

ICS 03.100.10, 13.180, 33.020, 35.020

English version

**Guidance for the application of conformity assessment to
accessibility requirements for public procurement of ICT
products and services in Europe**

This Technical Report was approved by CEN and CENELEC on 28 February 2014 and by ETSI on 27 December 2013.

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Contents	Page
Foreword.....	4
Introduction	5
1 Scope	6
2 Normative references	6
3 Terms and definitions	6
4 Key issues for conformity assessment in relation to procurement	8
4.1 The Standard EN 301 549 and related documents	8
4.2 Selection of type of evidence	8
4.3 Methods to follow-up the supplier's performance of contracts	9
5 Legal issues	9
5.1 General legal issues on public procurement	9
5.2 European legal issues on public procurement.....	9
5.3 European common framework for the marketing of products (CE Mark).....	11
5.4 Accessibility in European public procurement	13
5.5 National implementation of accessibility aspects of the European public procurement Directives	15
6 Types of conformity assessment.....	16
6.1 Introduction to conformity assessment	16
6.2 Overview of conformity assessment types.....	17
6.2.1 First party declaration	17
6.2.2 Supplier's Declaration of Conformity	17
6.2.3 Second party attestation	17
6.2.4 Third party certification.....	17
6.2.5 Accredited third party certification	18
7 Aspects for selecting the type of evidence.....	18
7.1 Impact on users and employees	18
7.2 Cost-efficiency	19
7.3 Need for interpretation	20
7.4 Level of accessibility	20
7.5 Type of ICT products and services	20
7.5.1 Off-the-shelf products	21
7.5.2 Customized products	22
7.5.3 Integrated product or systems	22
7.5.4 Proprietary software.....	22
7.5.5 Open-source software and open standards	22
7.5.6 Services	23
7.5.7 Web sites	23
7.5.8 Distributed Application Platforms and Services	24
7.5.9 Development of bespoke applications	24
7.6 Maturity of the technology	24
7.7 The use of declarations and certificates in e-procurement.....	25
7.8 Reuse of conformity assessment results	26
8 Guidance on selection of type of evidence.....	27
8.1 Pre-award conformity assessment	27
8.1.1 Tick-box and description	27
8.1.2 First party declaration	28
8.1.3 Supplier's Declaration of Conformity	28

8.1.4	Second party attestation.....	29
8.1.5	Third party certification	29
8.1.6	Accredited third party certification.....	29
8.1.7	Certificates as an administrative burden	30
8.2	Post-award conformity assessment.....	30
8.2.1	Conformity assessment after delivery	30
8.2.2	Conformity assessment in development contracts.....	31
8.2.3	Conformity assessment during use and operation	31
9	Follow-up methods for long-term contracts.....	31
9.1	Follow-up as part of a conformity assessment scheme	32
9.2	Follow-up as contract management	32
9.3	Follow-up of supplier capacity and ability.....	32
9.4	Conformity to the standard EN 301 549	33
9.5	Conformity to award criteria.....	33
9.6	Contractual supplier processes for ensuring service quality	33
9.7	Organizational issues	33
10	Use of accessibility label systems	33
Annex A	Standards for conformity assessment	35
A.1	Vocabulary, principles and common elements of conformity assessment.....	35
A.2	Code of good practice for conformity assessment	35
A.3	Drafting normative documents for use in conformity assessment.....	35
A.4	Testing and calibration	35
A.5	Inspection.....	35
A.6	Supplier's Declaration of Conformity (SDoC).....	36
A.7	Product certification.....	36
A.8	Management system certification.....	36
A.9	Certification of persons	36
A.10	Marks of conformity	37
A.11	Accreditation.....	37
A.12	Mutual Recognition Arrangements (MRAs).....	37
A.13	Peer assessment	37
Annex B	Generic Templates for Declaring and Certifying Conformity.....	38
B.1	First party declaration of conformity.....	38
B.2	Supplier's Declaration of Conformity	39
B.3	Second party attestation of conformity	41
B.4	Third party certification of conformity	43
B.5	Accredited third party certification of conformity	45
Annex C	Templates for Declaring and Certifying Conformity with EN 301 549.....	48
C.1	First party declaration of conformity with EN 301 549	48
C.2	Supplier's Declaration of Conformity with EN 301 549	50
C.3	Second party attestation of conformity with EN 301 549	52
C.4	Third party certification of conformity with EN 301 549.....	54
C.5	Accredited third party certification of conformity with EN 301 549	56
Annex D	Abbreviations and Acronyms.....	59
Bibliography	60

Foreword

This Technical Report (CEN/CLC/ETSI/TR 101 552:2014) is part of the European Standardization Organizations (ESOs) coordinated response to Mandate M/376, "Standardization Mandate to CEN, CENELEC and ETSI in support of European accessibility requirements for public procurement of products and services in the ICT domain" [33].

It has been prepared by the CEN/CENELEC Project Team (PT) under the CEN/CENELC/ETSI Joint Working Group (JWG) on eAccessibility, the secretariat of which is held by AENOR.

Introduction

One of the key activities in the public procurement process is to assure that the product or service offered by the tenderer actually has the characteristics and qualities specified in the technical specifications and award criteria. Conformity assessment, as defined in the ISO/IEC 17000 series of standards (see Annex A.1), is an agreed framework for carrying out such assurance.

This Technical Report (TR) provides guidance to procuring bodies on which conformity assessment systems or schemes to refer to in their procurement.

"The purpose of this TR is to provide all reference documents needed to assess conformity, whether as a self declaration or a certification (referenced documentation following ISO/IEC 17000 series) needed to have the various schemes operational if procuring bodies would like to require a self declaration or a certificate." (See Mandate M/376 [33].) The TR includes generic (see Annex B) and EN 301 549 specific (see Annex C) templates for declaring or certifying conformity as well as advice on the conformity assessment methods that can be referred to in procurements.

The TR addresses conformity assessment both pre-award (mainly by the supplier during production) and post-award (according to provisions in the contract).

One of the bases for this TR is the report produced under phase I of the Mandate M/376: CEN/BT WG 185 / CLC/BT WG 101-5 Report on "Conformity assessment systems and schemes for accessibility requirements" (see [2]). Another basis is a report on verification of environmental requirements in public procurement, produced in 2006 by the Swedish Environmental Research Institute (see [32]).

1 Scope

This Technical Report (TR) incorporates all information and documentation needed in the frame of the procurement process in order to allow conveying the assessment of accessibility via conformity with the functional accessibility requirements contained in EN 301 549 (see clause 2, i), regardless of whether self-declaration, second party attestation or third party certification is requested, and with award criteria: the criteria, by which the award of a contract is judged.

In addition, this Technical Report provides procuring bodies with guidance on conformity assessment mechanisms for accessibility as part of contract management in the post-award stage. It is also useful in the pre-procurement research phase as well as during the contract negotiations. Finally it may be consulted by bidders preparing an offer.

2 Normative references

The following referenced documents are indispensable for the application of this document. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

ETSI EN 301 549, *Accessibility requirements suitable for public procurement of ICT products and services in Europe*

ETSI/TR 101 550, *Documents relevant to EN 301 549 "Accessibility requirements suitable for public procurement of ICT products and services in Europe"*

ETSI/TR 101 551, *Guidelines on the use of accessibility award criteria for publicly procured ICT products and services in Europe*

EN ISO/IEC 17000:2004, *Conformity assessment - Vocabulary and general principles (ISO/IEC 17000:2004)*

3 Terms and definitions

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

3.1 accessibility
extent to which products, systems, services, environments and facilities can be used by people from a population with the widest range of characteristics and capabilities to achieve a specified goal in a specified context of use

Note 1 to entry: Context of use includes direct use or use supported by assistive technologies.

[EN ISO 26800:2011, 3.1] (see [5])

3.2 accessible design
design focused on principles of extending standard design to persons with some type of performance limitation to maximize the number of potential customers who can readily use a product, building or service, which may be achieved by:

- designing products, services and environments that are readily usable by most users without any modification;
- making products or services adaptable to different users (adapting user interfaces); and

- having standardized interfaces to be compatible with special products for persons with disabilities

Note 1 to entry: Terms such as design for all, barrier-free design, inclusive design and transgenerational design are used similarly but in different contexts.

Note 2 to entry: Accessible design is a subset of universal design, where products and environments are usable by all persons, to the greatest extent possible, without the need for adaptation or specialized design.

[ISO/IEC Guide 71:2001, 3.2; CEN/CENELEC Guide 6:2002, 3.2] (see [26] and [1])

3.3

assistive technology (AT)

hardware or software added to, or incorporated within, a system that increases accessibility for an individual

Note 1 to entry: Examples are Braille display, screen reader, screen magnification software and eye tracking devices

[EN ISO 9241-171:2008, 3.5] (see [6])

3.4

award criteria

the criteria by which the award of a contract is judged

3.5

conformity assessment

demonstration that specified requirements relating to a product, process, system, person or body are fulfilled.

[EN ISO/IEC 17000:2004] (see Annex A.1)

3.6

contracting authority

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

3.7

impairment

problem in body function or structure such as a significant deviation or loss which can be temporary due, for example, to injury, or permanent, slight or severe and can fluctuate over time, in particular, deterioration due to ageing.

Note 1 to entry: Body function can be a physiological or psychological function of a body system; body structure refers to an anatomic part of the body such as organs, limbs and their components (as defined by the World Health Organization (WHO) in ICIDH-2 of July 1999). (see [23])

Note 2 to entry: This definition differs from that in ISO 9999:2002 and, slightly, from ICIDH-2/ICF: May 2001, WHO. (see [24])

[ISO/IEC Guide 71:2001, 3.4; CEN/CENELEC Guide 6:2002, 3.4] (see [26] and [1])

3.8

public contract

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

3.9

selection criteria

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

3.10

user

person who interacts with the product, service or environment

Note 1 to entry: Adapted from ISO 9241-11:1998.

[ISO/IEC Guide 71:2001, 3.6; CEN/CENELEC Guide 6:2002, 3.6] (see [26] and [1])

4 Key issues for conformity assessment in relation to procurement

4.1 The Standard EN 301 549 and related documents

The European Norm (EN) 301 549 (see clause 2, i) specifies in Clause 5 to 13 the functional accessibility requirements applicable to ICT products and services together with a full description of the test procedures and evaluation methodology for each requirement in Annex C in a form that is suitable for use in public procurement. The EN does not prioritise functional accessibility requirements. Possible prioritization is left to the user of the EN.

EN 301 549 is to be used as the basis for the procurement toolkit which will primarily be useful for procuring bodies to identify the accessibility requirements for their purchases, and also for manufacturers to employ it within their design, build and quality control procedures. It will be also useful for manufacturers of assistive technology and for interested users with disabilities who are relying on accessible ICT products and services.

EN 301 549 reflects in Clause 4 the accessibility needs of the users and shows what accessibility features are expected in publicly bought ICT. It also contains all of the necessary functional accessibility requirements, providing a reference document so that if procedures are followed by different actors, the results of testing are similar and the interpretation of those results is clear and transparent, regardless of whether self-declaration, second party attestation or third party certification is requested.

The test descriptions and evaluation methodology included in Annex C of EN 301 549 are elaborated to a level of detail fully compliant with ISO/IEC 17007:2009 (see Annex A.3) so that conformance testing can give conclusive results.

The Technical Report (TR) 101 550 (see clause 2, ii) lists the documents used in the creation of EN 301 549 and provides a source reference for any other documents needed to implement the test procedures specified in that document. The TR 101 550 also provides additional explanation to assist users of EN 301 549 with clarifications and supporting information about measurement methods, particularly where no globally agreed tests presently exist. Where there are any test gaps, these are identified and test descriptions and evaluation methodologies are developed. In those exceptional cases where it is not possible to do so, recommendations are given on how the gaps should be filled.

The Technical Report (TR) 101 551 (see clause 2, iii) provides procuring bodies with guidance on the award criteria relevant to each area of user needs to be addressed in the procurement of accessible ICT products and services.

4.2 Selection of type of evidence

One of the key activities in the procurement process is to assure that the product or service offered by the tenderer actually has the characteristics and qualities specified in the technical specifications and award criteria. There are two main reasons for assuring compliance: ensuring value for money and equal treatment of bidders. If the procuring body does not control compliance, it runs the risk of paying for something that does not have the intended functionality. Secondly, false statements of a tender may be accepted, giving honest bidders a competitive disadvantage. Not controlling the compliance violates the principle of equal treatment of bidders, laid down in the Treaty of the Functioning of the European Union (TFEU).

The Court of Justice of the European Union has laid down that award criteria must be verifiable. In decision C-448/01 "Wienstrom" the Court says: "Therefore, an award criterion which is not accompanied by requirements which permit the information provided by the tenderers to be effectively verified is contrary to the principles of Community law in the field of public procurement." (see [4]).

Hence, the purpose of requiring the bidder to submit evidence of compliance to the technical specifications and the award criteria laid down in the call for tender is to enable the procuring body to make sure that the criteria are fulfilled.

Statements and documents giving evidence may be more or less detailed and credible. The procuring body is faced with the task to decide which kind of evidence, with which degree of credibility, to require. This selection must be based on a number of factors, such as the impact on the user in case of non-compliance, cost and time of the conformity assessment imposed on the bidder, appropriateness with respect to the development and manufacturing process of the subject-matter of the procurement etc. Since some of these factors can be conflicting, the selection is sometimes an issue of finding a sufficiently good type of evidence.

Clause 7 of this TR discusses different factors to be taken into account when deciding which conformity assessment system to be required from the bidder.

Clause 8 provides guidance on selection of a conformity assessment system or scheme.

4.3 Methods to follow-up the supplier's performance of contracts

ICT is often subject to changes during its use. Software and hardware may need updating and upgrading because of new or modified business or user needs at the customer side, or because the supplier, within the framework of a maintenance contract, wants to introduce new technology resulting in easier or less frequent maintenance. Changes of this kind may affect the accessibility of ICT products and services. The procuring body needs to follow up the consequences of such changes. Long-term contracts normally contain clauses on how changes should be initiated, decided and implemented.

When an organization has awarded a service contract, it must follow up whether the service is being delivered to the level of accessibility specified in the contract, to the agreed quality and price.

In the context of procurement, follow-up of the supplier's performance of the contract is often part of contract management.

An important reason for following up, however outside the scope of this TR, is to collect information and feedback for use in the next procurement of the product or service in question.

Clause 9 of this TR discusses how to ensure maintenance of the contracted specification of accessibility during operation and use.

5 Legal issues

5.1 General legal issues on public procurement

Public Procurement (also called Government Procurement or Public Tendering) is the procurement of goods and services on behalf of public authorities by executive agencies such as national, regional and local public bodies, including central government, local authorities, fire and police authorities, defence, health services, joint consortia of public bodies, and public and private utilities. Government procurement is the subject of the "Agreement on Government Procurement" (1996) [34], a multilateral international treaty under the auspices of the World Trade Organization (WTO).

5.2 European legal issues on public procurement

Public procurement in the European Union is the process for awarding contracts for the purchase of goods and services by the public authorities of the European Union and its Member States. It has been the subject of European regulation since decades because of its importance in the European single market. In 2004, European procurement legislation was consolidated following the principles of simplification and modernisation.

The Directive 2004/17/EC "coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors" [14] and Directive 2004/18/EC "on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts" [15] allow the procurement of framework agreements and introduce a new procurement procedure, the "competitive dialogue". They had to be transposed into national law by 31 January 2006.

In 2007 the Remedies Directives were also updated by Directive 2007/66 "amending Directive 89/665 and 92/13 with regard to improving the effectiveness of review procedures concerning the award of public contracts" [16].

Companies based in one European country can bid freely for public authorities' contracts in other EU countries. Authorities throughout the EU used harmonised, transparent procedures for selecting contractors. The "Small Business Act for Europe" (SBA 2008 [20], revised 2011 [21]) is further promoting measures that make it easier for smaller businesses to bid for public contracts on an equal basis with larger competitors.

The Single Market thematic web site on EUROPE¹ is managed by the Internal Market and Services Directorate General (DG MARKT) and provides detailed information on public procurement in three languages. The Public contracts - Your Europe - Business web site² provides detailed (country specific) information on Public Contracts with public authorities of the European Union and its Member States.

On 20th December 2011, as announced in the Single Market Act from April 2011, the European Commission adopted its proposals on a reform of public procurement. These proposals are part of an overall programme aiming at an in-depth modernisation of public procurement in the European Union. This programme includes the revision³ of the EU Public Procurement Directives 2004/17/EC (see [14]) and 2004/18/EC (see [15]), which were evaluated in 2011 (see [17]).

The new Commission proposals for both directives have been published on 20th December 2011 (see [10] and [11]).

The proposed reform of the European rules on public tendering aims to thoroughly modernise the existing tools and instruments. Main objectives of the reform are:

- to simplify rules and procedures and make them more flexible;
- to encourage access to public procurement for SMEs;
- to facilitate a qualitative improvement in the use of public procurement by ensuring greater consideration for social and environmental criteria such as life-cycle costs or the integration of vulnerable and disadvantaged persons, thereby helping to achieve the objectives of the Europe 2020 Strategy (see [9] and [22]);
- the principle of the "most economically advantageous tender" (MEAT) is the standard award criterion (replacing the criteria of lowest price);
- improvements to the existing guarantees aimed at combating conflicts of interest, favouritism and corruption in order to better ensure the integrity of procedures, given the financial implications;
- the appointment by the Member States of a single national authority responsible for monitoring, performing and checking public contracts to ensure that the rules are properly applied in practice.

¹ http://ec.europa.eu/internal_market/publicprocurement/index_en.htm (Last access 2013/11/05)

² http://ec.europa.eu/youreurope/business/profitting-from-eu-market/benefiting-from-public-contracts/index_en.htm (Last access 2013/11/05)

³ http://ec.europa.eu/internal_market/publicprocurement/modernising_rules/index_en.htm (Last access 2013/11/05)

On 26 June 2013 the European Parliament and the Council reached an agreement on the revision of the EU Public Procurement Directives. The new rules on public procurement were approved by the European Parliament on 15th January 2014. The new legislation overhauls the current EU public procurement rules and for the first time sets common EU standards on concession contracts to boost fair competition and ensure best value for money by introducing new award criteria that place more emphasis on environmental considerations, social aspects and innovation. With the new criterion of the "most economically advantageous tender" (MEAT) in the award procedure, procurers will be able to put more emphasis on quality, environmental considerations, social aspects or innovation while still taking into account the price and life-cycle-costs of what is procured. The Directive 2014/.../EU will enter into force 20 days after publication in the Official Journal of the European Union. After this date, member states will have 24 months to implement the provisions of the new rules into national law. Article 42 "Technical Specifications" (part 1), Article 62 "Quality assurance standards and environmental management standards" (part 1), Article 67 "Contract award criteria" (part 2(a)), and Article 76 "Principles of awarding contracts" (part 2) as well as ANNEX VII "Definition of certain technical specifications" (part 1 (a) and (b)) are considering "accessibility for disabled persons" or "Design for all users".

5.3 European common framework for the marketing of products (CE Mark)

The CE Mark ("Conformité Européenne", "European Conformity"), existing in its present form since 1993, is a mandatory conformance mark on many products placed on the market in the European Economic Area (EEA). The EC directives for CE marking affect the following product groups:

- Active implantable medical devices;
- Appliances burning gaseous fuels;
- Cableway installations designed to carry persons;
- Eco-design of energy related products;
- Electromagnetic compatibility;
- Equipment and protective systems intended for use potentially explosive atmospheres;
- Explosives for civil uses;
- Hot-water boilers;
- In vitro diagnostic medical devices;
- Lifts;
- Low voltage;
- Machinery;
- Measuring Instruments;
- Medical devices;
- Noise emission in the environment;
- Non-automatic weighing instruments;
- Personal protective equipment;
- Pressure equipment;
- Pyrotechnics;

- Radio and telecommunications terminal equipment;
- Recreational craft;
- Safety of toys;
- Simple pressure vessels.

With the CE Mark on a product the manufacturer is declaring, on one's sole responsibility, conformity with all of the legal requirements (e.g. safety, health, environmental protection requirements) of the applicable EC directives. Manufacturers have to check on their sole responsibility, which EU directives they need to apply. Depending on the level of risk of the product, the manufacturer chooses the conformity assessment procedure from the modules called out by the directive for the product. If stipulated in the directives, an authorized third party (Notified Body) must be involved in the conformity assessment procedure. The manufacturer has to carry out a conformity assessment, set up a technical file and sign an EC declaration of conformity before the product can bear CE marking. The documentation has to be made available to authorities on request. Distributors must have affirmation from the manufacturer or importer that the necessary measures have been taken.

Aspects like "ergonomics", "usability", and "accessibility" are not subject to EC directives and therefore not covered by the CE mark. The "DECISION No 768/2008/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC" [13] and the "Council Decision of 22 July 1993 concerning the modules for the various phases of the conformity assessment procedures and the rules for the affixing and use of the CE conformity marking, which are intended to be used in the technical harmonization directives" [12] form a common framework for the marketing of products, providing:

- common definitions;
- common conformity assessment procedures;
- obligations for manufacturers, importers and distributors;
- rules for the use of the CE Marking;
- notification criteria for the conformity assessment bodies;
- safeguard procedures.

"The common framework will be a toolbox for future sectoral regulations on the approximation of legislation (harmonisation). It draws on the "new approach", according to which legislation shall be restricted to the setting of essential requirements and use of harmonised standards. As far as possible, future sectoral legislation must therefore draw on the provisions of this Decision and define essential requirements for the marketing of products. Where necessary, specific legislation may nevertheless offer other solutions.[...].

This Decision sets a clearer framework for conformity assessment. It establishes a number of conformity assessment procedures (specified in the annex), from which the legislator can choose the most appropriate. Furthermore, it lays down the rules and conditions for affixing the CE marking, which is subject to the general principles defined by Regulation No 765/2008. Member States shall ensure correct application of the regime governing the CE marking and provide sanctions for infringements."⁴

⁴ http://europa.eu/legislation_summaries/consumers/consumer_safety/l10141_en.htm (Last access 2013/11/05)

In certain conformity assessment procedures, the conformity assessment is carried out by the conformity assessment bodies which are notified, i.e. declared, to the European Commission by the Member States. This decision sets out common criteria for the notification of the conformity assessment bodies. The conformity assessment bodies must offer all guarantees of independence, objectivity, impartiality, confidentiality and professional integrity. In addition, they must possess the necessary technical competencies and means in order to correctly carry out the tasks entrusted to them.

5.4 Accessibility in European public procurement

The inclusion of the requirement "Accessibility" in European public procurement procedures is a strategy to improve accessibility to people with disabilities and older people by using a harmonised European approach in the domain of ICT (Mandate M/376), which is relevant for this Technical Report, and in the domain of buildings (mandate 420), which will not be considered in this document. Such a European approach will help to overcome single national regulations and standards of European Member States and can help to avoid a fragmentation of the ICT market due to accessibility requirements. It will also help the user of ICT products and services, because ICT based services are no longer restricted to single countries and the accessibility requirements of persons with disabilities are almost identical across Europe.

The following text is partly derived from Clause 7 of CEN/CENELEC report from phase I of Mandate M/376 (see [2]):

The European Commission included express reference within the Directives 2004/17/EC (see [14]) and 2004/18/EC (see [15]) to the desirability for procuring bodies to use accessibility criteria when defining the technical specifications of a desired product or service (art.23 Public Sector Directive 2004/17/EC, art.34 Utilities Directive 2004/18/EC). Furthermore, both Procurement Directives specify general rules on technical specifications and on the acceptance of proof that tenders satisfy the requirements set out in the technical specifications. Due to their similar wording, the relevant provisions of the Public Sector Directive 2004/17/EC are illustrated only.

Clause 29 of the preamble gives the justification for these rules: "The technical specifications drawn up by public purchasers need to allow public procurement to be opened up to competition. To this end, it must be possible to submit tenders which reflect the diversity of technical solutions. Accordingly, it must be possible to draw up the technical specifications in terms of functional performance and requirements, and, where reference is made to the European standard or, in the absence thereof, to the national standard, tenders based on equivalent arrangements must be considered by contracting authorities." "To demonstrate equivalence, tenderers should be permitted to use any form of evidence. Contracting authorities must be able to provide a reason for any decision that equivalence does not exist in a given case." "The technical specifications should be clearly indicated, so that all tenderers know what the requirements established by the contracting authority cover."

"Technical specification" is defined in Annex VI of the Directive 2004/17/EC.

§ 1b is applicable for ICT products. It defines technical specification as: "the required characteristics of a product or a service, such as quality levels, environmental performance levels, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, use of the product, safety or dimensions, including requirements relevant to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions, production processes and methods and conformity assessment procedures".

The rules on technical specifications and acceptance of proofs are stated in Article 23 of the Directive 2004/17/EC.

§ 1 specifies that technical specifications shall be set out in the contract documentation, and that: "whenever possible these technical specifications should be defined so as to take into account accessibility criteria for people with disabilities or design for all users".

The Directive 2004/17/EC contains no equivalent to the concept of undue burden, which is one of the key concepts in the US Section 508 legislation. Undue burden means significant difficulty or expense which would

exempt the contracting authority from pursuing such a procurement. In determining whether an action would result in an undue burden, an agency shall consider all agency resources available to the programme or component for which the product is being developed, procured, maintained, or used. Nevertheless, the words "whenever possible" suggest that contracting authorities have broad discretion in balancing costs and the accessibility considerations.

§ 3 specifies that technical specifications shall be formulated either by reference to standards, or in terms of functional or performance requirements. In addition, certain characteristics can be specified by standards and others in terms of functions and performance. Where referring to standards, each reference shall be followed by the words "or equivalent".

§ 4 specifies that, where a contracting authority refers to standards, it: "cannot reject a tender on the grounds that the products and services tendered for do not comply with the specifications to which it has referred, once the tenderer proves in his tender to the satisfaction of the contracting authority, by whatever appropriate means, that the solutions which he proposes satisfy in an equivalent manner the requirements defined by the technical specifications".

In § 5, the inverse situation is specified. Where a contracting authority refers to functional and performance requirements, it cannot reject a tender for products which comply with standards addressing these requirements: "In his tender, the tenderer must prove to the satisfaction of the contracting authority and by any appropriate means that the work, product or service in compliance with the standard meets the performance or functional requirements of the contracting authority".

Both § 4 and § 5 specify that "an appropriate means might be constituted by a technical dossier of the manufacturer or a test report from a recognised body". In § 7, recognised bodies are defined as "test and calibration laboratories and certification and inspection bodies which comply with applicable European standards". In addition, § 7 specifies that "contracting authorities shall accept certificates from recognised bodies established in other Member States."

The Procurement Directives 2004/17/EC and 2004/18/EC leave the contracting authorities unrestricted freedom to formulate accessibility specification by reference to either national standards implementing European standards or international standards, or performance or functional specifications (art. 23.3 of the Public Sector Directive 2004/17/EC; art. 34.3 of the Utilities Directive 2004/18/EC). When European or international standards do not exist, contracting authorities must formulate the accessibility specifications in performance or functional terms.

In case of reference to standards, the contracting authority must accept functionally equivalent alternatives to those mentioned in the listed standards. This provision re-iterates the obligation established by the treaty for purchasers to accept products and services which fulfil the exact functional or performance requested by the procuring body. Thus, the contracting authority may not insist on the tenderers to provide the European standard, but must accept equivalent proof of compliance with the functional requirements. In case of accessibility requirements stemming out of "new approach" directives, the contracting authorities, although not mandated to use the European standard, cannot set more stringent requirements than provided for in the directive. The contracting authority has the freedom to use in alternative to the European standard an international standard or functional or performance requirements.

If there are no accessibility mandatory requirements stemming out of "new approach" directives, the contracting authority is free to formulate accessibility requirements, as stringent as it sees fit, even when non-mandatory standards are in place.

In both cases, the contracting authority may use additional product requirements which are not referred to in standards (whether mandated by "new approach" directives or voluntary). Thus, if no mandatory or non-mandatory product requirements exist, the contracting authority is free to include its own specifications on accessibility.

From the Public Sector Directive's definition of technical specification it appears that a contracting authority may, but does not have to, include requirements on conformity assessments. According to the definitions of conformity assessment in the standard EN ISO/IEC 17000, an assessment can be performed either by the

supplier (the first party), the customer (the second party) or someone else (a third party). Therefore, the contracting authority may choose to verify itself whether the tender conforms to the stated requirements, provided that it has the necessary knowledge and equipment to carry out such verification in a way that treats the tenders equally. Where the contracting authority does not have the adequate knowledge and equipment, it can use a consultancy service to carry out the verification. If the contracting authority does not want to carry out the verification during the evaluation of the tenders (e.g. because it would be too time-consuming), the contracting authority, in the call for tender, may ask the supplier to provide proof (i.e. a conformity assessment), that a certain requirement is complied with. In the sense of EN ISO/IEC 17000, the contracting authority may require either a first party declaration, a Supplier's Declaration of Conformity or a third party certification.

Where requirements on conformity assessments are specified, the contracting authority needs to respect the same obligations stemming from the procurement Directives, to refer to standards "or equivalent", or to formulate this criteria in terms of functions and performance.

It follows from Article 23, § 4, that a specific conformity assessment scheme, even if it is a formal standard, cannot be specified as mandatory. The tenderer has the option to use another method for proof, provided this party can prove to the satisfaction of the contracting authority that it yields equivalent results.

It follows from § 4 and § 5 that a test report from a recognised body is an admissible but not mandatory way of proving compliance with the requirements set out in the technical specification. The term "test report" is not defined in the procurement Directives.

The Directive 2004/17/EC does not specify what kind of proof a contracting authority may require. A contracting authority is allowed to ask for verification by a third party as long as equivalent verifications made by bodies in other Member States are accepted. Since the Directive 2004/17/EC gives no guidance on what "equivalent verification" should mean, each contracting authority must detail its own interpretation in order to ensure that the principle of equal treatment is applied.

Article 53 of the Directive 2004/18/EC (see [15]) lays down that the criteria on which the contracting authority shall base the award of public contracts. These criteria shall be either:

- 1) when the award is made to the tender most economically advantageous from the point of view of the contracting authority, various criteria linked to the subject-matter of the public contract in question, for example, quality, price, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost-effectiveness, after-sales service and technical assistance, delivery date and delivery period or period of completion; or
- 2) the lowest price only.

The list of criteria in alternative (1) is not exhaustive. Thus, accessibility can be used as an award criterion provided that it is linked to the subject-matter of the contract. The purpose of the award stage on the procurement process is to allow the contracting authority to compare the tenders and assess which tender best meets its needs. The award criteria chosen should help the contracting authority to do this. They should relate to the intrinsic qualities of each of the bids. Any demonstration of compliance must allow for a detailed response to all of the individual standards, with an enumeration of known significant defects found.

5.5 National implementation of accessibility aspects of the European public procurement Directives

The implementation of article 23.1 of Directive 2004/18/EC on awarding of public contracts and the implementation of article 34.1 of Directives 2004/17/EC and 2004/18/EC on public procurement at national level is very heterogeneous across EU Member States. Taking into consideration the "Report on implementation of eAccessibility articles of European directives into National Legislation - special care on

Telecom Package" produced in the context of the European Study⁵ on Monitoring eAccessibility in Europe 2010-2011, the actual situation in each of the 12 Member States analysed is very different.

The implementation of article 23.1 on accessibility criteria for people with disabilities of Directive 2004/18/EC on awarding of public contracts shows that in most countries a corresponding provision in national legislation with some practical impact has been put in place and it has produced a direct effect on increasing the number of accessible public infrastructures.

The implementation of article 34.1 on accessible public procurement of Directives 2004/17/EC and 2004/18/EC on public procurement shows corresponding provisions in national legislation, but with no immediate practical impact. In this case the examples provided by the national experts participating in the study are very heterogeneous, but in many cases they declare that there are not specific measures detailed in the legislation and it is difficult to quantify the direct effect.

6 Types of conformity assessment

This clause describes briefly the different types of conformity assessments. It is consistent with Clause 4 of the CEN/CENELEC report from phase I of Mandate M/376 (see [2]).

A list of standards related to conformance assessment is presented in Annex A.

6.1 Introduction to conformity assessment

Conformity assessment is defined as the:

"Demonstration that specified requirements relating to a product, process, system, person or body are fulfilled." [EN ISO/IEC 17000:2004]

Typically, conformity assessment involves:

- A set of specified requirements;
- A procedure for assessing the conformity of a product against the requirements;
- A statement that fulfilment of the requirements has been demonstrated.

EN ISO/IEC 17000 proposes a functional model to illustrate how a conformity assessment system⁶ maybe set up. This is summarized in the 4 stages below and is provided here as background to the different types of conformity assessment presented below. Note that this functional model presupposes that the user requirements for the product or services have already been defined by the procuring body and that the tests are readily available.

1. **Selection** involves selecting the object for conformity assessment (e.g. an entire object or a sample representative of the whole).
2. **Determination** involves activities to determine if the object of the conformity assessment passes the tests for the requirements. Examples of these activities include testing, inspection, audit and peer assessment.

⁵ <http://www.eaccessibility-monitoring.eu/researchResult.aspx> (Last access 2013/11/05)

⁶ A conformity assessment system is a set of "rules, procedures and management for carrying out conformity assessment". A conformity assessment scheme is a "conformity assessment system related to specified objects to which the same specified requirements, rules and procedures apply".

3. **Review and attestation**⁷. Review is the last check prior to making the final decision that conformity has been reliably demonstrated to fulfil the specified requirements. The final decision of the review is issued in the form of a statement of attestation.
4. **Surveillance** is an activity that can occur after the attestation is issued where it is required that a systematic repeat of the initial determination or part thereof is necessary to ensure that conformity persists where, for example, the object of the conformity may change over time.

6.2 Overview of conformity assessment types

6.2.1 First party declaration

A first party declaration is a statement issued by a supplier or manufacturer, based on a decision following review, that fulfilment of specific requirements has been demonstrated. The decision and the review are made by the supplier or manufacturer. The supplier may refer to assessments, if any, made by other first, second or third parties, but the supplier is entirely responsible for his declaration.

6.2.2 Supplier's Declaration of Conformity

A Supplier's Declaration of Conformity (SDoC) is a first party declaration with details compliant with the standard EN ISO/IEC 17050 (see Annex A.6). Part 1 of EN ISO/IEC 17050 contains general requirements. Part 2 specifies the requirements applicable when the individual or organization responsible for fulfilling specified requirements (supplier) provides a declaration that a product (including service), process, management system, person or body is in conformity with specified requirements. This can include normative documents such as standards, guides, technical specifications, laws and regulations. A Supplier's Declaration of Conformity can be substantiated by supporting documentation for which the supplier is responsible. Anyone should be able to repeat the attestation and arrive at the same result using this information. An SDoC may be based on first or third party determination.

6.2.3 Second party attestation

A second party attestation is an attestation of conformity issued by a second party, usually the buyer or user of the product. Mostly, this term applies to a company controlling its subcontractors or a large buyer or government agency carrying out the assessment itself.

6.2.4 Third party certification

EN ISO/IEC 17000:2004 defines third party conformity assessment activity "as performed by a person or body that is independent of the person or organization that provides the object and of user interests in that object". The key word in this definition is "independent".

Third party assessment is sometimes used by a manufacturer or supplier to support a first party declaration.

Applicable standards include EN 45011 (see Annex A.7) for certification and EN ISO/IEC 17020 (see Annex A.5) for inspection.

6.2.4.1 Certification

The EN 45011 standard specifies general requirements for bodies operating product certification systems and states that a certification body shall not supply or design products of the type it certifies, and not give advice or provide consultancy services to the applicant (the party applying for a certificate) as to methods of dealing with matters. These practices are contrary to the requirements of independence and would be barriers to obtaining accreditation (see clause 6.2.5).

⁷ Issue of a statement, based on a decision following the review that fulfilment of specified requirements has been demonstrated. [EN ISO/IEC 17000:2004]

The term "*third party certification*" is a tautology as since "certification" is, by definition, a third party activity (see [2], clause 4.2.5.4.1). Both terms will be used in this report.

6.2.4.2 Inspection

The EN ISO/IEC 17020 standard specifies general criteria for the operation of several types of bodies performing inspection. The standard specifies general criteria for the competence of impartial bodies performing inspection irrespective of the sector involved. It also specifies independence criteria.

The differences between inspection and certification can be summarised as the difference between *direct* and *indirect* determination as follows (see [2], clause 4.2.5.5):

"Generally, inspection involves direct determination of the conformity of unique – often complex or critical – products or small series of products with specific or general requirements, whereas product certification primarily involves indirect determination of the conformance of products manufactured in long series to specific requirements."

6.2.5 Accredited third party certification

A conformity assessment body of any type (first, second and third party) can apply for accreditation. Accreditation is the procedure by which an authoritative body gives formal recognition that a body or person is competent to carry out a specific conformity assessment. Conformity assessment bodies seek accreditation when they need an independent third party to assess and declare their competence. However, conformity assessment bodies may comply with the relevant requirements without having to be accredited. The requirements for accreditation can be found in the respective standards EN ISO/IEC 17020 (see Annex A.5), EN ISO/IEC 17025 (see Annex A.4) and EN 45011 (see Annex A.7). These requirements are very detailed and concern organization, competence, independence, impartiality and general principles for how to carry out conformity assessments.

7 Aspects for selecting the type of evidence

This clause provides procuring bodies with guidance on how to establish which conformity assessment schemes the procuring body wants to refer to in its procurement activity. This establishment is dependent on a set of aspects associated with the procurement. The identified aspects are valid not only for accessibility; hence this clause will focus on these aspects in relation to accessibility.

7.1 Impact on users and employees

ICT plays an important role in economic and social life of European citizens. Therefore, access to mainstream ICT and electronic services is crucial for people with disabilities, older persons and employees with disabilities. Making ICT products and services more accessible would facilitate the inclusion of these already disadvantaged groups in society and work. The inclusion of harmonised European functional accessibility requirements in public procurement is an incentive for manufacturers to develop and to offer accessible ICT products and services, and an obligation to public bodies to buy accessible. This strategy will help public authorities to offer their e-services to all citizens including people with disabilities and older persons and to employ persons with disabilities. Public procuring bodies should be aware of the fact, that the accessibility requirements of employees are often higher, because they have to perform their tasks in an effective and efficient way like all other colleagues. If this is not possible e.g. when a system with less accessibility is replacing an outdated one, there is the danger to loose tasks or even the job. Procuring bodies should be aware of this effect for disabled employees and therefore they may choose a type of evidence with higher degree of credibility. In these cases often the interoperability with assistive technology is crucial which may require the consultancy of providers of assistive technology and may also require special training for the employee.

Procuring bodies should be aware of three strategies for providing accessible design in ICT products and services (see clause 3.2):

- designing products [...] and services that are readily usable by most users without any modification;
- making products or services adaptable to different users (adapting user interfaces); and
- having standardized interfaces to be compatible with special products for persons with disabilities.

Tenderers are free in using one or combinations of these strategies. The selection of the strategy will have direct or indirect impact on the price of the product or service, the maintenance cost for the lifetime and on the procurement efforts.

For public accessible information and services, the first two are preferable while for workplaces often the last one is the best option.

This is also dependent on the type of disability of a person. E.g. for a low vision user, the build-in function of the browser for enlarging font sizes or the enlargement functions implemented in some web site are suitable. A blind user will mainly rely on assistive technology like a screen reader.

In some cases, two or more interoperable components of an ICT system may together meet more accessibility requirements when one item complements the functionality of the other and the sum together meets more of the accessibility requirements. Combining two ICT components both of which fail to meet any particular requirement will not lead to a combined ICT system that meets that requirement.

7.2 Cost-efficiency

All procurements in the EU Member States have to comply with a set of principles, laid down in the Treaty of the Functioning of the European Union (TFEU) and derived from the freedom principles: equal treatment, non-discrimination, mutual recognition, proportionality and transparency.

The principle of *proportionality* has implications for the selection of type of evidence, in particular with respect to cost and time resources needed for producing the evidence. Proportionality means that the contracting authority must not set out more far-reaching requirements, imposing restrictions on the tenderers, 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 should be in a reasonable relation to the scope and cost of the subject-matter of the procurement.

A first party declaration will be the most common type of attestation produced by suppliers. However, in certain cases the procuring body may not consider a first party declaration to have sufficient credibility. Requiring some type of third party certification may however incur significant costs on the supplier. Cost should here be seen in a broad sense – it involves all resources, linked to the conformity assessment activities, which can have an economic value – work time spent, paying the certification body etc. If the ideal type of evidence – in the view of the procuring body – is not possible to achieve, a type of evidence less costly for the supplier to accomplish should be chosen. It could be presumed, that the ranking of different types of conformity assessment with respect to cost is, from lowest to highest:

- First party declaration, without formal requirements on structure and content;
- Supplier's Declaration of Conformity, i.e. an attestation compliant to EN ISO/IEC 17050;
- Second party attestation. This is seldom applicable in procurements, but is included in this TR for the sake of completeness;
- Third party certification, carried out by an independent person or body specialized in conformity assessment. "Independent" means not associated with manufacturers of objects that the third party company assesses;
- Accredited third party certification, carried out either by an inspection body fulfilling the EN ISO/IEC 17020 standard or a certification body fulfilling the EN 45011 standard.

Regardless of type of attestation (see clause 6.2), the cost for the determination can vary substantially. If the weight of the accessibility criterion to be verified by the conformity assessment is low, but the cost for determination is high, reformulation of the criterion should be considered.

Sampling is frequently required on complex ICT when there are too many instances of the object to be tested. Specific ICT evaluation sampling techniques cannot be recommended as they are context specific.

7.3 Need for interpretation

Where the fulfilment of a requirement is easy for the procuring body to ascertain, the need for high credibility of the evidence is low. A simple first party declaration, e.g. a "yes" statement in the tender, may be sufficient.

In some cases the verification of fulfilment of a requirement needs interpretation, special competence or special measuring equipment. However, it cannot be assumed that all potential tenderers have the necessary qualifications and equipment to carry out conformity assessments with a considerable extent of complication.

In these cases, the reasons for requiring a third party certification are greater, provided that it can be justified from the principle of proportionality (see clause 4.2). The inclusion of such requirements on technical and professional ability in the selection criteria may violate the principle of proportionality. The principle of proportionality is a reason to examine the possibility to reformulate the requirement in a way that interpretation can be avoided, which may make a more simple type of evidence possible.

The examples below are for illustrative purposes only.

- (EN 301 549, 8.4.2.2 "Force of operation of mechanical parts"): "Where a control requires a force greater than 22,2 N to operate it, an accessible alternative means of operation that requires a force less than 22,2 N shall be provided." This requirement can easily be verified by the procuring body. Either the force for operation is less than or equal to 22,2 N or not. No interpretation is needed. Any claim of conformity made by the supplier would be acceptable.
- (EN 301 549, 8.4.2.1 "Means of operation of mechanical parts"): "Where a control requires grasping, pinching, or twisting of the wrist to operate it, an accessible alternative means of operation that does not require these actions shall be provided." This kind of requirement needs interpretation. Assessment of conformity to this requirement needs knowledge of what constitutes "grasping, pinching, or twisting of the wrist" and which "mechanically operable parts" are covered directly or indirectly by this requirement. For example, if a net book computer provides a LAN plug, the connector of the LAN cable requires pinching when unplugging. It cannot be presumed that every Supplier knows what is appropriate for a person with dexterity. Here, requesting a third party conformity assessment system could be considered, provided that this is achievable in practice.

7.4 Level of accessibility

The level (priority) of an accessibility requirement is often provided to assist in accessibility evaluation. For example, the WCAG 2.0 uses a three-level concept with priority A (lowest level), AA, and AAA (highest level). The choice of the level of accessibility will probably have no impact in the selection of a conformity assessment type but on the evaluation cost (see clause 7.1 and 7.2).

The EN 301 549 does not prioritise accessibility requirements. Prioritization is left to the user but the rationale for prioritization should be stated. Prioritization of requirements that align with the targeted context of use may enhance accessibility in the case of partial compliance.

7.5 Type of ICT products and services

The ICT market is continuously and rapidly evolving. Furthermore, it is characterized by a great diversity:

- ICT consists of many products and services: hardware such as servers, desktop or laptop or palmtop devices for personal use, peripherals such as printers and scanners, office software for use by administrators, specialized software for use by specialized professionals, web sites and other on-line

services, services carried by technology such as mobile telephony, services provided by people as freelancers for software development, call centres and consulting, and others.

- ICT is developed, produced and sold by a variety of companies: product developers, manufacturers, system integrators, service providers, software developers, web designers, retailers etc. Most products and services pass through many links of a value chain before they reach their final design and are delivered to the customer.
- Many business models are applied: selling off-the-shelf products over the counter, bundling of hardware and services such as mobile telephony subscription including the telephone, software as a service, cloud-based services etc.

Since an ICT product or service is presumed to pass through a number of stages in a value chain and have functions, characteristics and other value added during this process, characteristics and features providing accessibility may be created and added during several stages. Since it is in the tenderer's responsibility to demonstrate the fulfilment of given functional accessibility requirements of the complete offered solution, conformity assessment of accessibility should be made in the stage where the final accessibility appears. This stage may be located:

- (1) At the supplier before the procurement: at a manufacturing company or assembling company.
- (2) At the supplier before delivery: at the configuration or system integration.
- (3) At the contracting authority after delivery: at the installation and customization.
- (4) For procurement of development: during the development, as part of the contract.
- (5) At the contracting authority during the use: when the employed end user has taken the product into operation after having been trained, or during tests before launching an on-line service to the citizens.

For the awarding phase of the procurement, the contracting authority can request the tenderer to include attestations in the tender, as proof of conformity to specified requirements. For the situations (1) and (2) suppliers may have procedures in place for producing such attestations, e.g. as an element of the quality management system.

In the situations (3) and (5), which for example apply to services, the final accessibility appears after the awarding. Control of fulfilment of accessibility requirements has to be regulated in the contract and will be an issue for the contract management phase. This is also applicable for contracts on development (situation (4)).

In the following clauses some guidance on selection of conformity assessment systems is provided for various types of products and services. These are just a selection of relevant cases presented as examples of the present situation of public procurement of ICT products and services.

7.5.1 Off-the-shelf products

Methods and best practices for conformity assessment of off-the-shelf products ("commodities") generally (i.e. in any domain) have long been in use. The *Supplier's Declaration of Conformity* (SDoC, see 6.2.2) is an established system and is used within the framework of the New Approach. Third party assessments are also used where there are requirements for an accredited body, e.g. for products with a high risk factor or that have to comply with statutory requirements.

Some off-the-shelf products are "monolithic" products that are manufactured to be kept in stock and are delivered unchanged from the factory to the user (e.g. displays, desktop laser printers). For such products, conformity assessment to accessibility requirements, e.g. resulting in an SDoC, is best performed by the manufacturer as an integral part of product design and development.

7.5.2 Customized products

Some products are manufactured to order and thus are configured or customized before they reach the user. Sometimes the final customization is a result of a dialogue with individual users. In this case, the accessibility sets in not at the factory, but after delivery. A pre-market declaration of conformity can then only cover basic generic accessibility requirements. Instead, assessment of conformity to accessibility requirements should be part of the configuration process. For customized products, the procuring body may wish to carry out an inspection as part of the acceptance test.

7.5.3 Integrated product or systems

Some products or services offered as a technical solution to the needs of the procuring body are composed of several components manufactured by companies other than the bidder. For example, a mobile telephone consists of the telephone itself (hardware), operating system and a subscription for making calls. For the user, the phone consists of a set of functions of which some are in the phone (e.g. volume control), some in the operating system (e.g. calendar) and some in the subscription (e.g. voice response system). However, the user should be enabled to regard the phone as one single coherent device, without knowing which function belongs to which component. Even if each part (keypad, display, camera, voice response system, making settings) has its own accessibility requirements, the complete phone should be accessible (see clause 7.1).

It is clearly in the tenderer's responsibility to demonstrate the fulfilment of given functional accessibility requirements of the complete offered solution. Only if the single components are supporting accessibility, the whole solution can be accessible. Example: if the driver software for a printer for a specific operating system version does not support a screen reader, the printer is not accessible. A driver for the same printer for another operating system may work well. Therefore a tenderer should first demonstrate the accessibility support of single components and then for the whole solution. The combination of components can increase but also decrease accessibility. The tenderer should be encouraged to use built-in accessibility in the first place. If that is not possible or feasible, add-on accessibility (e.g. configuration) or interoperability to assistive technology can be used.

7.5.4 Proprietary software

Proprietary software sold to be installed and used directly by the user without modification or customization apart from some parameter setting, often known as "shrink-wrap", is a type of off-the-shelf product, hence conformity assessment to accessibility requirements is best performed by the manufacturer as an integral part of the development process. These products oriented to the general ICT market are commonly developed having into account user-centred design and ensuring that a further customization can be implemented.

Complex software often needs adaptation to the needs of the customer. The accessibility of this type of software will be dependent of the customization and parameter setting. Conformity assessment of accessibility requirements should be carried out as part of the customization process.

7.5.5 Open-source software and open standards

Open-source software is computer software that is available in open-source code form. In this case, the source code and certain other rights normally reserved for copyright holders are provided under a software license that permits operators and users to study, change, improve and at times also to distribute the software. Improvements may appear e.g. with respect to accessibility. Some open source software is available within the public domain. Open source software is very often developed in a public, collaborative manner.

Requiring the license provider or the project developer team to submit a declaration of conformity to accessibility requirements appears to be less meaningful. Nevertheless, many open-source projects are very well aware of accessibility requirements and therefore provide respective information with each new release.

Open software is not necessarily free of charge.

Companies are providing services to install, configure, run, maintain and adapt open-source based solutions for their customers. Consequently such services are subject of public procurement. In this case, the service

providers have the responsibility to demonstrate compliance of the installed and possibly modified software solution to accessibility requirements.

The European Commission has taken the position that open standards should be preferred before proprietary standards. It should be observed, that open standards and open software are not the same thing. Proprietary software may well be based on open standards and vice versa.

7.5.6 Services

Although the standards on conformity assessment cover services, the conformity assessment of services is a more complex issue than product assessment in a strict sense, as is the issue of accessibility requirements on services. The service may be provided by technical equipment (for example, an interactive voice response system for train schedules) or people (for example, consultancy or training services for ICT) or a combination of both (for example, a call centre). Services provided by people are often indirect ICT services which should consider user needs e.g. the functional accessibility performance of persons with disabilities described in Clause 4 of EN 301 549 (see clause 2, i). Sometimes, the service is produced and consumed simultaneously. Hence, the complete accessibility of a service can in many cases be assessed only when it is used. This means that conformity to accessibility requirements for services can seldom be done before the awarding of contract. Rather, conformity should be assessed against specifications set out in the contract (for example, in a service level agreement, SLA). For this issue, see further Clause 9 of this TR.

For services such as self service terminals, where both the services and the hardware by which the service is delivered are provided to individuals for public use, both the service and the hardware should be accessible. (See clause 7.5.3.)

In many cases people are using public services with their own computers, PDAs, and mobile phones including possible assistive technology. Public bodies are not responsible for this hardware but they have to seek to make the service compliant with state of the art technologies (no outdated and not cutting edge technology).

7.5.7 Web sites

The Internet is a well established information and communication medium for all situations in our live. Mobile access at any location at any time is the dream which is getting reality in EU countries. The pace of innovation is high: new devices, new technologies, new services, cheaper access to networks, and change of user behaviour (social networks), etc. have a high and important influence on our society. Many services are exclusively available only over the Internet. Many software applications (apps) for mobile devices are sitting on top of the Internet connectivity. Therefore it is no longer easy to distinguish between Internet and software.

For static web sites there are building blocks that could constitute a complete conformity assessment scheme. Examples are WCAG 2.0, ATAG, UAAG, WAI-ARIA, UWEM (see Abbreviations and Acronyms) and CEN CWA 15554 (see [3]). In many European countries labels for web accessibility have been established which are using different test methods and approaches. For examples see CEN/CENELEC report from phase I of Mandate M/376 [2] Clause 6.

New accessibility and consequently conformity assessment challenges arise by the broad diversity of web site complexity and size, the continual evolution of web technologies and changes in best practices, as well as by the varying approaches for developing and acquiring web sites. The web is moving towards greater interactivity (with Rich Internet Applications, using technologies such as AJAX), increased user participation as content providers (the new social web sites that are the core of what is commonly called Web 2.0), an increased capacity to deal with the complexity and diversity of existing information (based on the Semantic Web concept), and an increased mobility of the devices used to access the web (the mobile web). New devices like mobile phones, tablets or PDAs with different operating systems and many of them with touch screen or gesture user interfaces are on the market now. Devices with Internet connectivity like TV sets, set top boxes, DVD-players, washing machines, smart meters, home control, etc. are conquering our homes.

All of these trends open up new accessibility-related problems that have to be solved. This means that accessibility requirements (from the point of view of both users and developers) are still to be defined and agreed upon. Some work has started on the subject but it is still in its early stages. For example, in 2011 the

WAI is starting a WCAG 2.0 Evaluation Methodology Task Force to develop more comprehensive guidance on evaluating web accessibility.

The introduction of new or innovative techniques not yet included in the WCAG 2.0 techniques raises challenges for accessibility and consequently for conformity assessment. The concept of 'accessibility support', introduced in WCAG 2.0, is intended to avoid constraining the set of technologies that web sites can use (and still claim conformance to WCAG). But the concept is language dependent and the accessibility-supported technologies depend on the set of assistive technologies (ATs) that are available for that language. Also the technologies supported by these ATs can differ from language to language. This means that the list of accessibility-supported technologies may also differ between the EU Member States.

7.5.8 Distributed Application Platforms and Services

The concept of Distributed Application Platforms and Services (DAPS) are a new trend in the delivery of ICT services and products, including mainly Web Services, Service Oriented Architectures (SOA) and Cloud Computing (cloud-based services). These delivery systems are framed in the concept of Software as a Service (SaaS), which is a software delivery model in which software and its associated data are hosted centrally (typically in Web Services or in the Cloud) and are typically accessed by users using a client (normally using a web browser over the Internet).

In particular, Cloud Computing is a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction. Having in mind the advantages of cloud-based resources, this model is seen as a short-term trend that is needed to be taken into account in the public procurement of ICT services and products.

In principle, the same functional accessibility requirements are applicable to Distributed Application Platforms and Services as for non-web software (see EN 301 549, Clause 11). Additional accessibility problems often occur due to software updates which often are out of control of the user and can appear at any time. Therefore the user has no time to learn about the new user interface and the new accessibility features. Sometimes even small changes like relocation of a button, change of colours etc. can create problems for assistive technology. If the new version is less accessible or requires updates of the screen reader / magnifier or their configuration / scripts, users do not have the option to go back to the previous working version until problems are solved. Therefore employees using assistive technology run danger to discontinue effective work at any time without any warning. Therefore the user control of updates, the announcement of updates and their accessibility features in due time, previous accessibility evaluation of upcoming updates against assistive technology by the provider, and a fall back option to the previous version are examples for additional accessibility requirements.

7.5.9 Development of bespoke applications

For the procurement of development (which is a service) of bespoke applications (specifically developed), the conformity assessment, for obvious reasons, takes place during and after the development. This is outside the procurement process and thus not covered by the procurement directives. The assessment of conformity to accessibility requirements for the product to be developed should be specified in the contract. The determination method and the point(s) of time for the assessment are dependent on the development method used by the contractor.

Where the development process is based on user-centred design according to e.g. EN ISO 9241-210 (see [7]), evaluation of user requirements is an essential element of the process. Since such user-centred design is iterative, the determination phase of a conformity assessment is a natural element of the development process and takes place more than one time. This facilitates the attestation phase of the conformity assessment.

7.6 Maturity of the technology

EN 301 549 covers all kind of ICT products and services, therefore the conformity assessment of these in the procurement process can be very different. It seems that the maturity of the technology can be a factor

affecting the procurement of accessible ICT products and services, as mature products (such as computers, web sites, mobile phones,) could imply an easier assessment of accessibility, mainly because there is better awareness about accessibility aspects, even in some cases national or international standards already exist (as it is the case of computers and web sites), also industry commitments regarding accessibility of certain ICT products, or European initiatives (projects, thematic networks or studies) generating knowledge in the field.

In the case of not standardized and commonly procured ICT products and services, the procuring organization could require assistance by first or third party inspection to ensure that the procured items fulfil the requirements stated in the tender or contract, as innovation or cutting edge technology generally require more knowledge to be able to carry out an efficient conformity assessment.

7.7 The use of declarations and certificates in e-procurement

Electronic procurement (e-procurement) refers to the use of electronic communication by public sector organizations when buying supplies and services or tendering public works. Increasing the use of e-procurement in Europe can generate significant savings of between 5% and 20% of procurement expenditure. Moving to full e-procurement for all public purchases in Europe is planned by 2016.

Systems for electronic procurement, mostly web based, exist on the market. They assist the contracting authority with the elaboration of announce and call for tender, and during the course up to signing of the contract. Some systems are merely document based, i.e. designed with the presumption that tendering documents are in the form of Word-, ODF- or PDF-files with unstructured text. However, modern procurement systems are based on tables. The call for tender is built in the form of a template, which the tenderer fills in on his display. Requirements and criteria can be of yes/no type or the tenderer selects between a given set of alternatives. When the tender has been sent, the data are stored in a table and can be interpreted, transferred, processed and presented more or less automatically during the procurement process. What remain to evaluate manually are descriptive text and those attached attestations and certificates, which cannot be processed electronically.

At the EU level, work is in progress to facilitate submission of electronic certificates and other attestations across borders, in particular documents showing that the tenderer is not subject to exclusion criteria. This involves a number of problems, e.g.

- the validation of documents, considering the fact that the original document might be in an unfamiliar language;
- the use of electronic signatures as a means of ensuring the authenticity and integrity of a document;
- how to identify an entity when relying only on electronic resources.

Examples of EU work are

- e-CERTIS⁸, which is a free, on-line source of information to help companies and contracting authorities to cope with the different forms of documentary evidence required for cross-border tenders for public contracts. e-CERTIS presents the different certificates frequently requested in procurement procedures across the EU. In particular, e-CERTIS can help companies to find out which certificates issued in their country they need to include in tender files submitted to an authority in any partner country. It can also help contracting authorities to establish which documents issued by a partner country are equivalent to the certificates which they require to confirm the eligibility of the tender.
- PEPPOL⁹ (**P**an-**E**uropean **P**ublic **P**rocurement **O**nLine) project, aims at expanding market connectivity and interoperability between eProcurement communities. PEPPOL enables access to its standards-

⁸ <http://ec.europa.eu/markt/ecertis> (Last access 2013/11/05)

⁹ <http://www.peppol.eu> (Last access 2013/11/05)

based IT transport infrastructure through access points, and provides services for eProcurement with standardized electronic document formats (based on UBL and CEN/BII). The PEPPOL transport infrastructure uses a set of technical specifications known as BusDox (Business Document Exchange) to allow organizations to securely and reliably exchange electronic documents. BusDox allows users to transfer any kind of XML document between any network. PEPPOL's vision is to provide an interoperable electronic document solution that supports the exchange of evidences across borders. PEPPOL has developed an eAttestation tool for tendering that provides a standardized structure to submit evidence that can be used for both national and cross-border eProcurement, during the qualitative selection process. This tool is called Virtual Company Dossier.

- A report "Preliminary Study on the electronic provision of certificates and attestations usually required in public procurement procedures"¹⁰, made in 2008 by Siemens and Time.lex on behalf of the European Commission, examines ways to facilitate submission of certificates electronically. One suggestion is the use of an electronic attestation package signed by a Trusted Third Party: here, the tenderer offers a single electronic file containing all required attestations, signed by a specific trusted administration in each country. Another suggestion is a single trusted storage point of electronic attestations: in this model, electronic attestations are stored in single storage points, which are either (partially) controlled by a public administration, or which are purely controlled by the tenderer himself.

The activities in EU concerning electronic exchange of certificates and other attestations mainly aim at facilitating submission of eligibility documents. Eligibility documents specifically concerning accessibility do not exist in the European Union. If and when such a document will be introduced, it should align to the future agreed solutions.

E-procurement also means submitting certificates and other attestations showing conformity to requirements, including accessibility requirements, on products and services electronically. Neither e-CERTIS nor PEPPOL address product attestations.

To the extent possible, certificates and other attestations on conformity to accessibility requirements should be able to be submitted and processed electronically, by e-procurement systems, in the same way as for other domains such as attestations on environmental requirements.

Where e-procurement only is a way of transmitting a document, it has no effect on the selection of conformity assessment scheme, provided that the attestation does not imply that the attestation or part of it takes a form other than a document.

Where attestations are not only transmitted but also analysed electronically, this has no impact on the selection of conformity assessment scheme (in essential first or third party). Electronic analysis means that the attestation is made by filling in a machine-readable template.

7.8 Reuse of conformity assessment results

The procurement of products and services is performed by contracting organizations acting independently for different public authorities.

When it comes to the procurement of the same type of ICT products or services (e.g. printers or work flow software) by two or more contracting organizations, they will ideally perform the same procedures to cover the accessibility criterion for all competing offers.

In order to avoid multiple accessibility evaluations of exactly the same product (e.g. printer xyz) or service (e.g. content management system zyx) by multiple parties and thereby wasting time and money, it should be considered how to reuse or share already performed accessibility evaluations.

One option may be the publication by the supplier of the product or service.

¹⁰ http://ec.europa.eu/internal_market/publicprocurement/docs/eprocurement/ecertificates-study_en.pdf (Last access 2013/11/05)

Anyway, regardless of whether self-declaration, second or third party inspection provided the results, the publication of detailed accessibility evaluations of ICT products and services on the base of EN 301 549 (see clause 2, i), will create more transparency and provide detailed information for all involved parties, including the target group, users with disabilities.

8 Guidance on selection of type of evidence

This clause is an analysis, based on the observations in Clause 7, of which types of evidence are suitable for application in different procurement situations. Two main phases where conformity assessment may take place are identified:

- Pre-award, where the demonstration of conformity to specified requirements is required in the invitation to candidate (selection phase) or the call for tender (awarding phase). The requirements can be part of the technical specification or the award (sub) criteria. The attestation of conformity is a part of the application / tender.
- Post-award, where the demonstration of conformity to specified requirements is required in the contract. The demonstration can be part of the conditions for delivery acceptance or be a way of following up that fulfilment of the specified requirements are maintained during the course of the contract.

It should be noted that an attestation of conformity does not, of itself, afford contractual or other legal guarantees (EN ISO/IEC 17000:2004, clause 5.2 note 1).

8.1 Pre-award conformity assessment

As pointed out in clause 4.2, one of the key activities in the procurement process is to assure that the product or service offered by the tenderer actually has the characteristics and qualities specified in the technical specifications and award criteria. Moreover, for award criteria it follows from a decision in the EC Court of Justice that award criteria must be able to be verified (see clause 4.2). In the decision the Court suggests as an example that the procuring body verifies by requesting the supplier to submit a certificate on compliance.

The procuring body may request any type of certificate. For the purpose of this TR, it is however assumed that one of the different types of conformity assessment defined in EN ISO/IEC 17000 and described in clause 6.2 is requested. These are:

- First party declaration;
- Supplier's Declaration of Conformity;
- Second party attestation;
- Third party certification;
- Accredited third party certification.

In the following subclauses, these different types of attestations are analysed, based on Clause 7, with respect to assessment of conformity to accessibility requirements and criteria in different procurement situations. However, first another more simple approach is discussed.

8.1.1 Tick-box and description

The most common verification is where a yes/no tick-box is included for each requirement in the call for tender. The examples below are for illustrative purposes only.

Example 1: "Where provided, physical numeric keys arranged in a rectangular keypad layout shall have the number five key tactilely distinct from the other keys of the keypad." (EN 301 549, 8.4.1 "Numeric keys")

Is this requirement fulfilled? Yes No

This is a simple binary case where a tick-box answer is sufficient. Either the requirement is fulfilled or not. A tactile identification is present or not, not to some extent. A "yes" answer gives complete information. (If the answer is "no", the tender should not be submitted.)

In non-binary cases a yes/no answer does not give sufficient information. A description of how the requirement is fulfilled would give more information. The following examples are for illustrative purpose only.

Example 2.1: For the technical specification (mandatory requirement): The offered software shall be conformant to Clause 11 of EN 301 549.

Is this requirement fulfilled? Yes No

Please describe which applicable requirements of Clause 11 of EN 301 549 are satisfied:

Example 2.2: As award criterion: The offered software should be conformant to Clause 11 of EN 301 549.

Is this requirement fulfilled? Yes Partly No

Please describe for each applicable requirement of Clause 11 of EN 301 549 the extent to which it is satisfied:

In many cases, a tick-box supplemented by a description is considered as a sufficient control method due to the principle of proportionality. The description shows the substance behind a "yes" answer. Furthermore, the credibility of the claim in the tender will be enhanced by a contract clause stating that penalties will be imposed if the contracted products do not satisfy the requirements of the call for tender and the claims in the tender throughout the terms of the contract.

8.1.2 First party declaration

A statement in the form of a tick in a tick-box supplemented or not with a description is not a conformity assessment in the sense of the ISO/IEC 17000 standard family. Such a statement is not based on a review, which according to EN ISO/IEC 17000:2004 shall be a "verification of the suitability, adequacy and effectiveness of selection and determination activities, and the results of these activities, with regard to fulfilment of specified requirements by an object of conformity assessment".

An evidence of compliance with a higher degree of credibility is a first party declaration. As mentioned in clause 6.2.1, this is a statement issued by a supplier or manufacturer, based on a decision following review, that fulfilment of specific requirements has been demonstrated.

A first party declaration shall contain, as a minimum, an identification of the object of the declaration, an identification of the specified requirements and an identification of the issuer of the declaration. Annex B.1 provides a generic and Annex C.1 an EN 301 549 specific template of a specification of a first party declaration.

There are reasons for considering the first party declaration as the default alternative for selecting type of evidence: it provides an acceptable degree of credibility, it imposes a minor administrative burden, and hence it does not violate the principle of proportionality, i.e. not setting out more far-reaching requirements, imposing restrictions on the tenderers, than necessary to meet the needs. It should be noted that it is the procuring body who decides what is necessary; however the procuring body has to provide a justification if a supplier appeals in court.

8.1.3 Supplier's Declaration of Conformity

The main difference between a general first party declaration and a Supplier's Declaration of Conformity is that the SDoC includes supporting information, showing inter alia how and by whom the determination that the requirements are fulfilled is carried out. Therefore, an SDoC is generally considered to have a higher credibility than a first party declaration described in clause 8.1.2.

The standards EN ISO/IEC 17050-1 and 17050-2 provide specifications of the general requirements and the supporting documentation of a Supplier's Declaration of Conformity.

Annex B.2 provides a generic and Annex C.2 an EN 301 549 specific template of a specification of a Supplier's Declaration of Conformity.

Reasons for requiring bidders to submit an SDoC could be:

- Where non-compliance of accessibility requirements may have serious consequences for disabled employees, such as losing the job;
- The determination method is of interest, for example if it includes checking of interoperability with assistive technology. If the determination method is considered critical, it should be mentioned in the technical specification or be an award subcriterion.

8.1.4 Second party attestation

EN ISO/IEC 17000:2004, clause 2.3, defines "second party conformity assessment activity" as an activity that is performed by a person or organization that has a user interest in the object. In note 1 to the clause is stated that this includes, for example, purchasers or users of products, or potential customers seeking to rely on a supplier's management system, or organizations representing those interests.

Two examples where requiring second party assessment as a proof of compliance possibly could be applied:

- Organizations representing users, e.g. consumer organizations and trade unions, may publish test reports and statements concerning the quality of products and services. Such reports and statements are however not necessarily, but may include, attestations in the sense of EN ISO/IEC 17000. Where a procuring body wishes to request suppliers to submit a second party attestation as a means of proof, it should check whether the received document actually is an attestation compliant with EN ISO/IEC 17000, i.e. a statement, based on a decision following review, that fulfilment of specified requirements has been demonstrated;
- Central purchasing bodies concluding framework agreements may want to assure contracting authorities that products available in the agreement do conform to a technical specification.

Evidence of suppliers' technical capacity and ability may be gathered by taking references from current users, but a reference is not a conformity assessment in the sense of EN ISO/IEC 17000.

8.1.5 Third party certification

As indicated in clause 6.2.4, a third party certification is an attestation issued by a person or body that is independent of the person or organization that provides the object and of user interests in that object.

In the phase I of Mandate M/376 report (see [2]), clause 4.2.5.5, it is clarified that "product certification primarily involves indirect determination of the conformance of products manufactured in long series to specific requirements". Hence, considering to require third party certification in calls for tender is meaningful only for off-the-shelf products. In addition, third party conformity assessment resulting in a certification is part of the production process and can never be carried out afterwards.

Requiring third party certification could be considered e.g. for products with a high risk factor (e.g. voting machines) or that have to comply with statutory requirements.

8.1.6 Accredited third party certification

In exceptional cases, a procuring body may find it necessary to require a certification issued by an accredited third party, i.e. a body formally recognized as competent to carry out conformity assessment activities related to specified products or services.

Requiring accredited third party certification may violate the principle of proportionality and should only be considered in exceptional cases, e.g. where use of products non-compliant to accessibility requirements may have serious consequences, such as making disabled citizens unable to exert their societal obligations. An example of this could be an electronic voting machine.

8.1.7 Certificates as an administrative burden

In the Green Paper on the modernisation of EU public procurement policy (COM(2011) 15 final, see [18]) it is stated that submission of certificates required in the selection phase entails an administrative burden in particular for small and medium enterprises (SMEs). "a solution that is often proposed could be to generally allow undertakings to submit only a summary of the relevant information for selection and/or provide self-declarations on the fulfilment of the selection criteria as a first step. In principle, only the successful tenderer or the tenderers admitted to the award phase would then be asked to submit actual supporting documents (certificates). However, the contracting authority would have the possibility to request the documents at any moment during or even after the procurement procedure for fraud prevention purposes. This would reduce the administrative burden, particularly for small and medium enterprises, without compromising the guarantees for making sound choices." (see [18]).

Available answers to the questions in the Green Paper show that this solution is already applied in some countries.

The Green Paper discussion of the proposal of requiring verification of evidence only by the short-listed candidates / the winning bidder relates only to the selection phase, which concerns the tenderer. Whether this solution would be applicable also for submission of verification documents concerning the subject-matter for the procurement is not discussed.

The discussions in clauses 8.1.1 - 8.1.6 are made without taking this solution into account. It could be argued that it provides a smaller risk of violating the principle of proportionality.

8.2 Post-award conformity assessment

As indicated in clause 7.5, there are three main phases post-award where conformity assessment may take place:

- At the contracting authority after delivery, i.e. during installation and customization;
- For procurement of development services, i.e. during the development, as part of the contract;
- At the contracting authority during the use, i.e. when an employee or other end user is using the product or service after been trained in its use, or during tests before launching an electronic product or on-line service for use by the citizens.

While the declarations or certifications required in a call for tender (pre-award) are normally produced in the production process before the product is sold in the marketplace, conformity assessment post-award concerns the instance of a delivered product or service. The conformity assessment activity that occurs post-award is therefore an inspection. EN ISO/IEC 17000:2004 defines inspection as "examination of a product design, product, process or installation and determination of its conformity with specific requirements or, on the basis of professional judgment, with general requirements". In the phase I of Mandate M/376 report (see [2]), clause 4.2.5.5, the difference between certification and inspection is explained.

Post-award activities are not regulated by the procurement Directives 2004/17/EC (see [14]) and 2004/18/EC (see [15]). The contract parties are free to agree on the procedure for and documentation of the inspection.

8.2.1 Conformity assessment after delivery

Normally, an ICT product needs some customization to be adapted to the business of the procuring body and/or parameter setting to be adapted to the end-user. The contract should stipulate that accessibility requirements, specified in the call for tender and claimed to be satisfied in the tender, shall be satisfied after

the customization / parameter setting. This is normally a condition for delivery acceptance and should be verified by inspection. Where product customization involves the customer carrying out the customization, or supplying their own code, conformity assessment can only be based on the product as delivered.

Where applicable, the inspection should use the same determination method as was used in the conformity assessment resulting in the declaration/certification submitted in the winning tender.

8.2.2 Conformity assessment in development contracts

For development contracts, for example a contract on web design, the accessibility requirements are specified in the description of the development work to be undertaken. The description is part of the contract. The contract should contain provisions of the procedure for and documentation of the conformity assessment activities.

8.2.3 Conformity assessment during use and operation

The reader is referred to Clause 9.

9 Follow-up methods for long-term contracts

This clause applies to long-term contracts, following procurements where the subject-matter often is some type of service. The discussion in this clause should however not be considered as limited to services contracts only.

ICT products and services are often subject to changes during their use. Software and hardware may need updating and upgrading because of new or modified business or user needs at the customer side, or because the supplier, within the framework of a maintenance contract, wants to introduce new technology resulting in easier or less frequent maintenance. Changes of this kind may affect the accessibility.

It may be necessary, or at least preferable, to perform an inspection of conformity (checking the compliance) not only during the evaluation of tenders, but also in the acceptance test following delivery and during the performance of the contract. This is in particular relevant for procurement of services. ICT is increasingly delivered as services. Services can be of many types, for example:

- knowledge or information provided by people, e.g. a consultancy service;
- development of software or hardware, e.g. web site design and development;
- a service can be provided by technology, e.g. mobile or PSTN telephony;
- hardware can be delivered as a service, e.g. provision of printing capacity as a function, where a supplier delivers printers to the customer but owns, maintains and upgrades the printers to a periodic fee.

When the procuring body has awarded a service contract, it must follow up whether the service is being delivered to specification in the contract, to the agreed standards and price. In other words, the validity of the existing statement laid down in the tender and contract resulting from attestation has to be maintained. Besides, this kind of follow-up makes the end-users feel confident that the procurement is carried out professionally.

The contracting authority should ensure that the contract enables control that the delivered product or service fulfils specified accessibility requirements during the course of the contract. This means that the requirements and the control process should be specified in the contract. The specification should include

- requirements and criteria specified in the call for tender, met by the offered product/service according to the tender;
- where applicable, requirements agreed in negotiation;

- statutory requirements.

9.1 Follow-up as part of a conformity assessment scheme

EN ISO/IEC 17000 uses a functional model to illustrate how conformity assessment systems may be set up. It is comprised of four functions: selection, determination, review and attestation, and surveillance. Surveillance is a follow-up function. Conformity assessment can end when the attestation is performed. In some cases however, the assessment functions may need to be systematically iterated to maintain the validity of the statement resulting from attestation. User needs drive such activities. For example, an object of conformity assessment may change over time. This could affect its continuing fulfilment of specified requirements. The activities undertaken in surveillance are planned in order to satisfy the need to maintain the validity of an existing statement resulting from attestation. To satisfy this need, a complete repeat of the initial assessment is not usually necessary in every surveillance iteration. Thus, during surveillance, the activities in the other functions may be abridged, or different from the activities undertaken in the initial assessment.

9.2 Follow-up as contract management

In the context of procurement, follow-up of the supplier's performance of the contract is often known as (part of) *contract management*.

The Office of Government Commerce (OGC) in UK defines contract management as follows:

"Contract management is the process that enables both parties to a contract to meet their obligations in order to deliver the objectives required from the contract. It also involves building a good working relationship between customer and provider. It continues throughout the life of a contract and involves managing proactively to anticipate future needs as well as reacting to situations that arise.

The central aim of contract management is to obtain the services as agreed in the contract and achieve value for money. This means optimising the efficiency, effectiveness and economy of the service or relationship described by the contract, balancing costs against risks and actively managing the customer-provider relationship. Contract management may also involve aiming for continuous improvement in performance over the life of the contract."

Follow-up as contract management gives the procuring body possibilities to maintain and improve the quality, including accessibility features, in the procured product or service. Provisions for monitoring could be added to the contract. One example could be to use a special test method with users of an e-service. Another example could be to use the Customer Satisfaction Index. Improvements could be linked to sanctions or incentives for the supplier.

9.3 Follow-up of supplier capacity and ability

Where an awarded supplier has passed the selection phase due to fulfilment of selection criteria concerning capacity and ability as regards accessibility, the contracting authority may wish to ensure that the supplier maintains this capacity and ability. This is important for procurements of contracts on outsourcing, systems development and management, service provision and other long-term undertakings; for example, the authority may want to check that accessibility considerations are incorporated in the web design method applied by the supplier. This can be made by performing a review of supplier's quality management system. This is a complicated task where the contracting authority should call in an independent third party.

Accessibility related issues may be theoretically included in conditions for exclusion of suppliers from participation in procurement. For the selection phase, candidates/bidders might be required to submit evidence of eligibility. To reduce this burden for the suppliers, some EU Member States, e.g. The Netherlands and The Czech Republic, apply the principle of requesting a self-declaration where the bidders declare that they are eligible. Only the awarded supplier needs to submit the certificates in original. The first step is to check the attestations for validity, i.e. that they are signed by an authorized person, that they are not outdated, that the attested company is identical to the contracted company, etc. (This has to be done before the awarding.) Where further follow-up of the evidence of eligibility fails, there might be grounds for cancellation of the contract and/or penalties.

Suppliers may take accessibility into account as an element of social responsibility, applying the principles of ISO 26000 *Guidance on social responsibility* (see [25]). However, ISO 26000 contains no requirements and no conformance clause; hence any claim of conformity to ISO 26000 is a non-valid statement.

9.4 Conformity to the standard EN 301 549

The contracting authority may wish to verify that the EN 301 549 standard is still complied with during the lifetime of the contract. This should be made by carrying out an inspection that the functional performance statements set out in EN 301 549, Clause 4 still are met. According to the TR 101 551 (see clause 2, iii) the supplier can, in his tender, declare conformity with these statements either by referring to Clauses 5 to 13 in EN 301 549 or by providing additional evidence, or a combination of both.

Where the purchased products and services have changed during the contract period, other subclauses of the Clauses 5 to 13 than were referred to in the tender may be applicable. Ideally, these subclauses should be specified in the contract. However, at the time of the signing of the contract, it is not possible to predict which other subclauses that will be applicable. Therefore, the procuring body and the supplier should agree, prior to the inspection, which subclauses are applicable, or agree to other forms of determination of conformity.

9.5 Conformity to award criteria

The contracting authority may wish to verify that the award criteria and sub-criteria related to accessibility, claimed by the supplier to be fulfilled, are still complied with during the lifetime of the contract. This should be made by carrying out an inspection. The underlying specification and determination method should be specified in the contract. The specification needs to be clear and unambiguous, since the question of fulfilment normally is a pass/fail situation, possibly associated with penalties for non-compliance.

9.6 Contractual supplier processes for ensuring service quality

The standard ISO/IEC 20000 (see [27], [28], [29], [30] and [31]) is a framework of best practice approaches intended to facilitate the delivery of high quality ICT services. It describes a set of processes to be established by the supplier in order to ensure that the contracted service performance is maintained and, where possible, improved during the lifetime of the contract. Mostly a service level agreement (SLA), including metrics, is associated. The definition of accessibility in this TR implies that accessibility is a measurable characteristic and thus can be included in a SLA.

9.7 Organizational issues

In some procuring bodies the procurement and the contract management are assigned to different departments. The procuring body should ensure that the departments have a common policy on accessibility and have equal training in accessibility.

10 Use of accessibility label systems

As follows from Article 23 in the procurement Directive 2004/18/EC (see [15]), contracting authorities are free to formulate an accessibility specification by referring either to standards or as performance/functional requirements. This means that, for the foreseeable future, contracting authorities are allowed to choose other functional accessibility requirements than those in EN 301 549. They may, for example, use the requirements of the specification belonging to the label.

As was shown in the CEN/CENELC report from phase I of Mandate M/376 (see [2]), a number of labels or quality marks exist for ICT accessibility. These labels are the result of conformity assessments made by non-accredited third party bodies. They may contain the necessary components of a conformity assessment scheme for accessibility. However, according to the public procurement legislation, procuring bodies cannot explicitly require that a product shall possess a certain accessibility label.

The purpose of this clause is to clarify the extent to which labels can be implicitly referred to in public procurements as evidence of conformance to EN 301 549 or to award criteria.

The procurement Directive 2004/18/EC (see [15]), Article 23, § 6, allows contracting authorities to refer to an eco-label when laying down environmental requirements, provided that the label complies to certain principles stated in the paragraph. However, no corresponding allowance exists for accessibility requirements. For accessibility requirements, the main rule in § 3 of Article 23 applies:

“Without prejudice to mandatory national technical rules, to the extent that they are compatible with Community law, the technical specifications shall be formulated:

- (a) either by reference to technical specifications defined in Annex VI and, in order of preference, to national standards transposing European standards, European technical approvals, common technical specifications, international standards, other technical reference systems established by the European standardization bodies or — when these do not exist — to national standards, national technical approvals or national technical specifications relating to the design, calculation and execution of the works and use of the products. Each reference shall be accompanied by the words ‘or equivalent’;*
- (b) or in terms of performance or functional requirements; the latter may include environmental characteristics. However, such parameters must be sufficiently precise to allow tenderers to determine the subject matter of the contract and to allow contracting authorities to award the contract;*
- (c) or in terms of performance or functional requirements as mentioned in subparagraph (b), with reference to the specifications mentioned in subparagraph (a) as a means of presuming conformity with such performance or functional requirements;*
- (d) or by referring to the specifications mentioned in subparagraph (a) for certain characteristics, and by referring to the performance or functional requirements mentioned in subparagraph (b) for other characteristics.”*

(None of the accessibility labels found in phase I of Mandate M/376 apply to (a) in the above quoted paragraph. They cannot be referred to directly as technical specifications in a call for tender.)

In principle, the requirements of EN 301 549 selected for certain procurement may be found to be equivalent to a subset of the specification underlying a certain label. In this case the procuring body may inform the bidders that this label is deemed to fulfil the requirements, but the procuring body must always also allow other means of proof.

Instead of explicitly referring to a label, the procuring body can examine the criteria underlying the label and use only those which are linked to the subject-matter of their purchase. Contracting authorities may stipulate which labels are deemed to fulfil these criteria, but must always allow other means of proof.

Annex A

Standards for conformity assessment

The following is a list of standards related to conformance assessment that are predominantly taken from the ISO/IEC 17000 series on conformity assessment. They are grouped in a number of subject areas.

A.1 Vocabulary, principles and common elements of conformity assessment

EN ISO/IEC 17000:2004, *Conformity assessment – Vocabulary and general principles* specifies general terms and definitions relating to conformity assessment, including accreditation of conformity assessment bodies. It also includes an informative annex describing a functional approach to conformity assessment to give a better understanding of the matter.

A.2 Code of good practice for conformity assessment

EN ISO/IEC Guide 60:2004, *Conformity assessment – Code of good practice* recommends good practices for all elements of conformity assessment, including normative documents, bodies, systems, schemes and results.

A.3 Drafting normative documents for use in conformity assessment

ISO/IEC 17007:2009, *Conformity assessment – Guidance for drafting normative documents suitable for use for conformity assessment* provides principles and guidance for developing normative documents that contain specified requirements for objects of conformity assessment to fulfil and specified requirements for conformity assessment systems that can be employed when demonstrating whether an object of conformity assessment fulfils specified requirements.

A.4 Testing and calibration

EN ISO/IEC 17025:2005, *General requirements for the competence of testing and calibration laboratories* specifies the general requirements for the competence of carrying out tests or calibrations, including sampling. It is applicable to all organizations performing tests or calibrations. These include, for example, first, second and third party laboratories, and laboratories where testing or calibration forms part of inspection and product certification.

EN ISO/IEC 17043:2010, *Conformity assessment – General requirements for proficiency testing* specifies general requirements for the competence of providers of proficiency testing schemes and for the development and operation of proficiency testing schemes.

A.5 Inspection

EN ISO/IEC 17020:2012, *Conformity assessment – General criteria for the operation of various types of bodies performing inspection* specifies general criteria for the competence of impartial bodies performing inspection irrespective of the sector involved. It also specifies independence criteria.

A.6 Supplier's Declaration of Conformity (SDoC)

EN ISO/IEC 17050-1:2010, *Conformity assessment – Supplier's declaration of conformity – Part 1: General requirements* specifies general requirements for a Supplier's Declaration of Conformity in cases where it is desirable, or necessary, that conformity of an object to the specified requirements be attested, irrespective of the sector involved. For the purposes of this standard, the object of a declaration of conformity can be a product, process, management system, person or body.

EN ISO/IEC 17050-2:2004, *Conformity assessment – Supplier's declaration of conformity – Part 2: Supporting documentation* specifies general requirements for supporting documentation to substantiate a Supplier's Declaration of Conformity, as described in EN ISO/IEC 17050-1.

A.7 Product certification

ISO/IEC Guide 23:1982, *Methods of indicating conformity with standards for third-party certification systems* lays down methods of indicating conformity with standards and reference thereto in standards. Whilst it is directed specifically to conformity with standards, it is recognized that it may be equally applicable to conformity with other technical specifications.

ISO/IEC Guide 28:2004, *Conformity assessment – Guidance on a third-party certification system for products* gives general guidelines for a specific product certification system. It is applicable to a third party product certification system for determining the conformity of a product with specified requirements through initial testing of samples of the product, assessment and surveillance of the involved quality system, and surveillance by testing of product samples taken from the factory or the open market, or both.

ISO/IEC Guide 53:2005, *Conformity assessment – Guidance on the use of an organization's quality management system in product certification* outlines a general approach by which certification bodies can develop and apply product certification schemes utilizing requirements of an organization's quality management system.

ISO/IEC Guide 65:1996, *General requirements for bodies operating product certification systems* specifies general requirements for third party operating a product certification system.

ISO/IEC Guide 67:2004, *Conformity assessment – Fundamentals of product certification* gives guidance on product certification systems by identifying their various elements based on current practices. It is intended for use by product certification bodies and other interested parties wishing to understand, develop, establish or compare third party product certification systems.

EN 45011:1998, *General requirements for bodies operating product certification systems* (ISO/IEC Guide 65:1996) specifies general requirements that a third party operating a product certification system shall have to meet if it is to be recognized as competent and reliable.

A.8 Management system certification

EN ISO/IEC 17021:2011, *Conformity assessment – Requirements for bodies providing audit and certification of management systems* contains principles and requirements for the competence, consistency and impartiality of audit and certification of management systems of all types (e.g. quality management systems or environmental management systems) and for bodies providing these activities. Certification bodies operating to this international standard need not offer all types of management system certification.

A.9 Certification of persons

EN ISO/IEC 17024:2012, *Conformity assessment – General requirements for bodies operating certification of persons* specifies requirements for a body certifying persons against specific requirements, including the development and maintenance of a certification scheme for personnel.

A.10 Marks of conformity

ISO Guide 27:1983, *Guidelines for corrective action to be taken by a certification body in the event of misuse of its mark of conformity* identifies a series of procedures which a national certification body (non-governmental) should consider in deciding how to respond to a reported misuse of its registered mark of conformity.

EN ISO/IEC 17030:2009, *Conformity assessment – General requirements for third-party marks of conformity* provides general requirements for third party marks of conformity, including their issue and use.

A.11 Accreditation

EN ISO/IEC 17011:2004, *Conformity assessment – General requirements for accreditation bodies accrediting conformity assessment bodies* specifies general requirements for accreditation bodies assessing and accrediting conformity assessment bodies (CABs). It is also appropriate as a requirements document for the peer evaluation process for mutual recognition arrangements between accreditation bodies.

A.12 Mutual Recognition Arrangements (MRAs)

ISO/IEC Guide 68:2002, *Arrangements for the recognition and acceptance of conformity assessment results* provides an introduction to the development, issuance and operation of arrangements for the recognition and acceptance of results produced by bodies undertaking similar conformity assessment and related activities.

A.13 Peer assessment

EN ISO/IEC 17040:2005, *Conformity assessment – General requirements for peer assessment of conformity assessment bodies and accreditation bodies* specifies the general requirements for the peer assessment process to be carried out by agreement groups of accreditation bodies or conformity assessment bodies. It addresses the structure and operation of the agreement group only insofar as they relate to the peer assessment process.

Annex B

Generic Templates for Declaring and Certifying Conformity

This annex provides templates for declaring and certifying conformity. Requirements specifications and templates for the five identified types of conformity assessment systems will be provided.

B.1 First party declaration of conformity

Specification of a first party declaration of conformity

A first party declaration is a statement issued by a supplier or manufacturer that fulfilment of specific requirements has been demonstrated. A first party declaration must not give impression that it has been controlled or verified by an independent first, second or third party.

Normative documents

1. The text in this annex.
2. EN ISO/IEC 17000:2004, *Conformity assessment – Vocabulary and general principles*

Independence

A first party declaration is an attestation that fulfilment of specified requirements has been demonstrated, made by the supplier's organization.

The supplier may refer to other conformity assessments made by one or more first, second or third parties. Such references must not be interpreted as reducing the supplier's responsibility.

Content

A first party declaration shall, as a minimum, contain the following information:

- a unique identification of the declaration of conformity;
- the name and contact address of the issuer of the declaration of conformity;
- the identification of the object of the declaration of conformity (e.g. name, type, date of production or model number of a product, description of a process, management system, person or body and other relevant supplementary information);
- the conformity statement;
- a complete and clear list of standards and other specified requirements, as well as selected options, if any;
- the date and place of issue of the declaration of conformity;
- the signature (or equivalent sign of validation), name and function of the authorized person(s) acting on behalf of the issuer;
- any limitation of the validity of the declaration of conformity.

This content is identical to Clause 6 in EN ISO/IEC 17050-1:2010.

Procedures in case of changes

The issuer of the first party declaration shall have procedures in place to ensure the continued conformity of the object, as delivered or accepted, with the stated requirements of the declaration of conformity.

Clause 10 of EN ISO/IEC 17050-1:2010 shall apply.

Template for first party declaration of conformity

This declaration of conformity is conformant to Clause 6 of EN ISO/IEC 17050-1:2010.

Table B.1

Unique identification of the declaration of conformity			
Name and contact address of the issuer of the declaration of conformity			
Object of the declaration of conformity			
Conformity statement	The object of declaration described above is in conformity with the requirements of the documents described below.		
List of standards and other specified requirements	Document No.	Title	Date of issue
Place and date of issue			
Name, function and signature of person(s) authorized by issuer			
Limitations of validity, if any			

B.2 Supplier's Declaration of Conformity

Specification of a Supplier's Declaration of Conformity

A Supplier's Declaration of Conformity is a statement issued by a supplier or manufacturer (the one who puts the product on the market) that fulfilment of specific requirements has been demonstrated, and where supporting documentation is publicly available.

Normative documents

1. The text in this annex.

2. EN ISO/IEC 17050-1:2010, *Conformity assessment – Supplier's declaration of conformity – Part 1: General requirements*
3. EN ISO/IEC 17050-2:2004, *Conformity assessment – Supplier's declaration of conformity – Part 2: Supporting documentation*
4. EN ISO/IEC 17000:2004, *Conformity assessment – Vocabulary and general principles*
5. EN ISO/IEC 17020:2012, *Conformity assessment – General criteria for the operation of various types of bodies performing inspection*

Independence

A Supplier's Declaration of Conformity is an attestation that fulfilment of specified requirements has been demonstrated, made by the supplier's organization.

The supplier may refer to other conformity assessments made by one or more first, second or third parties. Such references must not be interpreted as reducing the supplier's responsibility.

EN ISO/IEC 17020 provides guidance enabling grading independence of inspection organizations.

Content

A Supplier's Declaration of Conformity shall, as a minimum, contain the following information:

- a unique identification of the declaration of conformity;
- the name and contact address of the issuer of the declaration of conformity;
- the identification of the object of the declaration of conformity (e.g. name, type, date of production or model number of a product, description of a process, management system, person or body and other relevant supplementary information);
- the conformity statement;
- a complete and clear list of standards and other specified requirements, as well as selected options, if any;
- the date and place of issue of the declaration of conformity;
- the signature (or equivalent sign of validation), name and function of the authorized person(s) acting on behalf of the issuer;
- any limitation of the validity of the declaration of conformity.

Procedures in case of changes

The issuer of the declaration of conformity shall have procedures in place to ensure the continued conformity of the object, as delivered or accepted, with the stated requirements of the declaration of conformity.

Clause 10 of EN ISO/IEC 17050-1:2010 shall apply.

Supporting documentation

The issuer of the declaration of conformity shall, on request, make supporting information available to the procuring body.

Clauses 4 and 5 of EN ISO/IEC 17050-2:2004 shall apply.

Template for Supplier's Declaration of Conformity

This declaration of conformity is conformant to EN ISO/IEC 17050-1.

Table B.2

Unique identification of the declaration of conformity			
Name and contact address of the issuer of the declaration of conformity			
Object of the declaration of conformity			
Conformity statement	The object of declaration described above is in conformity with the requirements of the documents described below.		
List of standards and other specified requirements	Document No.	Title	Date of issue
Place and date of issue			
Name, function and signature of person(s) authorized by issuer			
Limitations of validity, if any			
The issuer shall make supporting documentation conformant to EN ISO/IEC 17050-2 available, as requested.			

B.3 Second party attestation of conformity

Specification of a second party attestation of conformity

A second party attestation is an attestation of conformity issued by a person or organization that has a user interest in the object, usually the buyer or user of the product, that fulfilment of specific requirements has been demonstrated. A second party attestation must not give impression that it has been controlled or verified by an independent first, second or third party.

Normative documents

1. The text in this annex.
2. EN ISO/IEC 17000:2004, *Conformity assessment – Vocabulary and general principles*

Independence

The second party may refer to other conformity assessments made by one or more first, second or third parties. Such references must not be interpreted as reducing the second party's responsibility for the correctness of the attestation.

Content

A second party attestation shall, as a minimum, contain the following information:

- a unique identification of the declaration of conformity;
- the name and contact address of the issuer of the declaration of conformity;
- the identification of the object of the declaration of conformity (e.g. name, type, date of production or model number of a product, description of a process, management system, person or body and other relevant supplementary information);
- the conformity statement;
- a complete and clear list of standards and other specified requirements, as well as selected options, if any;
- the date and place of issue of the declaration of conformity;
- the signature (or equivalent sign of validation), name and function of the authorized person(s) acting on behalf of the issuer;
- any limitation of the validity of the declaration of conformity.

This content is identical to Clause 6 in EN ISO/IEC 17050-1:2010.

Template for second party attestation of conformity

This attestation of conformity is conformant to Clause 6 of EN ISO/IEC 17050-1:2010.

Table B.3

Unique identification of the attestation of conformity			
Name and contact address of the issuer of the attestation of conformity			
Object of the attestation of conformity			
Conformity statement	The object of attestation described above is in conformity with the requirements of the documents described below.		
List of standards and other specified requirements	Document No.	Title	Date of issue
Place and date of issue			
Name, function and signature of person(s) authorized by issuer			
Limitations of validity, if any			

B.4 Third party certification of conformity

Specification of a third party certification of conformity

EN ISO/IEC 17000 defines third party conformity assessment activity “as performed by a person or body that is independent of the person or organization that provides the object and of user interests in that object”.

Normative documents

1. The text in this annex.
2. EN ISO/IEC 17050-1:2010, *Conformity assessment – Supplier’s declaration of conformity – Part 1: General requirements*
3. EN ISO/IEC 17050-2:2004, *Conformity assessment – Supplier’s declaration of conformity – Part 2: Supporting documentation*
4. EN ISO/IEC 17000:2004, *Conformity assessment – Vocabulary and general principles*

5. EN ISO/IEC 17020:2012, Conformity assessment – *General criteria for the operation of various types of bodies performing inspection*

Independence

A third party certification is issued by a person or body that is independent of the person or organization that provides the object and of user interests in that object.

EN ISO/IEC 17020 provides guidance enabling grading independence of inspection organizations.

Content

Same as for Supplier's Declaration of Conformity

Procedures in case of changes

Same as for Supplier's Declaration of Conformity

Supporting documentation

Same as for Supplier's Declaration of Conformity

Traceability

Supporting documentation shall be developed, kept, controlled and maintained in a way that allows traceability.

Availability

Since the conformity assessment is made by an independent third party, supporting documentation may but need not to be made publicly available.

Template for third party certification of conformity

This certificate is conformant to EN ISO/IEC 17050-1.

Table B.4

Unique identification of the certificate			
Name and contact address of the issuer of the certificate			
Object of the certificate			
Conformity statement	The object of certification described above is in conformity with the requirements of the documents described below.		
List of standards and other specified requirements	Document No.	Title	Date of issue
Place and date of issue			
Name, function and signature of person(s) authorized by issuer			
Limitations of validity, if any			
The issuer shall make supporting documentation conformant to EN ISO/IEC 17050-2 available, as requested.			

B.5 Accredited third party certification of conformity

Specification of an accredited third party certification of conformity

EN ISO/IEC 17000:2004 defines third party conformity assessment activity “as performed by a person or body that is independent of the person or organization that provides the object and of user interests in that object”. An accredited third party certification is made by an independent person or body which is accredited, i.e. an authoritative body has given formal recognition that the a body or person is competent to carry out a specific conformity assessment An accredited third party certification implies that supporting documentation has been controlled by an independent third party, therefore the supporting documentation may but not need to be made publicly available.

Normative documents

1. The text in this annex.
2. EN ISO/IEC 17050-1:2010, *Conformity assessment – Supplier’s declaration of conformity – Part 1: General requirements*

3. EN ISO/IEC 17050-2:2004, *Conformity assessment – Supplier’s declaration of conformity – Part 2: Supporting documentation*
4. EN ISO/IEC 17000:2004, *Conformity assessment – Vocabulary and general principles*
5. EN ISO/IEC 17020:2012, *Conformity assessment – General criteria for the operation of various types of bodies performing inspection*
6. EN 45011:1998, *General requirements for bodies operating product certification systems*

Independence

A third party certification is issued by a person or body that is independent of the person or organization that provides the object and of user interests in that object.

EN ISO/IEC 17020 provides guidance enabling grading independence of inspection organizations.

Content

Same as for third party certification, and

- Name and address of the accreditation body involved
- Reference to the documents which are the basis for the accreditation
- Date and number, if any, for the accreditation

Procedures in case of changes

EN 45011 Clause 6 shall apply.

Supporting documentation

EN 45011 clause 4.8 shall apply.

Traceability

EN 45011 clause 4.9 shall apply.

Availability

Since the conformity assessment is made by an independent third party, supporting documentation may but need not to be made publicly available.

Template for accredited third party certification of conformity

Table B.5

Unique identification of the certificate			
Name and contact address of the issuer of the certificate			
Object of the certificate			
Conformity statement	The object of certification described above is in conformity with the requirements of the documents described below.		
List of standards and other specified requirements	Document No.	Title	Date of issue
Place and date of issue			
Name, function and signature of person(s) authorized by issuer			
Limitations of validity, if any			
Name and address of accreditation body			
Reference to the documents which are the basis for the accreditation	Document No.	Title	Date of issue
Date and number, if any, for the accreditation			

Annex C

Templates for Declaring and Certifying Conformity with EN 301 549

C.1 First party declaration of conformity with EN 301 549

Specification of a first party declaration of conformity with EN 301 549

A first party declaration is a statement issued by a supplier or manufacturer that fulfilment of specific requirements has been demonstrated. A first party declaration must not give impression that it has been controlled or verified by an independent first, second or third party.

Normative documents

1. The text in this annex.
2. EN ISO/IEC 17000:2004, *Conformity assessment – Vocabulary and general principles*

Independence

A first party declaration is an attestation that fulfilment of specified requirements has been demonstrated, made by the supplier's organisation.

The supplier may refer to other conformity assessments made by one or more first, second or third parties. Such references must not be interpreted as reducing the supplier's responsibility.

Content

A first party declaration of conformity with EN 301 549 shall, as a minimum, contain the following information:

- a unique identification of the declaration of conformity;
- the name and contact address of the issuer of the declaration of conformity;
- the identification of the object of the declaration of conformity (e.g. name, type, date of production or model number of a product, description of a process, management system, person or body and other relevant supplementary information);
- the conformity statement;
- a complete and clear list of clauses and subclauses, with which conformity is claimed;
- the date and place of issue of the declaration of conformity;
- the signature (or equivalent sign of validation), name and function of the authorized person(s) acting on behalf of the issuer;
- any limitation of the validity of the declaration of conformity.

The conformity statement should be made in a form that:

- makes clear whether there is compliance with all the applicable requirements or whether there is only compliance with some requirements;

- notes the sampling and assessment techniques used to evaluate the ICT;
- shows whether equivalent accessible functionality exists in places where non-compliance was found;
- shows whether equivalent means were used that achieve the outcome envisioned, where technical non-compliance was found.

Procedures in case of changes

The issuer of the first party declaration shall have procedures in place to ensure the continued conformity of the object, as delivered or accepted, with the stated requirements of the declaration of conformity.

Clause 10 of EN ISO/IEC 17050-1:2010 shall apply.

Template for first party declaration of conformity with EN 301 549

This declaration of conformity is conformant to Clause 6 of EN ISO/IEC 17050-1:2010.

Table C.1

Unique identification of the declaration of conformity	
Name and contact address of the issuer of the declaration of conformity	
Object of the declaration of conformity	
Conformity statement	
List of clauses and subclauses of EN 301 549, with which conformity is claimed	
Place and date of issue	
Name, function and signature of person(s) authorized by issuer	
Limitations of validity, if any	

C.2 Supplier’s Declaration of Conformity with EN 301 549

Specification of a Supplier’s Declaration of Conformity with EN 301 549

A Supplier’s Declaration of Conformity is a statement issued by a supplier or manufacturer (the one who puts the product on the market) that fulfilment of specific requirements has been demonstrated, and where supporting documentation is publicly available.

Normative documents

1. The text in this annex.
2. EN ISO/IEC 17050-1:2010, *Conformity assessment – Supplier’s declaration of conformity – Part 1: General requirements*
3. EN ISO/IEC 17050-2:2004, *Conformity assessment – Supplier’s declaration of conformity – Part 2: Supporting documentation*
4. EN ISO/IEC 17000:2004, *Conformity assessment – Vocabulary and general principles*
5. EN ISO/IEC 17020:2012, *Conformity assessment – General criteria for the operation of various types of bodies performing inspection*

Independence

A Supplier's Declaration of Conformity is an attestation that fulfilment of specified requirements has been demonstrated, made by the supplier's organisation.

The supplier may refer to other conformity assessments made by one or more first, second or third parties. Such references must not be interpreted as reducing the supplier's responsibility.

EN ISO/IEC 17020 provides guidance enabling grading independence of inspection organisations.

Content

A Supplier's Declaration of Conformity with EN 301 549 shall, as a minimum, contain the following information:

- a unique identification of the declaration of conformity;
- the name and contact address of the issuer of the declaration of conformity;
- the identification of the object of the declaration of conformity (e.g. name, type, date of production or model number of a product, description of a process, management system, person or body and other relevant supplementary information);
- the conformity statement;
- a complete and clear list of clauses and subclauses, with which conformity is claimed;
- the date and place of issue of the declaration of conformity;
- the signature (or equivalent sign of validation), name and function of the authorized person(s) acting on behalf of the issuer;
- any limitation of the validity of the declaration of conformity.

The conformity statement should be made in a form that:

- makes clear whether there is compliance with all the applicable requirements or whether there is only compliance with some requirements;
- notes the sampling and assessment techniques used to evaluate the ICT;
- shows whether equivalent accessible functionality exists in places where non-compliance was found;
- shows whether equivalent means were used that achieve the outcome envisioned, where technical non-compliance was found.

Procedures in case of changes

The issuer of the declaration of conformity shall have procedures in place to ensure the continued conformity of the object, as delivered or accepted, with the stated requirements of the declaration of conformity.

Clause 10 of EN ISO/IEC 17050-1:2010 shall apply.

Supporting documentation

The issuer of the declaration of conformity shall, on request, make supporting information available to the procuring body.

Clauses 4 and 5 of EN ISO/IEC 17050-2:2004 shall apply.

Template for Supplier's Declaration of Conformity with EN 301 549

This declaration of conformity is conformant to EN ISO/IEC 17050-1.

Table C.2

Unique identification of the declaration of conformity	
Name and contact address of the issuer of the declaration of conformity	
Object of the declaration of conformity	
Conformity statement	
List of clauses and subclauses of EN 301 549, with which conformity is claimed	
Place and date of issue	
Name, function and signature of person(s) authorized by issuer	
Limitations of validity, if any	
The issuer shall make supporting documentation conformant to EN ISO/IEC 17050-2 available, as requested.	

C.3 Second party attestation of conformity with EN 301 549

Specification of a second party attestation of conformity with EN 301 549

A second party attestation is an attestation of conformity issued by a person or organization that has a user interest in the object, usually the buyer or user of the product, that fulfilment of specific requirements has been demonstrated. A second party attestation must not give impression that it has been controlled or verified by an independent first, second or third party.

Normative documents

1. The text in this annex.
2. EN ISO/IEC 17000:2004, *Conformity assessment – Vocabulary and general principles*

Independence

The second party may refer to other conformity assessments made by one or more first, second or third parties. Such references must not be interpreted as reducing the second party's responsibility for the correctness of the attestation.

Content

A second party attestation of conformity with EN 301 549 shall, as a minimum, contain the following information:

- a unique identification of the declaration of conformity;
- the name and contact address of the issuer of the declaration of conformity;
- the identification of the object of the declaration of conformity (e.g. name, type, date of production or model number of a product, description of a process, management system, person or body and other relevant supplementary information);
- the conformity statement;
- a complete and clear list of clauses and subclauses, with which conformity is claimed;
- the date and place of issue of the declaration of conformity;
- the signature (or equivalent sign of validation), name and function of the authorized person(s) acting on behalf of the issuer;
- any limitation of the validity of the declaration of conformity.

The conformity statement should be made in a form that:

- makes clear whether there is compliance with all the applicable requirements or whether there is only compliance with some requirements;
- notes the sampling and assessment techniques used to evaluate the ICT;
- shows whether equivalent accessible functionality exists in places where non-compliance was found;
- shows whether equivalent means were used that achieve the outcome envisioned, where technical non-compliance was found.

Template for second party attestation of conformity with EN 301 549

This attestation of conformity is conformant to Clause 6 of EN ISO/IEC 17050-1:2010.

Table C.3

Unique identification of the attestation of conformity	
Name and contact address of the issuer of the attestation of conformity	
Object of the attestation of conformity	
Conformity statement	
List of clauses and subclauses of EN 301 549, with which conformity is claimed	
Place and date of issue	
Name, function and signature of person(s) authorized by issuer	
Limitations of validity, if any	

C.4 Third party certification of conformity with EN 301 549

Specification of a third party certification of conformity with EN 301 549

EN ISO/IEC 17000 defines third party conformity assessment activity “as performed by a person or body that is independent of the person or organization that provides the object and of user interests in that object”.

Normative documents

1. The text in this annex.
2. EN ISO/IEC 17050-1:2010, *Conformity assessment – Supplier’s declaration of conformity – Part 1: General requirements*
3. EN ISO/IEC 17050-2:2004, *Conformity assessment – Supplier’s declaration of conformity – Part 2: Supporting documentation*
4. EN ISO/IEC 17000:2004, *Conformity assessment – Vocabulary and general principles*
5. EN ISO/IEC 17020:2012, *Conformity assessment – General criteria for the operation of various types of bodies performing inspection*

Independence

A third party certification is issued by a person or body that is independent of the person or organization that provides the object and of user interests in that object.

EN ISO/IEC 17020 provides guidance enabling grading independence of inspection organizations.

Content

Same as for Supplier's Declaration of Conformity

Procedures in case of changes

Same as for Supplier's Declaration of Conformity

Supporting documentation

Same as for Supplier's Declaration of Conformity

Traceability

Supporting documentation shall be developed, kept, controlled and maintained in a way that allows traceability.

Availability

Since the conformity assessment is made by an independent third party, supporting documentation may but need not to be made publicly available.

Template for third party certification of conformity with EN 301 549

This certificate is conformant to EN ISO/IEC 17050-1.

Table C.4

Unique identification of the certificate	
Name and contact address of the issuer of the certificate	
Object of the certificate	
Conformity statement	
List of clauses and subclauses of EN 301 549, with which conformity is claimed	
Place and date of issue	
Name, function and signature of person(s) authorized by issuer	
Limitations of validity, if any	
The issuer shall make supporting documentation conformant to EN ISO/IEC 17050-2 available, as requested.	

C.5 Accredited third party certification of conformity with EN 301 549

Specification of an accredited third party certification of conformity with EN 301 549

EN ISO/IEC 17000:2004 defines third party conformity assessment activity “as performed by a person or body that is independent of the person or organization that provides the object and of user interests in that object”. An accredited third party certification is made by an independent person or body which is accredited, i.e. an authoritative body has given formal recognition that the a body or person is competent to carry out a specific conformity assessment An accredited third party certification implies that supporting documentation has been controlled by an independent third party, therefore the supporting documentation may but not need to be made publicly available.

Normative documents

1. The text in this annex.
2. EN ISO/IEC 17050-1:2010, *Conformity assessment – Supplier’s declaration of conformity – Part 1: General requirements*
3. EN ISO/IEC 17050-2:2004, *Conformity assessment – Supplier’s declaration of conformity – Part 2: Supporting documentation*
4. EN ISO/IEC 17000:2004, *Conformity assessment – Vocabulary and general principles*

5. EN ISO/IEC 17020:2012, *Conformity assessment – General criteria for the operation of various types of bodies performing inspection*
6. EN 45011:1998, *General requirements for bodies operating product certification systems*

Independence

A third party certification is issued by a person or body that is independent of the person or organization that provides the object and of user interests in that object.

EN ISO/IEC 17020 provides guidance enabling grading independence of inspection organizations.

Content

Same as for third party certification of conformity with EN 301 549, and

- Name and address of the accreditation body involved
- Reference to the documents which are the basis for the accreditation
- Date and number, if any, for the accreditation

Procedures in case of changes

EN 45011 Clause 6 shall apply.

Supporting documentation

EN 45011 clause 4.8 shall apply.

Traceability

EN 45011 clause 4.9 shall apply.

Availability

Since the conformity assessment is made by an independent third party, supporting documentation may but need not to be made publicly available.

Template for accredited third party certification of conformity with EN 301 549

Table C.5

Unique identification of the certificate			
Name and contact address of the issuer of the certificate			
Object of the certificate			
Conformity statement			
List of clauses and subclauses of EN 301 549, with which conformity is claimed			
Place and date of issue			
Name, function and signature of person(s) authorized by issuer			
Limitations of validity, if any			
Name and address of accreditation body			
Reference to the documents which are the basis for the accreditation	Document No.	Title	Date of issue
Date and number, if any, for the accreditation			

Annex D

Abbreviations and Acronyms

AENOR	Asociación Española de Normalización y Certificación
ATAG	Authoring Tool Accessibility Guidelines
CE	Conformité Européenne
CEN	European Committee for Standardization
CENELEC	European Committee for Electrotechnical Standardization
CWA	CEN Workshop Agreement
EC	European Commission
EEA	European Economic Area
EN	European Norm
ESO	European Standardization Organization
EU	European Union
ETSI	European Telecommunications Standards Institute (France)
ICT	Information and Communication Technology
IEC	International Electrotechnical Commission
ISO	International Organization for Standardization
ODF	Open Document Format
PDF	Portable Document Format
PT	Project Team
SBA	Small Business Act for Europe 2008
SDoC	Supplier's Declaration of Conformity
SME	Small and medium enterprises
TR	Technical Report
UAAG	User Agent Accessibility Guidelines
UWEM	Unified Web Evaluation Methodology
W3C	World Wide Web Consortium
WAI	Web Accessibility Initiative
WAI-ARIA	WAI Accessible Rich Internet Applications
WCAG	Web Content Accessibility Guidelines
WHO	World Health Organization
WTO	World Trade Organization

Bibliography

- [1] CEN/CENELEC Guide 6:2002, *Guidelines for standards developers to address the needs of older persons and persons with disabilities*
<ftp://ftp.cen.eu/BOSS/ReferenceDocuments/Guides/CENCLC/CENCLC6.pdf> (Last access 2013/11/05)
- [2] CEN/CENELEC Report:2008, *Conformity assessment systems and schemes for accessibility requirements*,
http://www.mandate376.eu/doc/CEN_CLC_Report_Conformity_assessment_acc_req.pdf (Last access 2013/11/05)
- [3] CEN CWA 15554:2006, *Specifications for a Web Accessibility Conformity Assessment Scheme and a Web Accessibility Quality Mark*, <ftp://ftp.cenorm.be/PUBLIC/CWAs/e-Europe/WAC/CWA15554-00-2006-Jun.pdf> (Last access 2013/11/05)
- [4] EC Court of Justice (Sixth Chamber), Case C-448/01 between EVN AG, Wienstrom GmbH and Republic of Austria, 4 December 2003, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62001J0448:EN:HTML> (Last access 2013/11/05)
- [5] EN ISO 26800:2011, *Ergonomics - General approach, principles and concepts (ISO 26800:2011)*
- [6] EN ISO 9241-171:2008, *Ergonomics of human-system interaction - Part 171: Guidance on software accessibility (ISO 9241-171:2008)*
- [7] EN ISO 9241-210:2010, *Ergonomics of human-system interaction - Part 210: Human-centred design for interactive systems (ISO 9241-210:2010)*
- [8] ETSI/TR 102 612:2009, *European accessibility requirements for public procurement of products and services in the ICT domain* <http://www.mandate376.eu/doc/tr102612v010101p.pdf> (Last access 2013/11/05)
- [9] EUROPEAN COMMISSION (EC). COM(2010) 636, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions – European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe*, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0636:FIN:EN:PDF> (Last access 2013/11/05)
- [10] EUROPEAN COMMISSION (EC). COM(2011) 895, *Proposal for a Directive of the European Parliament and of the Council on procurement by entities operating in the water, energy, transport and postal services sectors*, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52011PC0895:EN:PDF> (Last access 2013/11/05)
- [11] EUROPEAN COMMISSION (EC). COM(2011) 896, *Proposal for a Directive of the European Parliament and of the Council on public procurement*, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52011PC0896:EN:PDF> (Last access 2013/11/05)
- [12] EUROPEAN COMMISSION (EC). DECISION No 93/465/EEC, *Council Decision of 22 July 1993 concerning the modules for the various phases of the conformity assessment procedures and the rules for the affixing and use of the CE conformity marking, which are intended to be used in the technical harmonization directives*, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31993D0465:EN:HTML> (Last access 2013/11/05)

- [13] EUROPEAN COMMISSION (EC). *DECISION No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC*, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:218:0082:0128:en:PDF> (Last access 2013/11/05)
- [14] EUROPEAN COMMISSION (EC). *Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors*, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:134:0001:0113:en:PDF> (Last access 2013/11/05)
- [15] EUROPEAN COMMISSION (EC). *Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts*, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:134:0114:0240:en:PDF> (Last access 2013/11/05)
- [16] EUROPEAN COMMISSION (EC). *Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts*, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:335:0031:0046:EN:PDF> (Last access 2013/11/05)
- [17] EUROPEAN COMMISSION (EC). SEC(2011) 853, *Evaluation Report: Impact and Effectiveness of EU Public Procurement Legislation*, http://ec.europa.eu/internal_market/publicprocurement/modernising_rules/evaluation/index_en.htm (Last access 2013/11/05)
- [18] European Commission (EC), COM(2011) 15, *Green Paper on the modernisation of EU public procurement policy Towards a more efficient European Procurement Market*, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0015:FIN:EN:PDF> (Last access 2013/11/05)
- [19] European Commission (EC), *Roadmap Modernisation of EU public procurement rules*, 2010 http://ec.europa.eu/governance/impact/planned_ia/docs/2011 Markt_017_public_procurement_en.pdf (Last access 2013/11/05)
- [20] European Commission (EC), COM(2008) 394, *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the regions – Think Small First, A "Small Business Act" for Europe*, <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0394:FIN:EN:PDF> (Last access 2013/11/05)
- [21] EUROPEAN COMMISSION (EC). COM(2011) 78, *Communication from the Commission to the European Parliament, the Council, Economic and Social Committee and the Committee of the regions – Review of the "Small Business Act" for Europe*, http://ec.europa.eu/enterprise/policies/sme/small-business-act/files/sba_review_en.pdf (Last access 2013/11/05)
- [22] European Commission (EC), SEC(2010) 1323, Commission Staff Working Document, *Accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions – European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe*, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2010:1323:FIN:EN:PDF> (Last access 2013/11/05)
- [23] ICIDH-2:1999, *International Classification of Functioning, Disability and Health (Beta-2 version)*

- [24] ICIDH-2. *International Classification of Functioning*. Disability and Health ICF, 2001
- [25] ISO 26000:2010, *Guidance on social responsibility*
- [26] ISO/IEC Guide 71:2001, *Guidelines for standards developers to address the needs of older persons and persons with disabilities*
- [27] ISO/IEC 20000-1:2011, *Information technology — Service management — Part 1: Service management system requirements*
- [28] ISO/IEC 20000-2:2005, *Information technology — Service management — Part 2: Code of practice*
- [29] ISO/IEC 20000-3:2009, *Information technology -- Service management -- Part 3: Guidance on scope definition and applicability of ISO/IEC 20000-1*
- [30] ISO/IEC 20000-4:2010, *Information technology -- Service management -- Part 4: Process reference model*
- [31] ISO/IEC 20000-5:2010, *Information technology -- Service management -- Part 5: Exemplar implementation plan for ISO/IEC 20000-1*
- [32] IVL SWEDISH ENVIRONMENTAL RESEARCH INSTITUTE LTD. Martin Erlandsson, IVL Rapport B1685, Augusti 2006, Ställ verifierbara miljökrav – eller på "heder och samvete", <http://www.ivl.se/webdav/files/B-rapporter/B1685.pdf> (Last access 2013/11/05)
- [33] MANDATE M. 376:2005, Standardisation mandate to CEN, CENELEC and ETSI in support of European accessibility requirements for public procurement of products and services in the ICT domain, http://www.ictsb.org/Working_Groups/DATSCG/Documents/M376.pdf (Last access 2013/11/05)
- [34] WORLD TRADE ORGANIZATION (WTO). *Agreement on Government Procurement*, 1996, http://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm (Last access 2013/11/05)