control using tactilely discernible operable parts (ensuring that non-sighted users can discern physical buttons used to confirm or cancel operations);
- **8 Hardware** (ensuring, among other things, that the ATM can be accessed with a wheelchair, that all operable parts are within reach, that the volume can be set, that the physical numeric keys are arranged in a rectangular keypad layout and the central number five key is discernible, and that in audio output mode, spoken instructions can be repeated at user request);
- **11 Software** (ensuring, for example, that on-screen text has sufficient size and contrast and that any time limits can be turned off or adjusted).

In the specification, the postal savings bank decides to include an additional requirement that goes beyond the technical requirements set out in the EN 301549:

- 1.4.6 Contrast (Enhanced), with reference to the WCAG AAA Success Criterion: requiring that the text on the screen has a contrast of 7:1 or higher, in order to keep it readable for ATMs that are installed outside and are exposed to glare.

Since the product already exists and the technology is well-established, process requirements (i.e. what process was followed to arrive at an accessible product) might be less relevant here. They would become relevant, however, if the postal savings bank decided to extend the functionality of the product, for example, by adding an on-screen video tutorial or bidirectional voice or video communication capabilities with service personnel. In this case, more clauses of the EN 301549:2021 (Clause 6 and/or 7) as well as process requirements in line with EN 17161 would apply.

Further requirements on accessible product documentation (e.g., the information provided on the packaging or in the user manual) and on support services, if applicable, might be fulfilled by following other harmonised European standards (on information about accessibility support services, on information about accessibility).

A.2.5 Defining accessibility-related selection and exclusion criteria

The ATM procurement process can define selection and exclusion criteria to reduce the potential number of suppliers. General selection criteria will typically include a range of aspects such as technical expertise or financial standing of the supplier. The postal savings bank can also set accessibility-related selection criteria requiring evidence that the suppliers have the necessary human and technical resources and experience to perform the contract fulfilling the accessibility requirements. EN 17161 provides types of selection criteria that help identify qualified suppliers. For example, the suppliers could be asked to demonstrate that:

- accessible ATM has in the past been delivered to other banking customers,
- accessible ATM has in the past been successfully used by other banking customers,
- they employ certified accessibility professionals or will subcontract a company with accessibility expertise and experience in ATMs.

However, as the subject of the purchase is an ATM that is already on the market and the postal savings bank asks proof of accessibility in the technical specifications (and the award criteria), the postal savings bank did not find it necessary to set accessibility-related selection criteria.

To lower the risk of not delivering accessible products, the postal savings bank can set exclusion criteria to bar bidders that previously and demonstrably:

- gravely violated legal accessibility obligations,
- delivered – and did not remediate – inaccessible solutions, not meeting the accessibility requirements set in previous contracts in public procurements.

A.2.6 Defining accessibility-related award criteria

The postal savings bank sets award criteria to motivate the bidders to offer a product which meets a higher degree of accessibility than legally mandated. The award criteria typically use a scoring approach where accessibility can be one of many aspects scored. The implementation of particular aspects of accessibility is then scored based on such a scheme. Attributes scored for the ATM include:

- the readability of on-screen text;
- the use of easy-to-understand language in prompts and messages;
- the number of steps it takes to complete a typical task;
- the availability of user testing reports for tasks;
- production processes with quality assurance, ensuring the accessibility of the product;
- processes ensuring that accessibility is maintained through the project lifecycle.

A.2.7 Defining conformity assessment methods

Given this is an off-the-shelf product which is already on the market, the CE marking or other documentation normally ensures that the product is fully accessible. However, to verify conformity with the technical specifications, the postal savings bank asks potential suppliers to submit additional documentation. Such documentation (in line with Article 44 of the PPD) could be, for example, a report of an ATM accessibility audit, or a report of task-based user testing of the service running on the ATM, where the sample of users would include people with disabilities and cover the interaction with non-visual users using voice output to operate the ATM.

A.2.8 Defining accessibility-related post-award contractual requirements

Even if the prototype/example considered in the tendering process is accessible, the postal savings bank requires an accessibility assessment of the product upon delivery. Beyond that, the task for an off-the-shelf product with a CE marking (or other proof of accessibility provided during the procurement procedure) will mostly be to contractually ensure the continuing accessibility of the software running on the product, to the extent that the software is delivered and maintained by the product supplier and not by the postal savings bank itself.

Post-award contractual requirements need to ensure that the requirements set in the technical specifications and used in the award criteria are binding and enforceable parts of the contract and that they are being (regularly) verified. The postal savings bank includes the following elements in the contract:

- suitable conformity assessment procedures;
- sanctions and remediation procedures for any quality problems upon or after delivery;
- for a set period, an obligation for the supplier to maintain accessibility;
- a definition of processes related to software updates and remediation;
- an obligation for the supplier to maintain accessibility when requirements change, including the process to be followed.

A.3 Example: Procuring a public transport mobile app

A.3.1 Product/service description

A publicly owned local transport operator plans to develop a novel service for public transport information and ticketing. The plan is for the service to integrate different means of transport and to support different interfaces: a mobile app running on different operating systems, some functionality involving biometrics or RFID on mobile devices or smart cards when customers pass gates to enter transport services for clocking time, dynamic invoicing, and human service calls for users encountering problems.

A.3.2 Relationship with EU accessibility legislation

Since the contracting authority is a local transport operator fully owned by the city council, the app falls under the Web Accessibility Directive (WAD). However, as features, elements and functions of the app are the same as for a transport app that would fall under the EAA, following Article 24(2) of the EAA, the accessibility requirements of the EAA can be used and referenced.

A.3.3 Preparing the market

Since the local transport operator plans to develop a novel transport information and ticketing service, it explores similar solutions, also with regard of the accessibility aspect of other implementations by local and regional transport operators. It conducts preliminary market consultations, including contacting other public authorities that have commissioned similar services. It uses trade publications, newsletters and direct contacts well before the procurement, to inform possible suppliers early about the scope of the planned service, highlighting that accessibility according to the EAA will be required and explaining that the requirements can be met by following the harmonised European standards. In these consultations and publications, the local transport operator emphasises areas of accessibility that are less common in current solutions, e.g., the requirement to offer real-time text functionality wherever two-way voice communication services are included.

A.3.4 Defining accessibility requirements in the technical specifications

To identify the applicable accessibility requirements in EN 301549, the local transport operator uses one of the selection tools (see Annex B below) to determine which clauses of the standard are applicable. The service runs in a mobile app (iOS and Android). Based on the result of the tool, the following clauses are found to be applicable:

- **5 Generic Requirements**, covering, for example, the activation of documented accessibility features or alternatives to biometric identification;

- **6 ICT supporting real-time bidirectional communication**, where voice or video communication to contact service personnel is used, real time text functionality needs to be incorporated;
- **7 ICT with video capabilities**, where the app integrates video, for example, in tutorials;
- **10 Non-web documents**, to the extent that technical documentation or other documents such as claim forms or contracts can be downloaded or supplied on request by the service provider;
- **11 Software**, to cover the accessibility of the native mobile apps;
- **12 Information about products and services**, referring to clause 9, 10, or 11, wherever that information is provided, but also covering information on accessibility and compatibility features.

Since for a transport mobile app, good outdoors readability of text in conditions of strong ambient light and glare is very important, the local transport operator goes beyond the EN 301549 requirement 11.1.4.3 Contrast (Minimum) and instead requires WCAG Success Criterion 1.4.6 Contrast (Enhanced).

A good part of the functional and user interface requirements will follow from existing services, e.g., existing websites and apps already used for information and ticketing. Regarding accessibility, the local transport operator refers to the accessibility requirements set in Annex I of the EAA. The harmonised European standards such as EN 301549 and EN 17161 will cover most if not all accessibility requirements to be met in the service and in the design process leading to it. The local transport operator points out that it is important that suppliers intending to use novel technologies for authentication or tracking user journeys, for which no applicable standards requirements might exist, verify the accessibility of these technologies by using the EAA functional performance criteria.

To ensure that solutions to be developed will in fact be accessible to end users, the local transport operator emphasizes the role of the Design for All approach according to EN 17161 and possibly, the supplier's commitment to adhere to future versions of the relevant accessibility standards. It requests documentation that the provider has systems in place to ensure an accessible outcome, such as early user involvement, the analysis of any usability issues evident in existing systems that the novel system will replace, and experience in conducting or commissioning usability tests of prototypes where the sample includes users with disabilities.

Regarding the accessibility of human service calls, the local transport operator points to relevant requirements from the harmonised standard on support services.

NOTE 1 The standard is under development at the time of writing this guidance.

Regarding the provision of information in accordance with EAA, the local transport operator points to any relevant requirements in the dedicated harmonized standard on provision of information.

NOTE 2 The standard is under development at the time of writing this guidance.

A.3.5 Defining accessibility-related selection and exclusion criteria

The local transport operator defines selection criteria to reduce the potential number of suppliers. General selection criteria will typically include a range of aspects such as the technical expertise or financial standing of the supplier). Accessibility-related selection criteria are likely to be proof of accessibility knowledge of the supplier, proof that the Design-for-all approach is understood and used, conformance reports showing that prior mobile apps developed by the supplier or responsible members of a consortium of suppliers have been audited with good results.

To lower the risk of not delivering accessible products, the local transport operator can set exclusion criteria to bar bidders that previously and demonstrably:

- gravely violated legal accessibility obligations,
- delivered – and did not remediate – inaccessible solutions against the accessibility requirements set in previous contracts in public procurements.

A.3.6 Defining accessibility-related award criteria

The local transport operator sets award criteria to motivate the bidders to offer a service which meets a higher degree of accessibility than legally mandated. The implementation of particular aspects of accessibility is then scored based on such a scheme. Parameters the local transport operator uses include:

- the number of options supported for online ticket purchase, like one-off purchase, stored options, automatic logging and deduction from a user's credit balance, etc. (this can improve accessibility for some user groups);
- ease of use and understandability of in-app notifications about disruptions, emergencies etc.;
- availability of end user interface customisation options;
- home screen personalisation options;
- use of development environments that support native OS (operating system) components;
- quality of approaches for checking the usability and accessibility of the service with users (including those with disabilities) during the development process.

A.3.7 Defining conformity assessment methods

The local transport operator demands that it is important that the conformity of the solution is checked by suitable methods both during development and upon delivery, by

- involving an accessibility expert as part of the app design and development team who can advise on suitable accessible app development frameworks and give feedback at early stages of design and development;
- conducting limited app accessibility audits involving the use of mobile screen readers to detect accessibility issues early on;
- requiring that a full app accessibility audit based on EN 301549 be carried out before delivery, and it must result in full conformity;
 - Exceptions might apply for isolated aspects where the state of mobile platform technologies or gaps in support of assistive technologies might at a given time prevent achieving full conformance. For example, a platform (mobile operating system) might not support the scaling of large text, such as headings, to 200%, therefore technically failing the EN 301549 requirement 11.1.4.4 Resize Text when applied to all text. It is good practice that exceptions to achieving full conformity are documented and reasoned, and that they only stand as long as the platform or assistive technology deficiencies remain unremedied.
- requiring that the supplier remedies any avoidable accessibility issues exposed by the audit as part of their contractual obligations.

A.3.8 Defining accessibility-related post-award contractual requirements

In the contract with the supplier, the local transport operator ensures that the supplier will be available for a defined period to maintain the service solution and ensure its continuing accessibility in future iterations of the underlying operating systems as well as the app's code that implements the service. Promising accessibility for future versions with unknown dependencies implies a significant risk for the supplier, and that translates to cost. It is up to the local transport operator to find the right balance here.

A.4 Example: Procuring a local council website

A.4.1 Product/service description

The contracting authority is a local council that plans to build a new website for two reasons:

- a) the CMS the local council is currently using can no longer be safely maintained,
- b) the local council wishes to include new functionality in the website.

Since development and maintenance resources are very limited, the council intends to draw on 3rd party suppliers to include two new functionalities: a chatbot for general enquiries and an online booking system for face-to-face customer appointments in different branches of the local administration.

A.4.2 Relationship with EU accessibility legislation

Since the contracting authority is a city council and thus a public body, the website falls under the WAD. However, features, elements and functions of the app are the same as for any website that would fall under the EAA. Following Article 24(2) of the EAA the accessibility requirements of the EAA can be used and referenced.

A.4.3 Preparing the market

The budget assigned to the new website development is below the obligatory public procurement threshold, but the local council decided to elicit competitive bids from suppliers. (National or regional law can set such obligation for below threshold procurements.) In preparation of the tender, the local council searches for web agencies that could be trusted to build accessible websites. A directory of accessible websites helps identifying a range of potentially suitable suppliers: after browsing the sites these web agencies have developed, the local council selects five smaller agencies, which list accessible web design as expertise as part of their product portfolio. The local council sends a note to the five suppliers selected and asks them if they would be interested to submit a bid for the forthcoming tender, stating the maximum budget available and the planned timeline for development. In the note, the local council emphasizes that the new site must be fully accessible, for example, by showing conformance to European harmonised standards or equivalent standards, and that it should integrate external services (chatbot and online appointment booking system) that must also be fully accessible. It can also point out to suppliers that using the EN 17161 helps arriving at an accessible outcome.

A.4.4 Defining accessibility requirements in the technical specifications

To establish the applicable accessibility requirements, the local council uses one of the selection tools (see Annex B below) to determine which clauses of the EN 301549 are applicable to the planned website. Based on the result of the tool, the following clauses are relevant:

- **5 Generic Requirements**, covering, for example, the activation of documented accessibility features or alternatives to biometric identification (if used);

- **6 ICT supporting real-time bidirectional communication:** if voice or video communication to contact service personnel are to be used at launch time or at a later stage, then real time text functionality would need to be incorporated;
- **7 ICT with video capabilities,** if the website (or any embedded third-party content) will integrate video at launch time or later, for example, in tourist information videos;
- **9 Web;**
- **10 Non-web documents,** if the website should include public information notices or any other information in document form for download;
- **12 Information about products and services,** referring to clause 9, 10, or 11, wherever that information is provided, but also covering information on accessibility and compatibility features.

In the specification, the local council decides to include several requirements that go beyond the technical requirements set out in the EN 301549. It does that by referring to the following WCAG AAA criteria:

- 3.1.4 Abbreviations: demanding that where abbreviations are used, the meaning is given in brackets or a link to a definition or glossary is included;
- 3.3.5 Help: demanding that context-sensitive help is available, for example, to explain unfamiliar terms or possibly unclear input required in forms;
- 3.3.9 Accessible Authentication (Enhanced): demanding that there shall be no reliance on object recognition or personal content when authenticating.

Regarding the involvement of third-party suppliers, the local council points out that embedded third-party content also needs to meet all accessibility requirements. The specification states that the supplier is fully responsible for the selection of suitable third-party suppliers and for ensuring the accessibility of embedded third-party content. It also specifies that an external accessibility audit of the website is required before going live, and that the supplier should factor in the cost of such an audit and any remedial action that might be needed based on audit results for arriving at a fully accessible outcome.

The local council refers to the EN 17161 to recommend that suppliers use the Design for All approach.

The local council also refers to other harmonized standards to address remaining aspects concerning information and support services.

NOTE As at the time of writing the present document the new standards are not finalised, it is not possible to provide any more detailed guidelines.

A.4.5 Defining accessibility-related selection and exclusion criteria

The local council invites a small range of bidders with documented accessibility knowledge and proven expertise. As there is no formal public procurement procedure, there are no selection or exclusion criteria, as used in public procurement.

A.4.6 Defining accessibility-related award criteria

The local council sets award criteria to motivate the bidders to offer a website which meets a higher degree of accessibility than what is set out in the WAD or the EAA. The implementation of particular aspects of accessibility can then be scored based on such a scheme. The local council sets the following award criteria:

- WCAG AAA Success Criteria requiring higher text contrast: 1.4.6 Contrast (Enhanced); and requiring that all pages indicate the place of users in the site's structure: 2.4.8 Location;

- (Note that some WCAG AAA Success Criteria are already required in the technical specifications.)
- availability of conformance statements or accessibility audit reports for the third-party solutions included (chatbot, online booking service);
- the documented degree of accessibility of the CMS back-end where this is not already mandated by applicable legislation and included in the technical specifications;
- documentation that the CMS and component libraries, plugins or themes to be used in the development lead to an accessible user interface;
- availability of options to convert content into a more accessible format (e.g., generate easy-to-understand language versions of text content);
- the supplier's commitment to remedy any accessibility issues identified after launch within a short timeframe.

NOTE In cases where national legislation requires that the CMS back-end must be accessible, this would be included in the technical specifications and thus could not be used as an award criterion.

A.4.7 Defining conformity assessment methods

The local council demands that the conformity of the solution should be checked by suitable methods both during and after development, by

- early automated accessibility checks to detect technical deficiencies;
- limited audits to pinpoint deficiencies that cannot be detected automatically;
- involving an accessibility expert as part of the design and development team who can advise on suitable accessible web component libraries and give feedback to developers at early stages;
- requiring that before delivery, a full web accessibility audit based on EN 301549 be carried out that must result in full conformity;
- requiring that the supplier remedies any avoidable accessibility issues exposed by the audit as part of their contractual obligations.

A.4.8 Defining accessibility-related post-award contractual requirements

The local council includes in the contract the supplier's commitment to delivering continued technical support for a defined period, also with regard to the accessibility of the website. The basis for this is the continued availability of updates for the CMS and its underlying technology, and the readiness of the supplier to rectify any accessibility issues that might be introduced through technology updates.

The contract defines the responsibilities and financial obligations in cases where accessibility issues not discovered in audits surface after launch, for example, in user complaints, and need to be remedied.

A.5 Example: Procuring a museum audiovisual guide

A.5.1 Product/service description

The contracting authority is a museum that plans to procure a mobile audiovisual guide for its permanent collection (if successful, it might be extended to the temporary exhibitions). The audiovisual guide is based on small custom devices that visitors can carry around. It might use GPS data or near field sensors

to make available audio and visual information on its exhibits. The guide can also provide more specific information based Augmented Reality (AR) functionality, for example, providing context-dependent info overlays when pointing with the device at an exhibit. The technical infrastructure and the exact modes of presenting information to end users are not fully specified at the outset; they are supposed to be developed in more detail in a dialog with the chosen provider.

A.5.2 Relationship with EU accessibility legislation

The museum guide system is not within the scope of the EAA. Nevertheless, the harmonised standards for the EAA provide technical requirements for many features and functions, and so they can be referenced for the technical specifications, however, expressly providing the possibility to use equivalent standards. Some features of the novel system might not be fully covered by the requirements in the existing harmonised standards. Here, the EAA's functional performance criteria can be used to ensure that every functionality will be accessible to different users with different disabilities.

A.5.3 Preparing the market

The museum staff researches different state of the art museum guides already employed by other museums, to learn about the general acceptance of these systems and more particularly, about any accessibility issues reported. It collects a list of agencies that have supplied similar systems in the past and launches a market dialogue to identify potential suppliers, asking potential suppliers about their strategy to ensure that the resulting solution will be fully accessible.

A.5.4 Defining accessibility requirements in the technical specifications

To identify the applicable accessibility requirements for a museum guide system that is not precisely specified, the museum uses one of the selection tools (see Annex B below) to determine which clauses of EN 301549 are applicable. While doing so, the museum also allows the bidders in the technical specifications to use other, equivalent standards or other technical reference systems to address accessibility. (In line with Article 42(3)(b) of the PPD.)

In using the tool, the museum takes a broad view, to cover all potential aspects and functionalities. Based on the result of the tool, the following clauses are shown to be applicable:

- **5 Generic Requirements**, covering, for example, static information systems based on closed functionality kiosks;
- **7 ICT with video capabilities**, if the device supports the integration of video;
- **8 Hardware**, covering aspects relevant for the mobile device, such as standard connections (e.g., for headphones) and volume control;
- **9 Web** (for the CMS interface used for maintaining and updating the guide's information content)
- **10 Non-web documents**, if the website should include exhibition leaflets or other information in document form for download;
- **11 Software**, to cover the accessibility requirements both for the native mobile apps and for the closed functionality information kiosks, if used;
- **12 Information about products and services**, referring to clause 9, 10, or 11, wherever that information is provided, but also covering information on accessibility and compatibility features.

Additionally, the museum defines requirements concerning the deployment of the Design for All approach in accordance with EN 17161. The museum also requires periodic accessibility reviews and updates.

The museum adds further requirements on product documentation (e.g., the information provided on the packaging or in the user manual) and on support services covered by other harmonised European standards. This is required even if this information is not provided to the end users of the system (i.e. the museum visitors), but is used by staff curating the content or maintaining the technical infrastructure.

NOTE As at the time of writing the present document the new standards are not finalised, it is not possible to provide any more detailed guidelines.

A.5.5 Defining accessibility-related selection and exclusion criteria

Due to the novelty of the system, the museum uses a two-stage procedure (e.g., restricted procedure, competitive procedure with negotiation) and selects a small group of potential suppliers in the first stage, based on criteria set up following the feedback received in the market dialogue. Since the planned system does not exist yet, it will not be possible to use conformity assessments at the time of tender. However, in many cases, suppliers have developed other services and could be asked to provide documentation of conformity assessments for those to demonstrate that they are in principle capable to produce fully accessible systems that have relevance to the domain of the tender.

The museum also asks the suppliers to demonstrate that they have a capacity to deploy the Design for All approach in accordance with EN 17161 requirements.

The museum sets exclusion criteria to check if any suppliers are reported to have produced inaccessible solutions in a similar procurement context, or have demonstrably failed to remedy accessibility issues. If this is the case, the respective supplier is excluded.

A.5.6 Defining accessibility-related award criteria

The museum describes accessibility-related award criteria in the tender documents to motivate bidders to propose a solution that offers a higher degree of accessibility than legally mandated. The degree of covering or satisfying these pre-defined accessibility criteria will thereby contribute to the overall score for the particular bids, which is based on all award criteria and the price. Defining accessibility-related award criteria is more difficult in cases where the eventual shape of the system is still to be determined. The museum uses the following criteria:

- feasible equivalent alternative access paths for any mode of interaction that is not fully accessible (e.g., alternative means of structuring and presenting information offered via an Augmented Reality mode of interaction, if applicable);
- proven experience of the project members in implementing similar accessible solutions (e.g., through conformity evaluation reports for similar systems built with the participation of those persons);
- offering the option to attach a Braille output device;
- availability and quality of user testing reports for relevant similar systems;
- availability and quality of the method proposed for required periodic accessibility reviews and updates;
- demonstrable adherence to the Design-for-All approach set out in EN 17161.

A.5.7 Defining conformity assessment methods

The museum requires in the specification that an accessibility audit and usability checks are carried out during the design and finally, before the delivery of the museum guide. In the design phase, it is good practice that the usability checks with test visitors explore how they interact with the device while facing exhibits, covering also the use of alternative modes, for example, the delivery of equivalent audio information wherever information is presented on screen for sighted users, or the availability of subtitles

for people who are deaf or hard of hearing wherever videos provide background or other information on the exhibits. The tender documentation also requires a full audit of the device based on applicable requirements in EN 301549 and a separate web audit for the CMS used to maintain the museum guide information. This audit would be based on the web requirements of the EN 301549.

A.5.8 Defining accessibility-related post-award contractual requirements

The museum includes in its tender documentation a blueprint of the contract with the chosen supplier, indicating that the blueprint shows the general expectation, but also stating the possibility that individual points can be negotiated. The contract maps out the elements of the overall procedure envisaged to ensure the accessibility of the audiovisual guide upon delivery. The museum decides to include the following elements:

- The supplier or the museum installs a sufficiently qualified accessibility expert as part of the development team to be available for feedback on the approach, the design and the development.
- The supplier ensures that any building block / technical solution used (e.g., the CMS used for the system's back-end, or the software development framework for the software running on the device) has been evaluated to verify that it can produce (and has produced, in similar cases) accessible results, meeting applicable conformity requirements.
- For any access mode proposed that might not on its own be fully accessible to some types of users, the supplier proposes an equivalent accessible alternative access mode. An example would be the AR technology (if used) that makes information pop up when the device is directed at a particular part of an exhibit. This functionality might not be easily usable for users with motor disabilities, and not accessible at all for blind users. However, there might be equivalent alternatives that provide a different way to get the same information.
- The supplier proposes and implements suitable evaluation methods to verify that the museum guide system is accessible. At early stages, suitable methods can be targeted accessibility reviews, or an expert on the team who can highlight significant issues or oversights at two-weekly sprints. At a more advanced prototype stage, it can be a third-party full EN 301 549-based conformity audit to ensure that all mandatory accessibility requirements are indeed satisfied.
- The supplier is obliged to remedy issues revealed in accessibility evaluations in a timely manner.
- For better management oversight, the supplier shares all conformity audit and user testing results with the museum as they become available.
- To ensure that the museum guide remains accessible after launch, the supplier proposes methods for recurrent conformity audits, either at given intervals or after major updates, modifications or additions where these are not merely quantitative.
- After the launch of the museum guide, the supplier is available for a defined period to ensure the guide's continued accessibility in future iterations of the underlying operating system or code.

Annex B

(informative)

Examples of tools for identifying relevant EN 301549 requirements

B.1 EN 301549 Filter Tool (ETSI)

The ETSI expert team working on the current revision of the EN 301549 has developed a prototype proof-of-concept tool for filtering EN 301549 requirements based on ICT characteristics and the pre-conditions that are stated for each requirement in EN 301549. The purpose of the tool is to make it easier for people to use EN 301549 by quickly eliminating any provisions that would not apply to their product or service.

The prototype tool is provided as an Excel file. The users first need to use the filter to select all the ICT characteristics or requirement preconditions that would not apply to their ICT. Based on this indication, a selection of the EN 301549 requirements is generated in a separate sheet provided in a printable format. At any time, all the requirements can be also reviewed by the user.

The tool is a demonstration prototype. An effort is made to keep it updated and consistent with the current EN 301549 draft. However, it is not an official and stable tool for evaluating ICT products or services. Rather, it is provided as a temporary prototype that can assist in identifying the requirements, and to inspire development of a stable tool consistent with the final and official version of the EN 301549, once published.

The tool is available for download at: <https://labs.etsi.org/rep/HF/en301549/-/issues/219>

B.2 ICT accessibility requirements wizard (Government of Canada)

The ICT accessibility requirements wizard is a web-based tool developed by the Government of Canada. It has been created as a part of the public procurement toolkit to assist the contracting authorities in addressing accessibility in procurement of ICT. However, anyone can use the tool to check what requirements would be applicable for any given ICT covered by the EN 301549.

The tool identifies the applicable clauses and requirements of EN 301549 based on the selection of functions of the ICT product or services made by the user. The user can review the selection of EN 301549 clauses identified as relevant and refine this set by adding or removing requirements. In the final step, the tool generates two Word documents: the list of requirements along with their short descriptions and conformance tests, and the list of tests that need to be included in the Accessibility Conformance Report documenting that the ICT conforms with the relevant requirements.

The tool is available at: <https://2021-prod.ict-cio.ssc-spc.cloud-nuage.canada.ca/>

B.3 Standardanforderungskatalog (ITZBund, German Federal Ministry of the Interior)

The Standardanforderungskatalog (General requirements catalogue) is a Web-based tool in German language, developed by the ITZBund, German Federal Ministry of the Interior. It primarily intends to help public bodies select the applicable clauses and requirements of EN 301549, but it can equally be used by other organisations. Users of the tool can first select the type of IT system to be procured (such as website, mobile app, document, or software with or without closed functionality), followed by /functionality). Next to the categories, it is possible to display explanations to facilitate the selection. The tool then allows the generation of a requirements catalogue in HTML format or as a CSV file.

Note that in addition to EN 301549 requirements, the tool also lists at its beginning additional requirements of the German BITV regulation, such as explanations in easy-to-understand language and sign language required for public sector sites, which would only be applicable for procurements that are in scope of the BITV.

The tool is available at:

<https://www.barrierefreiheit-dienstekonsolidierung.bund.de/Webs/PB/DE/standardanforderungskatalog/standardanforderungskatalog-node.html>

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- [24] Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services
- [25] Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers' rights and obligations (recast)
- [26] Standardisation request M/587: Commission Implementing Decision of 14.9.2022 on a standardisation request to the European standardisation organisations as regards the accessibility requirements of products and services in support of Directive (EU) 2019/882 of the European Parliament and of the Council; Brussels, 14.9.2022, C(2022) 6456 final
- [27] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act)