



**Annex 2 to inception report Component 3** final version

Transposition of terminology Directive - Contract types pursuant to Act on Public Contracts (APC) and Act on Concession (AC)					
Overall category of public contracts	Subtype of contract	Concession variant of subtype	Official definition of type of contract	Is definition compliant with definition used in Directive?	Competitive dialogue or concession dialogue suitable to procure complex project?
Public Contract			A contract for pecuniary interest concluded between the contracting entity and one or more economic operators, having as its subject-matter supply of products or the provision of services or the execution of public works. The public contract which the contracting entity shall be obligated to award under this Act shall be carried out on the basis of a contract in writing (source: APC, §7(1))	Yes, but unnecessary rephrasing took place	Competitive dialogue (source: APC, §24)
	Above-the-Threshold Public contract		'Above-the-threshold public contract' shall be understood as a public contract the estimated value of which pursuant to § 13 is equal to or greater than the financial threshold referred to in § 12(2), § 12(3) or § 12(4). The financial thresholds in § 12(2), § 12(3) and § 12(4) are referred to exclusive of value added tax. (source: APC, §12(1))		
	Public works contract		(1) A public contract having as its subject-matter: (a) the execution of public works relating to any of the activities referred to in Annex 3, (b) the execution of public works pursuant to § 9(1)(a) and any related design or engineering activity, or (c) realisation of a work <sup>1)</sup> which is the outcome of building or installation works and, if appropriate, also related design or engineering activities, and which, taken as a whole, is sufficient of itself to fulfil an economic or technical function.  (2) Public works contract shall, in addition, be a public contract having as its subject-matter the performance pursuant to § 9(1), and which also covers the supplies of products or, where appropriate, the provision of services which are necessary for the execution of the subject-matter of the public contract by the economic operator.  (3) Public works procured by employment of intermediary or similar services, made available to the contracting by another person, shall be also considered as a public works contract. (source: APC, §9)		Competitive dialogue (source: APC, §24)
		Public works concession	<b>Not defined</b> (note: § 1(3) and § 16 of the Concession Act only address the general term 'Concession Contract', without stipulating sub-categories of concessions.	No	Uncertain, because term is not defined
	Public services contract		(1) A public contract other than public supply contract or public works contract. (2) Public service contract shall, in addition, be a public contract having as its subject-		Competitive dialogue (source: APC, §24)

<sup>1)</sup> Act no. 50/1976 Coll., on Land-Use Planning and the Building Code (the Building Act), as subsequently amended.



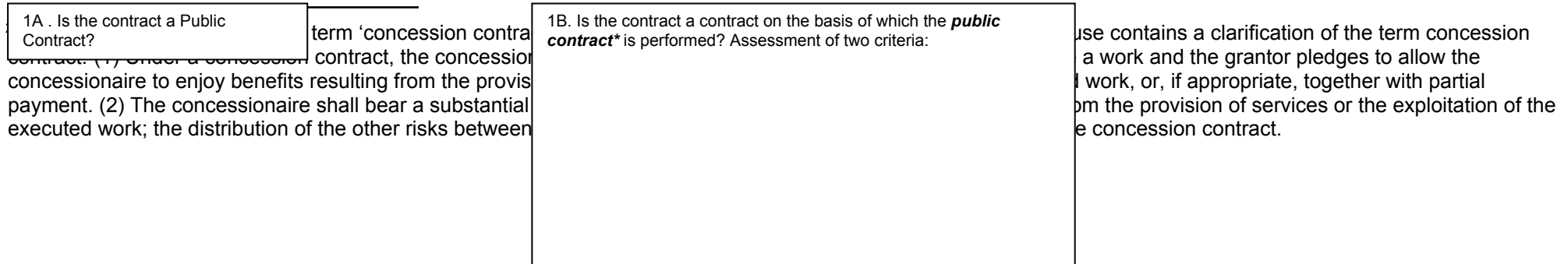
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			<p>matter the provision of services, and which also covers:</p> <ul style="list-style-type: none"> <li>a. the supply of products pursuant to § 8, where the estimated value of provided services exceeds the estimated value of the supplied products, or</li> <li>b. the execution of public works pursuant to § 9 where such works are only incidental to the principal subject-matter of the contract.</li> </ul> <p>(3) Services shall be subdivided into categories set out in Annexes nos. 1 and 2.</p> <p>(4) If the subject-matter of a public contract covers the provision of services listed in Annex no. 1 as well as in Annex no. 2, the greater estimated value of services listed in the relevant Annex, shall be decisive to determine whether it is a public service contract under Annex no. 1 or a public service contract under Annex no. 2. (source: APC, §10)</p>		
		Service concession	<b>Not defined</b> (note: § 1(3) and § 16 of the Concession Act only address the general term 'Concession Contract', without stipulating sub-categories of concessions.	No	Uncertain, because term is not defined
	Public supply contract		<p>(1) A public contract having as its subject-matter procurement of a good (hereinafter referred to as "the products"), in particular, in the form of the purchase, hire purchase, rental or lease with subsequent option to buy (leasing), of products.</p> <p>(2) Public supply contract shall, in addition, be a public contract having as its subject-matter procurement of products pursuant to § 8(1), and which also covers, as an incidental matter, the provision of services consisting in siting and installation operations or rendering such products operational. (source: APC, §8)</p>		Competitive dialogue (source: APC, §24)
		No concession variant			



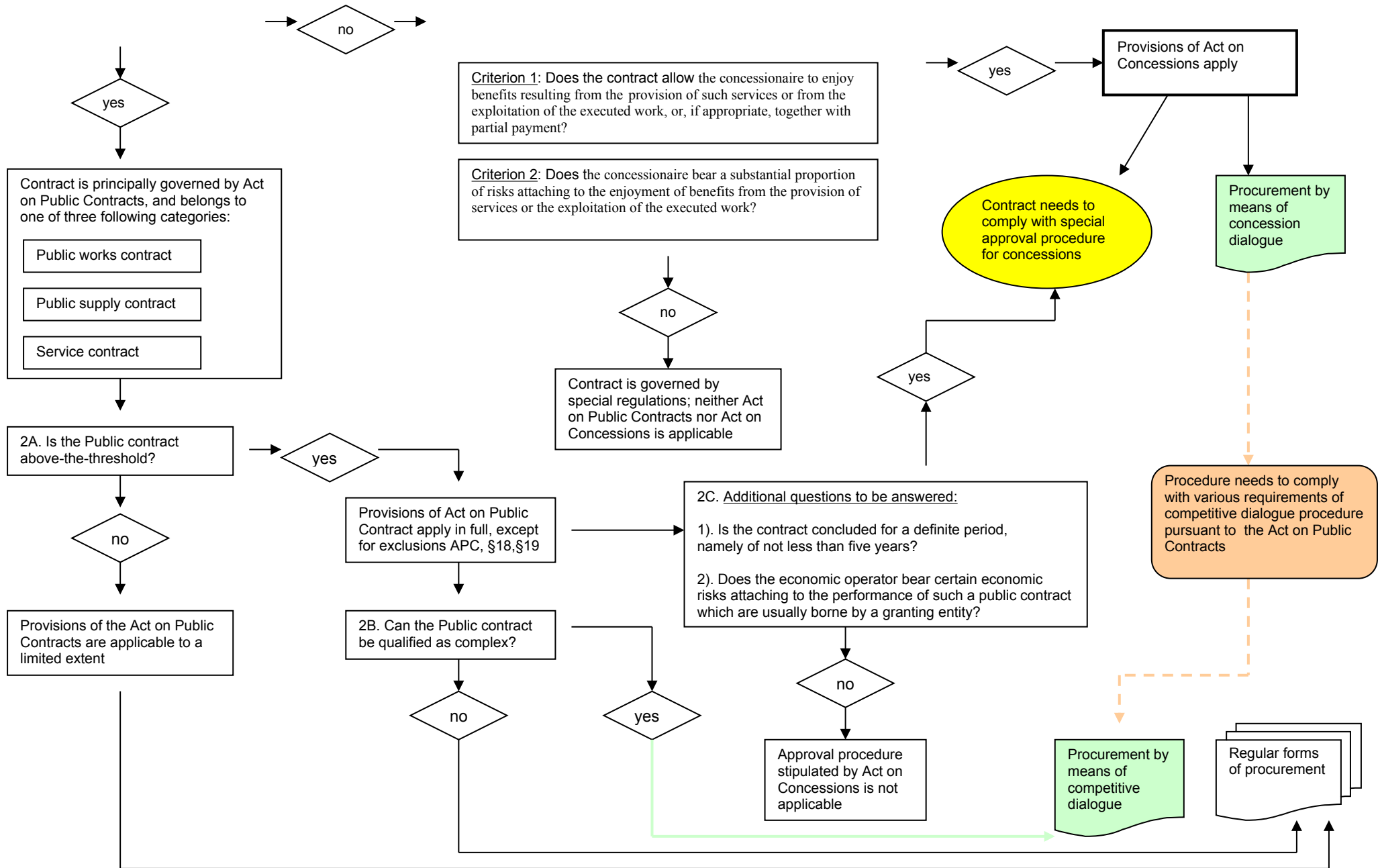
Additional contract types pursuant to Czech legislation					
Overall category of public contracts	Subtype of contract	Concession variant of subtype	Official definition of type of contract	Is definition compliant with definition used in Directive?	Competitive dialogue or concession dialogue applicable to procure project?
None		Concession Contract	A contract on the basis of which the public contract is performed <sup>2</sup> (source: CA, §1(3)) + § 16(1), see for exclusions: CA, §1(1))		Concession dialogue (source: CA, §1)
Public contract	Contract on the basis of which an above-the-threshold Public contract is performed		A contract on the basis of which the above-the-threshold public contracts under the Act on Public Contracts are performed, if (a) the contract is concluded for a definite period, namely of not less than five years and (b) the economic operator bears certain economic risks attaching to the performance of such a public contract which are usually borne by a granting entity. (source: CA, §1(2). See also § 156 APC)		Uncertain whether competitive dialogue or concession dialogue applies. (Note: neither Public works concession nor Service concession is defined).

**Czech perspective – flow chart on applicability of CD in a PPP context**





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\*: By logic a contract that is not a Public contract (as defined in the Act on Public Contracts) can not be defined in terms of the characteristics of a Public contract.