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CMS Public Procurement Toolbox of Remedies

November 2019

5		Albania	23		The Netherlands
6		Austria	24		Peru
7		Belgium	25		Poland
8		Bosnia and Herzegovina	26		Portugal
9		Brazil	27		Russia
10		Bulgaria	28		Romania
11		Chile	29		Scotland
12		China	30		Serbia
13		Colombia	31		Slovak Republic
14		Croatia	32		Slovenia
15		Czech Republic	33		Spain
16		France	34		Switzerland
17		Germany	35		Turkey
18		Hungary	36		Ukraine
19		Italy	37		United Kingdom
20		Macedonia	38		Your contact at CMS
21		Mexico	42		About CMS
22		Montenegro			

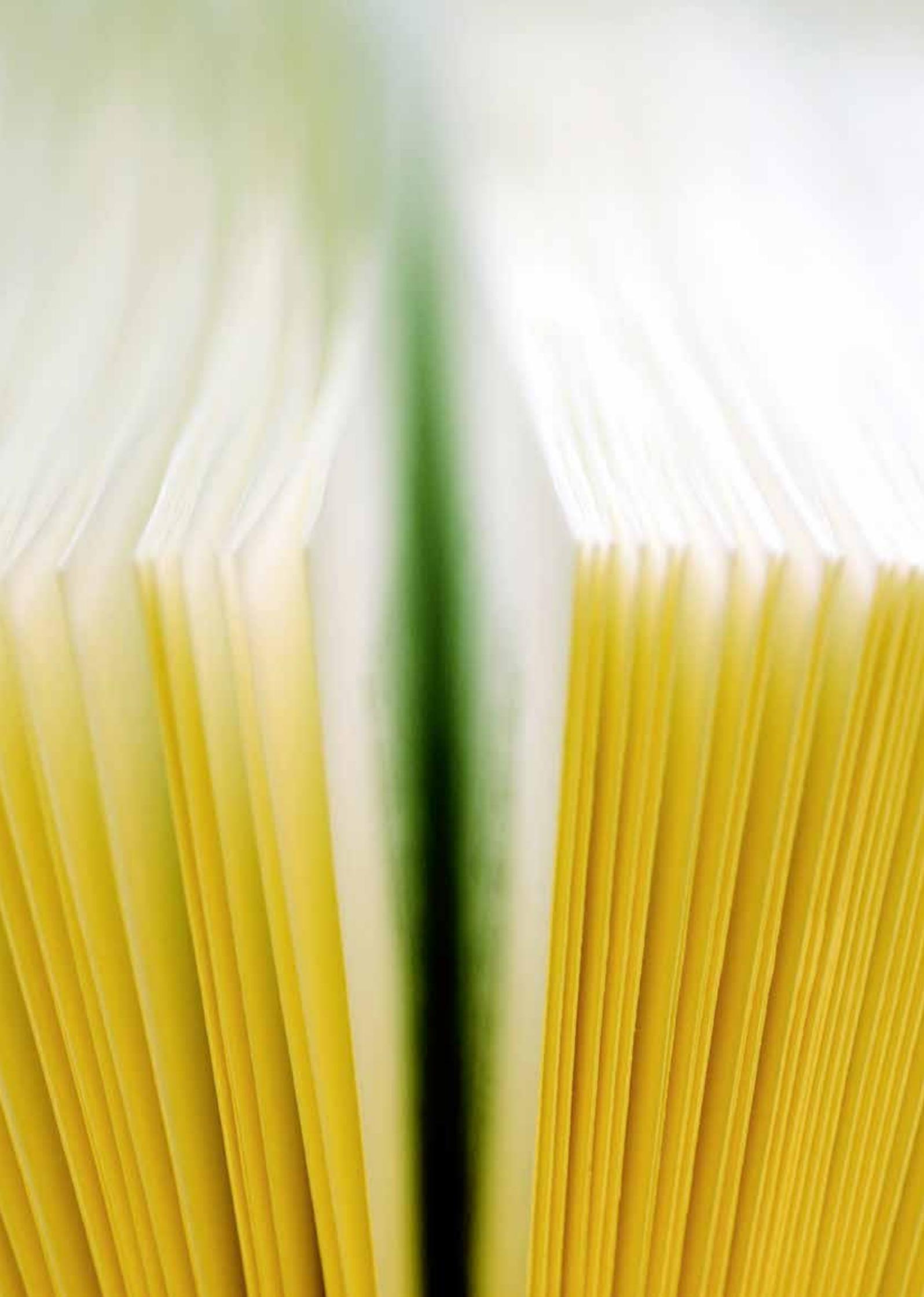
Toolbox of remedies in public award procedures

Public procurement is the largest single global marketplace, accounting for around one-fifth of world-wide GDP. In this increasingly international marketplace, companies need to have confidence that public award procedures are transparent, fair and competitive. Whether under the WTO rules, EU or other international legislation, most countries across the world now have in place an established public procurement regime.

With over 140 specialists in over 33 countries worldwide, CMS has an outstanding reach and capacity to support companies bidding for public contracts. We regularly advise clients on navigating the different national procurement regimes, helping with the preparation of tenders and with contract negotiations. We are also highly skilled at challenging procurement processes in situations where the rules are not followed.

This Toolbox outlines the key remedies and time limits applied in 33 jurisdictions. It complements our [e-Guides](#) on the individual national regimes in these countries.

If you need advice in any of these jurisdictions, contact details for the relevant local CMS procurement specialists are set out on pages 38-41.



Albania

Available remedy	Type of infringement	Deadline for submission
Request for clarification (not a formal remedy but useful to draw attention to infringements in a friendly manner)	The content of the contract notice or the procurement documents is unclear or unlawful.	Not later than 5 days before the deadline for submission of bids.
Review by the contracting authority	Unlawful content in the procurement documents.	Within 7 days of the contract notice being published on the Public Procurement Agency website.
	Unlawful decisions, actions or omissions by the contracting authority.	Within 7 days after becoming aware of the infringement.
Review before body responsible for review procedures	Unlawful decisions, actions or omissions by the contracting authority.	In the event of omission or refusal by the contracting authority, the complainant may submit a written complaint to the Public Procurement Commission within 10 days .
Judicial review: administrative courts	Unlawful final decision of the Public Procurement Commission.	45 days after the publication of the final decision by the Public Procurement Commission in the electronic procurement system.

Austria

Available remedy	Type of infringement	Deadline for submission
<p>Request for clarification (not a formal remedy but useful to draw attention to infringements in a friendly manner).</p>	Unclear or unlawful content in the contract notice or in the procurement documents.	No general deadline. The contracting authority must provide answers to all bidders and – if necessary – extend the deadline for the submission of tenders or the request for participation. Always check the procurement documents.
<p>Review by the contracting authority:</p> <ul style="list-style-type: none"> — Province of Vienna: notification duty — All other Provinces and Federal Authorities: N/A 	<p>Any unlawful act of the contracting authority (including in respect of the contract notice and the procurement documents).</p> <p>Any unlawful act of the contracting authority (including in respect of the contract notice and the procurement documents).</p>	In the province of Vienna bidders are obliged to inform the contracting authority on its intention at least at the same time as initiating a judicial review procedure.
<p>Judicial review I: immediate complaint to a federal or regional administrative court (depending on the contracting authority, either the federal administrative court or one of the regional administrative courts located in the nine provinces is in charge)</p>	<p>Unlawful separately contestable act of the contracting authority.</p> <p>Apparently unlawful content in the contract notice or in the procurement documents.</p> <p>Award of a contract contrary to the criteria specified in the procurement documents or an unlawful award of a contract in a procedure without prior publication or an award of a contract without prior submission of the notification of the award decision.</p>	<p>10 days after sending off the decision electronically or -in case of a direct award – after the economic operator has or could have become aware of the decision of the contracting authority. 15 days in case of sending off the decision by post. If the deadline for submitting tenders or requesting participation exceeds 17 days or – if the procurement documents are not provided electronically – 22 days, at least 8 days before termination of the deadline. Within six months after obtaining knowledge of the contract award or after the date the tender participant should have reasonably become aware of the infringement. However, in certain cases the court is only entitled to declare a contract null and void within a shorter period of time, ie if a contract award notice has been published, the complaint has to be filed within 30 days after publication of the notice.</p>
<p>Judicial review II: appeal to the (highest) Administrative Court and/or Constitutional Court</p>	Unlawful decision of the federal administrative or a regional administrative court.	Within six weeks after receiving the decision of the federal administrative or a regional administrative court.



Belgium

Available remedy	Type of infringement	Deadline for submission
Request for clarification	Errors and omissions in the tender documents which prevent tenderers from calculating their price or the contracting authority from comparing the tenders.	Tenderers must inform the contracting authority 10 days before the tender application deadline. For any other infringements, it is advisable to inform the contracting authority within the same deadline.
Review by the contracting authority	Not possible.	
Review before body responsible for review procedures	Possible for different kinds of contracting authorities, but rather uncommon.	
Judicial review	<p>Unlawful procurement documents.</p> <p>Unlawful award decision within the standstill period of 15 days.</p> <p>Unlawful award decision after expiration of the standstill period.</p> <p>Non-compliance with the rules on publication or the standstill period.</p>	<p>Within a deadline of 15 days (suspension), 60 days (annulment) following the award decision (according to one of the remedies listed below).</p> <p>Tenderers can seek to obtain the suspension of the procedure. Deadline: 15 days after being informed.</p> <p>Tenderers can seek to obtain the annulment of the decision. Deadline: 60 days after being informed. Tenderers can seek to obtain damages. Deadline: 5 years after being informed.</p> <p>Tenderers can apply for contract ineffectiveness. Deadline: — 30 days after publication or being informed — 6 months after the contract is entered into.</p>

Bosnia and Herzegovina

Available remedy	Type of infringement	Deadline for submission
Request for clarification	Unclear or unlawful content in the contract notice or in the procurement documents.	10 days before the tender application deadline.
Review by the contracting authority: preliminary dispute resolution system	Various infringements. Mostly unlawful content in the contract notice or in the procurement documents	Various deadlines apply, depending on the exact circumstances: 7 days before the tender application deadline. 10 days from the date the procurement documents are obtained. 10 days upon receiving the bid's opening minutes in relation to actions, procedures and failures to act in the bid opening procedure. 10 days upon receiving the decision that determines individual rights resulting from a procurement process based on the procedure for reviewing and assessing ability and the procedure for reviewing, assessing and selecting the most successful bidder. 30 days upon learning that the contract was concluded without implementing a public procurement procedure. 5 days from the date of selection of the most successful bidder in a competitive request for quotations procedure (low value procurements).
Review before body responsible for review procedures: Procurement Review Body of BiH (Ured za razmatranje žalbi BiH)	Unlawful decisions, actions or omissions by the contracting authority. If the contracting authority determines that an appeal is: not submitted in a timely manner; is illicit; or has been submitted by an unauthorised person.	5 days from the date of the contracting authority's decision. 10 days from the date on which the contracting authority's decision is concluded.
Judicial review: the Court of Bosnia and Herzegovina	Unlawful decision of the Procurement Review Body of BiH.	30 days after receiving the final decision of the Procurement Review Body of BiH.

Brazil



Available remedy	Type of infringement	Deadline for submission
Request for clarification	Unlawful or unclear content in the draft contract or in the procurement documents	In most cases, 5 business days before the date designated to open the proposals for any person or entity not participating in the public procurement tender, or 2 business days before the date designated to open the proposals for a participant in the public procurement tender.
Review by the contracting authority	Unlawful content in the draft contract or in the procurement documents	In most cases, 5 business days before the date designated to open the proposals for any person or entity not participating in the public procurement tender, or 2 business days before the date designated to open the proposals for a participant in the public procurement tender.
Review before administrative appellate body	Unlawful decisions during the tender process and the performance of the contract. Unlawful decisions may relate to: the qualification of participants, decision on proposals, annulment or revocation of the tender, termination of the contract, etc.	In most cases, 5 business days as of the date upon which a notice of the act is received or the minutes are issued.
Judicial review	This is available at any stage if the contracting authority makes an unlawful decision.	There is no specific deadline for the submission of claims relating to a public procurement process. Ordinarily, the acts of a public authority or official may be challenged by means of a request for injunction (" <i>mandado de segurança</i> ") within 120 days of the act having become known, or within 5 years if a petition is made to annul the administrative act.

Bulgaria



Available remedy	Type of infringement	Deadline for submission
Request for clarification	Unclear or unlawful content in the contract notice or in the procurement documents.	10 / 7 days before the tender application deadline. Even shorter timeframes may apply for some low-cost and short-track procedures. Always check the procurement documents.
Review by the contracting authority: suggest changes to the procurement terms and conditions	No need to establish infringement. Contracting authority has discretion on whether to introduce the suggested changes.	10 days after announcement of the procurement.
Review before body responsible for review procedures: appeal before the Competition Protection Commission (CPC)	Unlawful decisions, actions or omissions by the contracting authority.	10 days – the starting date from which the deadline is calculated varies depending on what is challenged.
Judicial review: the Supreme Administrative Court	Unlawful decision on the merits of the CPC.	14 days after receiving the decision of the CPC.



Chile

Available remedy	Type of infringement	Deadline for submission
Request for clarification (not a formal remedy but useful for clarifying uncertainties, as the answers are binding for both the contracting authority and the tender participants)	Unclear content in the contract notice in the procurement documents.	The deadline changes depending on the procedure and the contracting authority (usually a period of 30 days before the tender application deadline).
Review by the contracting authority (not a formal remedy but useful to draw attention to infringements in a friendly manner)	Comments on proposals or complaints about unclear or unlawful content in the contract notice, the procurement documents or in the documents submitted by other tender participants.	1 day after the opening of the tender applications.
Review before body responsible for review procedures: Court of Public Contracting (The acronym 'TCP' stands for 'Tribunal de Contratación Pública')	Unlawful or arbitrary content in the contract notice, the procurement documents or in the final decision of the contracting authority.	10 days after becoming aware of the infringement or after receiving the final decision of the contracting authority.
Judicial review (before the Court of Appeals of Santiago)	Unlawful final decision of the TCP.	5 days after receiving the final decision of the TCP.

Source: Public Procurement Regulations (Law No. 19.886 and its regulations)



China

Available remedy	Type of infringement	Deadline for submission
Request for clarification	Unclear regarding government procurement activities.	No deadline for submission of such queries.
	Infringement upon the supplier's rights and interests due to the contents of the procurement documents, procurement proceedings, the results of the bidding or the selection of the supplier.	7 working days from the date the supplier knows or should know that its rights and interests have been infringed.
Complaint to the body responsible for procedures of complaint: the department for the supervision of government procurement with the same level of jurisdiction as the procuring entity	The procuring entity fails to reply to the supplier within 7 working days upon receipt of the written queries (" Time Limit for the Reply ").	15 working days following the expiration of the Time Limit for the Reply.
	The supplier disagrees with the procuring entity's reply.	
Administrative review: the People's Government with the same level of jurisdiction as the department for the supervision of government procurement or the department for the supervision of government procurement which has a higher level of jurisdiction	The failure of the department for the supervision of government procurement to make a decision about the complaint within 30 working days of receiving the complaint. (" Time Limit for the Decision ").	60 days following the expiration of the Time Limit for the Decision.
	The supplier disagrees with such decision.	60 days from the date when the supplier becomes aware of such decision.
Judicial review: ordinary courts	The supplier disagrees with the administrative review decision.	15 days after receiving the administrative review decision.
	The supplier initiates the legal proceedings with the court without applying for the administrative review first.	6 months from the date on which the supplier becomes aware of such a decision being made by the department for the supervision of government procurement

Colombia

Available remedy	Type of infringement	Deadline for submission
<p>Request for clarification (not a formal remedy but useful to draw attention to infringements in a friendly manner)</p>	Unclear, unlawful or incorrect content/scope of the bid terms (published drafts).	<p>In public tender processes, a statute of limitations of 10 business days applies for presenting observations and comments on the published bid terms (draft versions).</p> <p>For procedures other than public tenders, shorter terms may apply.</p>
<p>Review by the contracting authority: request clarification or suggest changes to the bid terms or the contracting authority's evaluation</p>	<p>Unclear, unlawful or incorrect content/scope of the bid terms (final published documents).</p> <p>Unclear, unlawful or incorrect content in the evaluation report.</p>	<p>If a bidder deems it necessary to clarify the content/scope of the bid terms, it may request this in the risk allocation public hearing. Such a hearing takes place within 3 business days after the tender application period has started. Bidders may also ask the contracting authority to make further clarifications at any time before the tender application deadline. The contracting entity shall provide written answers to these requests.</p> <p>The contracting authority shall issue and publish a report providing the results of the bidding process, including a ranking of the offers that have been filed within the process.</p> <p>If a bidder deems it necessary to clarify the content/scope of the evaluation report or present any comment on that regard, it may request this within 5 business days after issuance of the report.</p>
<p>Judicial review of the contract award decision: "Acción de nulidad y restablecimiento del derecho" - before the administrative courts</p>	Unlawful award decision by the contracting authority.	<p>If a bidder deems it necessary to request judicial review of the award decision, it may do so within 4 months following the public hearing in which the contract is awarded.</p>

Croatia



Available remedy	Type of infringement	Deadline for submission
<p>Request for clarification (not a formal remedy but useful to draw attention to infringements in a friendly manner)</p>	Unclear or unlawful content in the procurement documents.	8 / 6 days (shortened terms and low-cost procedures) until the tender application deadline.
<p>Review by the contracting authority: (suggest changes to the procurement terms and conditions)</p>	No need to establish an infringement. The contracting authority has discretion on whether to introduce the suggested changes.	8 / 6 days (shortened terms and low-cost procedures) until the tender application deadline.
<p>Review before body responsible for review procedures: the State Commission for Supervision of Public Procurement Procedures (Croatian: Državna komisija za kontrolu postupaka javne nabave; ("DKOM"))</p>	Unlawful procurement documents, decisions, actions or omissions by the contracting authority.	10 days – the calculation of the deadline is based on the starting date and this varies depending on what is being challenged.
<p>Judicial review: High Administrative Court</p>	Unlawful final decision of DKOM.	30 days after expiry of 8 days as of the date of publication of DKOM's decision on its website.

Czech Republic

Available remedy	Type of infringement	Deadline for submission
Request for clarification (not a formal remedy but useful to draw attention to infringements in a friendly manner)	Unclear or unlawful content in the contract notice or in the procurement documents.	8 / 7 (in emergency procedures) business days before the tender application deadline.
Review by the contracting authority: objections (preliminary dispute settlement)	All unlawful actions or omissions (including the setting of the award criteria) of the contracting authority, unlawful selection of the type of procurement procedure by the public procurement regime or unlawful practices of the contracting authority which aim to award a public contract outside the procurement procedure.	15 days after the complainant learned about the alleged infringement (general rule). Within 15 days after an objection against an action has been published or delivered to a complainant. Regarding objections against procurement documents, those can be made within the timeframe for requests to participate or submission of tenders laid down in the procurement documents. 30 days from the publication of a voluntary contract award notice (special procedure).
Review before body responsible for review procedures: Office for Protection of Competition (the "Office")	All unlawful actions or omissions by the contracting authority resulting in a breach of the complainant's rights or which have the potential to breach such rights. Unlawful contract award without prior publication of a tender notice.	10 days after the objections have been rejected by the contracting authority. Otherwise, 25 days after the objection was submitted. An action to prevent the performance of the contract must be made at the earlier date from: 1 month after the publication of the contract award notice; or 6 months after tendering into the contract.
Judicial review: administrative court	Unlawful final decision of the Office.	2 months after receiving the final decision of the Office.

France

Available remedy	Type of infringement	Deadline for submission
Request for clarification (not a formal remedy but useful to draw attention to infringements in a friendly manner)	Unclear or unlawful content in the contract notice or in the procurement documents.	Usually provided in the procurement documents but the contracting authority must reply at least 6 (EU procedures) or 4 (emergency procedures) days before the tender application deadline. Always check the procurement documents!
Judicial review: "Pre-contractual summary proceedings" administrative courts (for contracts of a public nature) or judicial courts (for contracts of a private nature)	Breach of the publication and tendering obligations.	Before the conclusion of the contract (with an automatic suspensive effect). In EU procedures, the contract shall not be signed within a 16 day period (11 days in case of electronic notice) of the contract award decision being announced to the unsuccessful tenderers (the "standstill deadline").
Judicial review: "Contractual summary proceedings" administrative courts (for contracts of a public nature) or judicial courts (for contracts of a private nature)	If any person who had an interest in entering into the contract has been prevented by the contracting authority from filing a pre-contractual summary proceeding	31 days from the publication of the contract award notice (6 months from the date of signing the contract if no contract award notice has been published).
Judicial review: Action to challenge the validity of the contract (with a possible claim for compensation) administrative courts (for contracts of a public nature)	Infringement of the tendering and advertising rules, unlawful content in the contract.	2 months after the contracting authority has proceeded with the appropriate measures to publicise the conclusion of the contract (+ 2 months for claimants not residing in France).
Judicial review: action for nullity judicial courts (for contracts of a private nature)	Any infringement except for those which could have been challenged in an action before the conclusion of the contract.	A period of 5 years from the date when the claimant became aware of the illegal contract.

Germany

Available remedy	Type of infringement	Deadline for submission
<p>Request for clarification (not a formal remedy but useful to draw attention to infringements in a friendly manner)</p>	<p>Unclear or unlawful content in the contract notice or in the procurement documents.</p>	<p>No general deadline. Contracting authority must provide answers to all questions submitted in good time at least 6 days before the deadline to request participation or to submit tenders. Shorter terms may apply for some low-cost and short-track procedures. Contracting authorities usually set deadlines for each procedure. Always check the procurement documents.</p>
<p>Review by the contracting authority: objections (condition for admissibility of review procedure in most cases)</p>	<p>Any unlawful act by the contracting authority.</p> <p>Apparently unlawful content in the contract notice or in the procurement documents.</p>	<p>10 days after becoming aware of the infringement.</p> <p>Before the deadline to request participation or to submit tenders.</p>
<p>Review before body responsible for review procedures: public procurement tribunals established at the Federal Cartel Office at the federal level or competent administrative bodies at state level</p>	<p>Unlawful content in the contract notice and in the procurement documents, unlawful decisions, actions or omissions by the contracting authority.</p>	<p>15 days after receiving the notification that the contracting authority rejects the objection and prior to contract award (unless the contracting authority neglected prior information requirements and the standstill period). Below EU thresholds: Only the federal states of Saxony, Saxony-Anhalt and Thuringia have established dedicated review bodies. Possibility to bring actions before ordinary civil courts or administrative courts and seek interim legal protection.</p>
<p>Judicial review: immediate complaint to higher regional court</p>	<p>Unlawful decision of the public procurement tribunal.</p>	<p>2 weeks after receiving the decision of the public procurement tribunal. Below EU thresholds: Where there is no dedicated review body, acts of the contracting authority are subject to immediate judicial review.</p>

Hungary



Available remedy	Type of infringement	Deadline for submission
Request for clarification (not a formal remedy but useful to draw attention to infringements in a friendly manner)	Unclear or unlawful content in the contract notice or in the procurement documents.	10 days (open) / 8 days (restricted procedure, entry phase) / 7 days (accelerated procedure) / 6 days (negotiated procedure without prior publication of a contract notice) before tender application deadline. The deadline may change depending on the procedure. Always check the procurement documents.
Review by the contracting authority: preliminary dispute settlement	Unlawful content in the contract notice or in the procurement documents.	10 days before the tender application deadline. Exception: until the application deadline for procedures which are accelerated or negotiated without prior publication of a contract notice.
	Other.	3 business days after becoming aware of the infringement.
Review before body responsible for review procedures: Public Procurement Dispute Board ('PPDB')	Unlawful contract award decision.	10 or 5 days ('5-party' national procedures) after becoming aware of the infringement.
	Unlawful content in the contract notice or in the procurement documents.	5 days before tender application deadline.
	Other.	15 days after becoming aware of the infringement.
Judicial review: ordinary courts	Unlawful final decision of the PPDB.	15 days after receiving the final decision of the PPDB.
	Any other unlawful decision of the PPDB may be challenged only if so expressly permitted by law (e.g. dismissal of the appeal without deciding on the merits).	8 days after receiving the decision of the PPDB.

Italy

Available remedy	Type of infringement	Deadline for submission
Request for clarification (not a formal remedy but useful to draw attention to infringements in a friendly manner)	Unclear or unlawful content in the contract notice or in the procurement documents.	As provided in the procurement documents (Usually 15 or 10 days before tender application deadline).
	Other infringements which occurred <u>before</u> the tender application deadline.	Always check the procurement documents.
Review by the contracting authority	Any unlawful act by the contracting authority.	A "self-remedy" (where the contracting authority reviews its own actions) request can be sent to the contracting authority within a "reasonable period" after the contracting authority commits the unlawful act.
	Unlawful content in the contract notice or in the procurement documents.	The self-remedy request is usually submitted by tenderers before lodging an appeal before the regional administrative court (normally a few days after receipt of notification from the contracting authority).
Review before body responsible for review procedures: alternative dispute settlement before ANAC (independent authority supervising public contracts)	Any issues arising during the tender procedure and possible unlawful acts of the contracting authority in the course of the tender procedure (so-called <i>Parere di precontenzioso</i>).	The request can be issued before the conclusion of the tender procedure. ANAC's opinion has to be issued within 30 days and is binding on the parties, provided that they agreed to consider it binding when submitting the request to ANAC.
	Upon the request of tenderers or contracting authority itself.	ANAC's opinion can be challenged before the regional administrative court within 60 days
Judicial review: regional administrative courts	Unlawful decisions, actions or omissions by the contracting authority. Unlawful award of a public procurement contract.	30 days after receipt of notification from the contracting authority.
	Unlawful content in the contract notice or in the procurement documents.	30 days after publication in the European Official Gazette and/or the Italian Official Gazette.

Macedonia

Available remedy	Type of infringement	Deadline for submission
Request for clarification	Unclear content in the tender documentation.	6 days before the deadline for submission of the offer or application for participation, or 3 days in a simplified tender procedure.
Review by the contracting authority	Contracting authority may introduce the suggested changes. It is obliged to change its tender documentation based on a decision by the State Commission for Public Procurement Appeals.	No later than 6 days before the expiry of the deadline for submission of the offer or application for participation, or 3 days in simplified tender procedures.
Review before body responsible for review procedures: appeal before the contracting authority and appeal/request for annulment of the public procurement proceedings before the State Commission for Public Procurement Appeals (the "Commission").	Unlawful action or omissions by the contracting authority. Violation of substantial legislative provisions.	The appeal shall be filed within a period of 8 / 3 days (simplified tender procedure) The starting day varies according to the procedure chosen Regarding framework agreements: within 3 days after becoming aware of the conclusion of a contract based on the framework agreement. A request to annul the procurement procedure shall be submitted within 30 days after the appeal was filed with the contracting authority. Also, if the response to the appeal has not been delivered to the Commission by the contracting authority. In this situation, the Commission may annul the whole procedure ex officio.
Judicial review: administrative court	Unlawful decision of the Commission.	Proceedings shall be brought within a period of 30 days . The starting date depends on the procurement procedure chosen.

Mexico



Available remedy	Type of infringement	Deadline for submission
<p>Request for clarification (not a formal remedy but useful to draw attention to infringements in a friendly manner)</p>	Unclear, unlawful or incorrect content in the draft tender documents.	A minimum period of 10 business days during which comments and suggestions concerning the draft tender documents can be submitted. Whether this period is granted or not is at the discretion of the contracting authority.
<p>Review by the contracting authority (not a formal remedy) Clarification meetings during the tender procedure</p>	Unclear, unlawful or incorrect content in the bid tender documents (official published terms).	The bidder can submit questions and request modifications to the contents of the tender documents 24 hours prior to the clarification meetings .
<p>Review before body responsible for review procedures: Comptroller's Office Non-Conformity Dept.: Bid protest (non-conformity)</p>	Unlawful acts derived from the tender documents, the tender procedure and the contract award.	<p>6 business days from the date the formal act was served on bidders in national bids.</p> <p>10 business days from the date the formal act was served on bidders in international bids covered by treaties.</p>
<p>Comptroller's Office Head: Review appeal (optional, the bidder can opt for this remedy or go straight to a judicial review)</p>	Challenges the legality of the Comptroller's Office decision on the Bid Protest.	10 business days from the date the resolution of the bid protest was served.
<p>Judicial review: Federal Administrative Justice Court: Annulment action</p>	Illegal resolutions issued in the appeal against the bid or review appeal.	30 business days from the date the resolution on the appeal against the bid or review appeal was served.
<p>District Judge: Constitutional challenge¹</p>	Violation of constitutional rights derived from the resolution issued by the Federal Administrative Justice Court.	15 business days from the date the resolution on the annulment action was served.

¹⁾ The bidder may, in exceptional cases, gain direct access to a judicial review (constitutional challenge) which looks into acts in the bidding procedure. The option for doing so must be analysed on a case-by-case basis.

Montenegro



Available remedy	Type of infringement	Deadline for submission
Request for clarification	Unclear or unlawful content in the contract notice or in the procurement documents.	22, 8, 6 or 3 days before the bid deadline (depending on the type of procedure)
Review before body responsible for review procedures: the Republic's Commission for Control of Public Procurement Procedures (the " Commission ") reviews the bidders' appeal for the protection of rights (" Appeal ")	Infringement relating to the tender documentation. Infringement relating to decisions with regard to: (i) selection of the most favourable tender; (ii) termination of the public procurement procedure; and (iii) cancellation of the public procurement procedure.	10 days before submitting tenders. 10 days as of date of receiving the decision.
Judicial review: administrative court	Unlawful Commission decision.	20 days after receiving the Commission's final decision.

The Netherlands

Available remedy	Type of infringement	Deadline for submission
Request for clarification (not a formal remedy but useful to draw attention to infringements in a friendly manner)	Unclear or unlawful content in the contract notice or in the procurement documents.	10 days before the tender application deadline. 4 days before the tender application deadline (emergency procedure)
Review by the contracting authority: objections (preliminary dispute settlement), complaint procedure	Unclear or unlawful content in the contract notice or in the procurement documents, actions or omissions by the contracting authority with regard to the tender procedure.	No deadline but as soon as possible after becoming aware of the infringement (or, if applicable, within the time frame set out in the tender documents).
Review before body responsible for review procedures: Committee of Procurement Experts ("CPE")	Unclear or unlawful content in the contract notice or in the procurement documents, actions or omissions by the contracting authority with regard to the tender procedure.	Before, during and after the procurement procedure (as soon as possible after becoming aware of this). This is under the condition that a complaint has already been filled with the contracting authority (in accordance with complaint procedure).
Judicial review: ordinary courts	Complaints with regard to the contract award (decision). Complaints with regard to any other decision	Within the standstill period: 20 days after the contract award decision. After the standstill period: within 30 days after the contract is awarded (if the contract is awarded with a prior publication notice published in the Official Journal of the European Union)*. Or within 6 months after the contract award decision (if the contract is awarded without a prior publication Notice published in the Official Journal of the European Union)*.

^{*)} Grounds for annulment of the contract are very limited, therefore complaints should – if possible – be filed against the contract award decision within the standstill period.

Peru



Available remedy	Type of infringement	Deadline for submission
<p>Request for clarification: (not a formal remedy but useful to draw attention to infringements in a friendly manner)</p>	Unclear or unlawful content in the procurement documents (instructions for bidders).	<p>10 working days after the announcement of the public procurement (In Peru, the announcement is published in the electronic system called SEACE).</p> <p>In simplified allocations (accelerated procedures):</p> <ul style="list-style-type: none"> — for procurements of goods and services: 2 working days. — for procurements of work: 3 working days.
<p>Review by the contracting authority: decision will be issued by the supervisory body (its Spanish acronym is OSCE)</p>	Unlawful content in the procurement documents (instructions for bidders).	<p>3 working days after the clarification of the procurement documents has been published in the electronic system called SEACE.</p> <p>This does not apply for simplified allocations (accelerated procedures).</p>
<p>Review of the final decision (e.g. award, cancellation, nullity): the decision will be issued by the contracting authority or the supervisory body: depends on how long the procurement process takes</p>	Unlawful final decision (e.g. award, cancellation, nullity) of the contracting authority.	<p>For public tenders and public bidders: 8 working days after the final decision of the contracting authority.</p> <p>For simplified allocations (<i>accelerated procedures</i>) and other special procurement process: 5 working days after the final decision of the contracting authority.</p>
<p>Judicial review: Lima Contentious Administrative Court of Justice</p>	Against the decision of the supervisory body or the contracting authority that reviewed the final decision.	3 months after the publication of the final decision of the supervisory body or the contracting authority.

*OSCE: This is the supervisory body for public procurement in Peru.

*SEACE: It is an electronic system administered by OSCE. Every procedure for public procurement is published in this system.

*Contracting authority: Any Peruvian public authority.



Poland

Available remedy	Type of infringement	Deadline for submission
Request for clarification: (not a formal remedy but useful to draw attention to infringements in a friendly manner)	Unclear or unlawful content in the contract notice or in the procurement documents.	The last day of the first half of the application deadline.
Review by the contracting authority: (not a formal remedy) suggest changes to the procurement terms and conditions	Contracting authority has discretion on whether to introduce the suggested changes.	In practice, it is the last day of the first half of the application deadline.
Review before body responsible for review procedures: National Appeal Chamber	Unlawful content in the contract notice or in the procurement documents.	10 / 5 days after publication (depending on the procurement value - always check the procurement documents).
	Unlawful action by the contracting authority, and which the tender participant has been informed about.	Basic deadline: 10 / 5 days after receiving the notification from the contracting authority (depending on the procurement value – always check the procurement documents!). Extended deadline: 15 / 10 days if the notification was not sent electronically.
	Unlawful contract award without prior publication of a contract notice.	Various deadlines apply, depending on the exact circumstances: from 15 days after publication of the contract award notice and up to 6 months after the award of the contract.
	Other.	10 / 5 days after the date the tender participant becomes aware or should have reasonably become aware of the infringement (depending on the procurement value – always check the procurement documents).
Judicial review: ordinary courts	Unlawful decision of the National Appeal Chamber.	7 days after receiving the final decision of the National Appeal Chamber.



Portugal

Available remedy	Type of infringement	Deadline for submission
Request for clarification (not a formal remedy but useful to draw attention to infringement in a friendly manner)	Unclear or unlawful content in the procurement documents.	The last day of the first third of the application deadline.
Review by the contracting authority	Unlawful decisions or unlawful content in the tender documents.	5 business days as from the date the relevant act is published.
Review before body responsible for review procedures	N/A	N/A
Judicial review: administrative courts	Unlawful decisions or unlawful content in the tender documents relating to public works contracts, public works concession contracts, public supply contracts, service contracts and services concession contracts.	Urgent proceedings should be filed within 1 month from the date the relevant act is published.



Russia

Available remedy	Type of infringement	Deadline for submission
<p>Request for clarification: not a formal remedy</p> <p>not available for some procurement procedures</p>	Unlawful or unclear content in the procurement documents	3/5 days before the bid deadline (depending on the type of tender).
<p>Review with the contracting authority: not a formal remedy not available for some procurement procedures</p>	Unclear or unlawful content in the procurement documents.	2/5 days before the bid deadline (depending on the type of tender).
<p>Review before body responsible for review procedures: Federal Antimonopoly Service of the Russian Federation (FAS).</p>	<p>Unlawful content in the procurement documents.</p> <p>Unlawful actions or omissions by the contracting authority</p>	<p>Until the bid deadline.</p> <p>10 days after the publication of the tender results.</p>
<p>Judicial review: state arbitration courts</p>	<p>Unlawful actions or omissions by the contracting authority if the term for appealing to the FAS has expired.</p> <p>Unlawful decisions of the FAS.</p>	3 months from the moment when the plaintiff becomes aware of the violation.

Romania

Available remedy	Type of infringement	Deadline for submission
<p>Request for clarification (not a formal remedy but useful to draw attention to infringements in a friendly manner)</p>	Unclear or unlawful content in the contract notice or in the procurement documents.	As provided in the procurement documents but 6/4 (emergency procedures) days and no later than 3 working days before the tender application deadline . Always check the procurement documents.
<p>Review by the contracting authority: prior notification – mandatory dispute resolution mechanism</p>	Any unlawful act by the contracting authority.	10 (EU procedures) / 5 (national procedures) days after becoming aware of the infringement.
<p>Review before body responsible for review procedures: National Council for Solving Complaints (the "Council") (Consiliul National de Solutionare a Contestatiilor)</p>	<p>Unlawful / no response by the contracting authority to the prior notification.</p> <p>Unlawful / no response by the contracting authority to the prior notification: request to join a pending complaint before the Council.</p>	<p>10 (EU procedures) / 5 (national procedures) days, the starting date of the deadline varies depending on the outcome of the prior notification.</p> <p>10 days after the publication in the electronic public procurement system of a notice indicating that a complaint has been lodged before the Council.</p>
<p>Judicial review: ordinary courts</p>	<p>Unlawful Council decision.</p> <p>Unlawful / no response by the contracting authority to the prior notification: direct appeal to the court (without recourse to council resolution).</p>	<p>10 days after receiving the decision of the Council.</p> <p>10 (EU procedures) / 5 (national procedures) days, the starting date of the deadline varies depending on the outcome of the prior notification.</p>

Scotland

Available remedy	Type of infringement	Deadline for submission
<p>Request for clarification (not a formal remedy, but useful pre-tender to identify transparency and any other issues in the procurement documents)</p>	<p>Authorities must set out the detail of the contract requirements and award criteria in the procurement documents. They must extend time limits for the receipt of tenders so that all economic operators concerned may be aware of all the information needed to produce tenders in the following cases: (a) where, for whatever reason, additional information, although requested in good time is not supplied at least 6 days before the deadline for receipt of tenders; or (b) where significant changes are made to the procurement documents.</p>	<p>Deadlines for requests for clarification should be specified in the procurement documents.</p>
<p>Review with the contracting authority</p>	<p>No formal requirement for review by the contracting authority.</p>	<p>Must send a pre-action letter to the authority before issuing proceedings.</p>
<p>Review before body responsible for review procedures: Sheriff Court or Court of Session</p>	<p>See below</p>	<p>See below</p>
<p>Judicial review: Sheriff Court or Court of Session</p>	<p>Decisions of authorities may be challenged by any economic operator with an interest in the contract. Remedies depend on whether the contract has been entered into or not. If the contract has not been entered into, the Court may:</p> <ul style="list-style-type: none"> (a) order the setting aside of the award decision or other action concerned; (b) order the authority to amend any document; or (c) award damages for loss or damage suffered as a consequence of the breach. <p>If the contract has been entered into, the Court must, if satisfied that any of the grounds for ineffectiveness applies, make an ineffectiveness order in respect of the contract.</p>	<p>Proceedings must be brought within 30 days of the date when the economic operator first knew or ought to have known that grounds for starting proceedings had arisen (can be extended by the Court to up to 3 months for 'good reason').</p> <p>Separate time limits apply when seeking an ineffectiveness order:</p> <ul style="list-style-type: none"> (a) 30 days from the date of publication of a valid OJEU contract award notice (or otherwise the date the authority notified the economic operator of the conclusion of the contract and provided a summary of the relevant reasons); or (b) in any other case, 6 months from the date the contract is entered into.



Serbia

Available remedy	Type of infringement	Deadline for submission
Request for clarification	Unclear or unlawful content in the contract notice or in the procurement documents.	5 days before the bid deadline.
Review before body responsible for review procedures: the Republic Commission for Protection of Rights in Public Procurement Procedures ("Commission") reviews the bidders' request for the protection of their rights ("Request")	<p>Challenging the type of procedure, unlawful content in the call for bids or in the procurement documents.</p> <p>Unlawful actions of the contracting authority occurred after the expiry of the previous time limit but before the bid deadline.</p> <p>Unlawful decision of the contracting authority.</p>	<p>7 / 3 days before the bid deadline (depending on the type of procedure).</p> <p>Until the bid deadline.</p> <p>10 / 5 days following the date on which the contested decision is published on the central public procurement portal.</p>
Review by the contracting authority: copies of the Request are delivered to the Commission and the contracting authority	The contracting authority will conduct the preliminary examination of the Request before the Commission reviews the Request and within three days following receipt of the Request. The contracting authority is entitled to accept the Request.	
Judicial review: administrative court	Unlawful Commission decision.	30 days after receiving the Commission's final decision.

Slovak Republic

Available remedy	Type of infringement	Deadline for submission
Request for clarification (not a formal remedy but useful to draw attention to infringements in a friendly manner)	Unclear or unlawful content in the contract notice or in the procurement documents.	6 / 4 (emergency procedures) days before the tender application deadline, but in a reasonable amount of time. Always check the procurement documents.
Review by the contracting authority: mandatory dispute resolution mechanism	Unlawful content in the announcement of the public procurement or contract notice.	10 days after announcement of the public procurement or notice of the intention to sign the contract.
	Unlawful content in the procurement documents.	10 days after receiving the procurement documents.
Review before body responsible for review procedures: Office for public procurement (the "Office")	Unlawful decisions, actions or omissions by the contracting authority or other infringements.	10 days after receiving a rejection Decision from the contracting authority (or 10 days after the period for a decision by the contracting authority has lapsed without effect) or 10 days from the infringement.
Judicial review: administrative court	Unlawful decision of the Office on discontinuance of the proceedings or unlawful final decision of the Office.	30 days after receiving the Office's decision.



Slovenia

Available remedy	Type of infringement	Deadline for submission
<p>Request for clarification or missing information (not a formal remedy but useful to draw attention to infringements in a friendly manner)</p>	Unclear or unlawful content in the contract notice or in the procurement documents.	As provided in the procurement documentation. If a request has been submitted by a tenderer in time, clarification or missing information has to be provided by the contracting authority 6 days before the deadline for submission of tenders at the latest (4 days if the deadline for submission of tenders has been reduced on the grounds of urgency).
<p>Review by the contracting authority (pre-review procedure)</p>	Unlawful content in the contract notice, invitation to tender or procurement documents, unlawful actions or omissions by the contracting authority.	<p>8 business days after the publication of the award notice, supplementary information or correction notice (in cases where selection requirements in award notice have been amended), after the receipt of the invitation to tender or after becoming aware of the infringement.</p> <p>5 business days after the tender application deadline (in low-value contract procedures and in cases where the deadline for submission of tenders is shorter than 10 business days).</p>
	Unlawful contract award decision or unlawful qualitative selection decision.	8 business days from the receipt of the decision / 5 business days from the receipt of the decision (in low-value contract procedures).
<p>Review before body responsible for review procedures - National Review Commission (Državna revizijska komisija)</p>	Any unlawful act, decision, omission or other violation of the basic principles of public procurement by the contracting authority.	3 business days after receiving a decision of the contracting authority on the review claim
<p>Judicial review: district civil court</p>	Nullity of the procurement contract or individual public contract that is awarded by the contracting authority on the basis of a framework contract or in the dynamic purchasing system.	Deadline not determined by law (in line with general civil law provisions, the right to claim nullity is not time-barred).



Spain

Available remedy	Type of infringement	Deadline for submission
<p>Request for clarification (not a formal remedy but useful to draw attention to infringements)</p>	<p>Requesting additional information Unclear or unlawful content in the contract notice or in the procurement documents</p>	<p>There is no deadline for the submission of a request for clarification. Nonetheless, the contracting authority is obliged to provide this information at least 6 days before the cut-off date for receipt of tenders.</p>
<p>Review by the contracting authority (an unusual limited remedy which does not involve a review. It is typically used to state objections against prior actions taken by the contracting authority)</p>	<p>Unlawful prior actions, decisions or omissions by the contracting authority (e.g. evaluation or rating of the offers)</p>	<p>2 working days after the announcement or notice of the relevant action.</p>
<p>Review before the body responsible for review procedures (Optional): A special administrative appeal to be filed before administrative bodies on state (“Tribunal Administrativo Central de Recursos Contractuales”) and regional (“Tribunales Administrativos Territoriales de Contratación”) level.</p>	<p>Certain decisions: (i) violating general public procurement principles enshrined in both EU and Spanish legislation, (ii) infringing tender rules; (iii) omitting demandable procedural formalities; or (iv) affecting free competition and market unity.</p> <p>Also acts which are considered null and void according to the General Administrative Law.</p> <p>Certain decisions affecting free competition and market unity.</p>	<p>15 working days – the starting date from which the deadline is calculated varies depending on what is challenged</p>
<p>Judicial review: Ordinary judicial administrative courts review decisions adopted i) by the contracting authority or ii) by an administrative body based on a special administrative appeal.</p>	<p>The type of infringements to be established are similar to those which are determined by means of a special appeal, to be filed with the competent administrative bodies.</p>	<p>In both cases, 2 months after the announcement or notice of the relevant decision or resolution.</p>



Switzerland

Available remedy	Type of infringement	Deadline for submission
Request for clarification (not a formal remedy)	Unclear or unlawful content in the procurement documents.	Immediately , otherwise the tenderer risks forfeiting the claim for unclear or unlawful content in the procurement documents.
Review before body responsible for review procedures: for cantonal procurements only and only in some of the cantons (e.g. Canton of Berne)	Cf. 1 st judicial review.	10 days after notification or publication.
1st judicial review: federal procurements: Federal Administrative Court Cantonal procurements: Cantonal Administrative Court	Any order (e.g. invitation to tender, award of contract, discontinuation of the procurement proceedings, exclusion of a tenderer) of the contracting authority violating the law or any order by which the legally relevant facts are incorrectly or incompletely determined. Inadequacy is not subject to review.	Federal procurements: 20 days after notification or publication. Cantonal procurements: 10 days after notification or publication of the contracting authority's order or 10 days after notification of the decision by the body responsible for review procedures in cantons where a non-judicial review body exists.
2nd judicial review: Federal Supreme Court (in general only under the condition that a legal question of fundamental importance arises)	The court conducting the 1 st judicial review issues a decision which violates the law. Both the (i) inadequacy of a decision and (ii) the incorrect or incomplete determination of the legally relevant facts (in general, meaning there are some exceptions to this) are types of infringements which are not subject to review.	30 days after the court conducting the 1 st judicial review has issued its decision.

Turkey

Available remedy	Type of infringement	Deadline for submission
Request for clarification (not a formal remedy)	Unclear content in the contract notice or in the procurement documents.	20 days before the deadline for tender bid submission. If a request is found meritorious, an explanation in writing shall be provided 10 days in advance of the deadline for tender bid submission.
Review by the contracting authority: complaints (preliminary dispute settlement)	Unlawful procedures or actions within the tender process. Unlawful content in the contract notice, prequalification or procurement documents.	10 days after becoming aware of the infringement. Exception: 5 days after becoming aware of the infringement for tenders which are procured (i) under extremely urgent and unforeseeable conditions (i.e. disaster, disease etc.) and (ii) in connection with national defence, security and intelligence matters. In any event before the signing of the contract. 3 business days before tender or tender application deadline.
Review before body responsible for review procedures: Public Procurement Authority ("PPA")	Unlawful decisions, actions or omissions by the contracting authority. Unlawful actions and decisions which are related to the cancellation of a tender and are taken as a result of a complaint or objection.	For the complainant, candidates, tenderers or potential tenderers, 10 days after the contracting authority's decision on the complaint. For the complainant, 10 days after the decision period has expired. In any event before the signing of the contract. Directly to the PPA, within 5 days of such action or decision being taken or made.
Judicial review: administrative courts	Unlawful final decision of the PPA	30 days after the announcement or notice of the PPA's relevant decision.

Ukraine

Available remedy	Type of infringement	Deadline for submission
Request for clarification or request to remedy an infringement	Unclear or unlawful content in the procurement documents, or other infringements which occurred before the tender application deadline.	10 days before tender application deadline.
Review before body responsible for review procedures: Permanent Administrative Board of the Antimonopoly Committee of Ukraine (the "Board")	Unlawful content in the procurement documents and unlawful decisions, actions or omissions by the contracting authority which occurred before the tender application deadline.	4 days before the tender application deadline.
	Unlawful decisions, actions or omissions by the contracting authority which occurred after the evaluation of bids.	10 days after the publication of the notice of the intention to sign the contract.
	Unlawful decisions, actions or omissions by the contracting authority which occurred after the examination of bids.	5 days after the publication of the minutes on examination of bids.
Judicial review: administrative courts	Unlawful final decision of the Board.	30 days after the publication of the final decision of the Board in the electronic procurement system.
	Any complaints with regard to the public procurement contracts already executed.	3 years after the conclusion of the contract.

United Kingdom (excluding Scotland)

Available remedy	Type of infringement	Deadline for submission
<p>Request for clarification (not a formal remedy, but useful pre-tender to identify transparency and any other issues in the procurement documents)</p>	<p>Authorities must set out the detail of the contract requirements and award criteria in the procurement documents. They must extend time limits for the receipt of tenders so that all economic operators concerned may be aware of all the information needed to produce tenders in the following cases: (a) where, for whatever reason, additional information, although requested in good time is not supplied at least 6 days before the deadline for receipt of tenders; or (b) where significant changes are made to the procurement documents.</p>	<p>Deadlines for requests for clarification should be specified in the procurement documents.</p>
<p>Review with the contracting authority</p>	<p>No formal requirement for review by the contracting authority.</p>	
<p>Review before body responsible for review procedures: High Court (generally in the Technology and Construction Court (TCC))</p>	<p>See below</p>	<p>See below</p>
<p>Judicial review: High Court (generally in the Technology and Construction Court (TCC))</p>	<p>Decisions of authorities may be challenged by any economic operator with an interest in the contract. Remedies depend on whether the contract has been entered into or not. If not entered into, the Court may: (a) order the setting aside of the award decision or other action concerned; (b) order the authority to amend any document; or (c) award damages for loss or damage suffered as a consequence of the breach. If the contract has been entered into, the Court must, if satisfied that any of the grounds for ineffectiveness applies, make a declaration of ineffectiveness in respect of the contract.</p>	<p>Proceedings must be brought within 30 days of the date when the economic operator first knew or ought to have known that grounds for starting proceedings had arisen (can be extended by the Court to up to 3 months for 'good reason'). Separate time limits apply when seeking a declaration of ineffectiveness: (a) 30 days from the date of publication of a valid OJEU contract award notice (or otherwise the date the authority notified the economic operator of the conclusion of the contract and provided a summary of the relevant reasons); or (b) in any other case, 6 months from the date the contract is entered into.</p>

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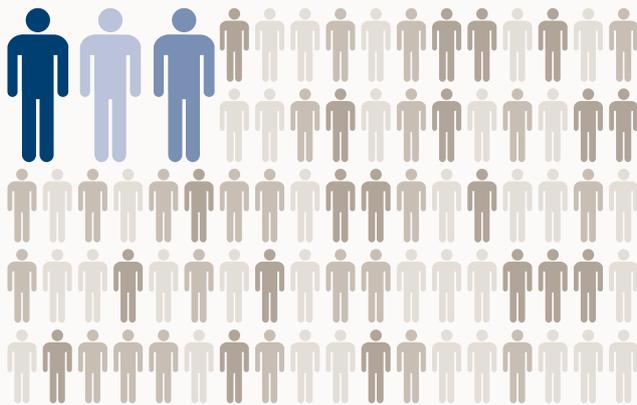
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49 new partners in 2019, taking the total to over 1,100



Top rankings in 2018
M&A League Tables
(by deal count)

#1 CEE, DACH, Germany
(Mergermarket)

#1 Europe, Germany, UK
(Bloomberg)

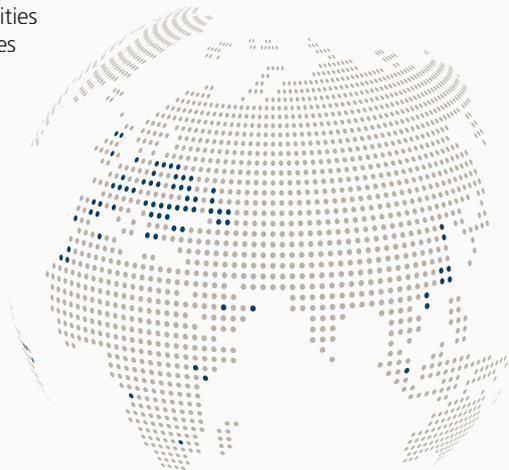
#1 Germany, UK
(Thomson Reuters)

> 8,000 staff

> 4,800 lawyers

> 1,100 partners

Operating in 70 cities
across 43 countries

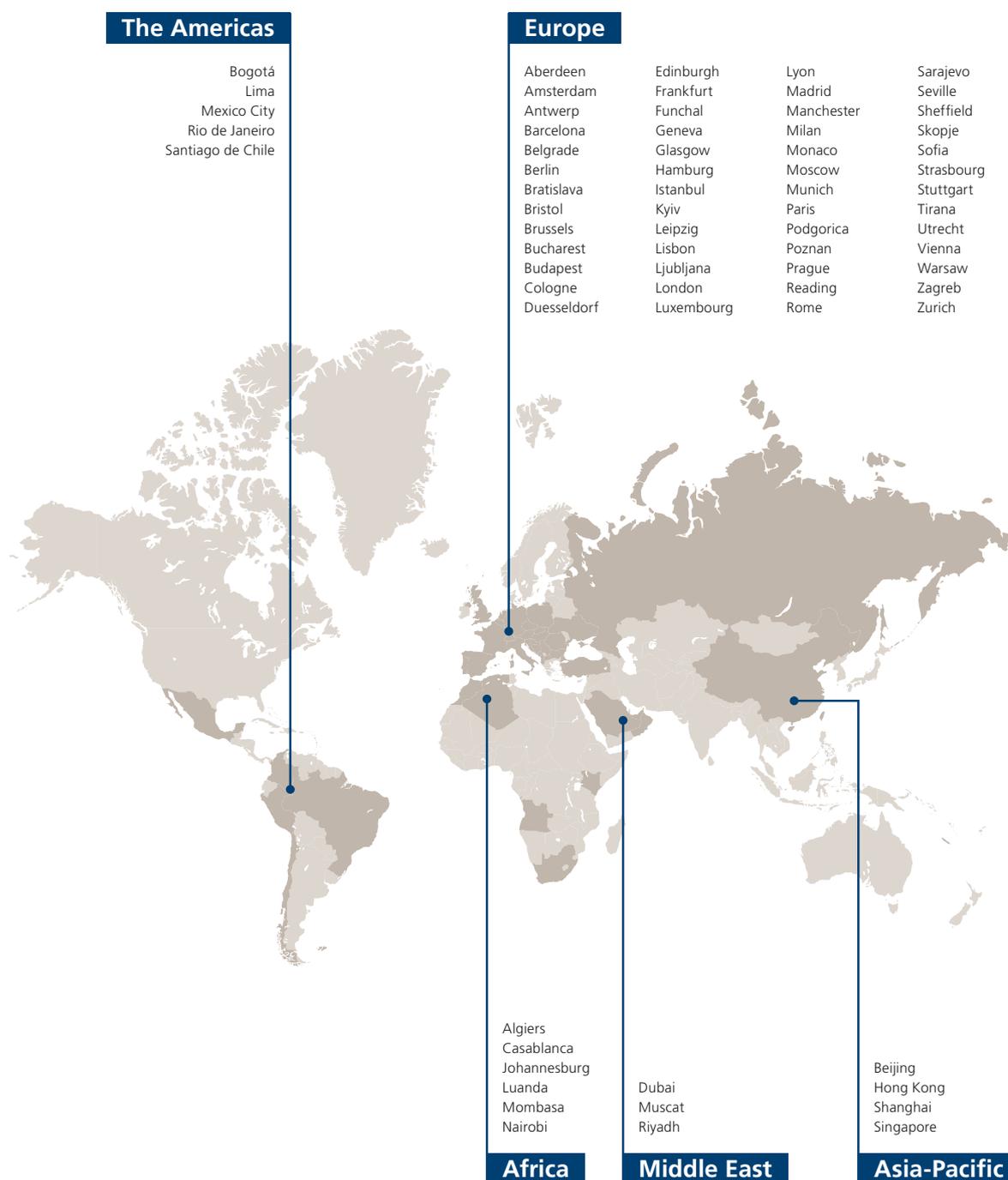


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