



## **Declaration on Grounds for Exclusion**

Name of the tenderer/  
consortium: \_\_\_\_\_

- ☐ Lot 1 (Provision and Operation of an Online Learning Platform based on Moodle Work-place)
- ☐ Lot 2 (ICT Development and Technical Implementation Services)

## 1. Russia sanctions

I/we

- ☐ **do not fall** under any of the persons, entities or bodies listed in Article 5k (1) of Regulation (EU) No 833/2014 as amended by Article 1 (23) of Council Regulation (EU) 2025/2033 of 23 October 2025 (see **Appendix 1**).
- ☐ I/we are one of the persons, entities or bodies referred to in Article 5k (1) of Regulation (EU) No 833/2014 as amended by Article 1 (23) of Council Regulation (EU) 2025/2033 of 23 October 2025 (see **Appendix 1**).

I/we

- ☐ **will not use** for the contract any subcontractors, suppliers or undertakings whose capacities are called upon within the meaning of the public procurement directives and who fall within the persons, entities or bodies referred to in Article 5k (1) of Regulation (EU) No 833/2014, as amended by Article 1 (23) of Council Regulation (EU) 2025/2033 of 23 October 2025 (see **Appendix 1**), representing more than 10 % of the contract value.
- ☐ will use subcontractors, suppliers or undertakings whose capacities are used within the meaning of the public procurement directives, and which fall under the persons, entities or bodies referred to in Article 5k (1) of Regulation (EU) No 833/2014, as amended by Article 1 (23) of Council Regulation (EU) 2025/2033 of 23 October 2025 (see **Appendix 1**), for the contract, which account for more than 10 % of the contract value.

## 2. Declaration on exclusion grounds pursuant to Sections 123, 124 Competition Act

I declare / We declare that

- ☐ none of the grounds for exclusion stated in the following regulations applies to me/us:
- section 123 Competition Act (see **Appendix 2**)
  - section 124 Competition Act (see **Appendix 3**)
  - section 124 (2) Competition Act in conjunction with sections 19, 21 of the Minimum Wage Act [Mindestlohngesetz] (see **Appendix 4**)
  - section 124 (2) Competition Act in conjunction with sections 21 (1), 23 of the Posted Workers Act [Arbeitnehmer-Entsendegesetz] (see **Appendix 5**)
  - section 124 (2) Competition Act in conjunction with section 98c of the Residence Act [Aufenthaltsgesetz] (see **Appendix 6**)
  - section 124 (2) Competition Act in conjunction with section 21 of the Act to Combat Undeclared Work and Unlawful Employment [Schwarzarbeitsbekämpfungsgesetz] (see **Appendix 7**)
  - section 124 (2) Competition Act in conjunction with section 22 of the Act on Corporate Due Diligence Obligations in Supply Chains [Lieferkettensorgfaltspflichtengesetz] (see **Appendix 8**)
- ☐ the following grounds for exclusion contained in the above rules apply to us:
- 

This information is complete; further grounds for exclusion according to the above provisions do not apply to me/us. The rules cited in the appendices form an integral part of this declaration.

## 3. Declaration on self-cleansing and reliability restoration measures (select only if applicable)

- ☐ I have / We have taken measures for self-cleansing or for restoring reliability within the meaning of section 125 Competition Act. For further details, please refer to **Annex B** \_\_\_\_\_.

## 4. Declaration on self-cleansing measures in case of breach of obligation to pay taxes, levies, and social security contributions (select only if applicable)

- ☐ I have / We have taken self-cleansing measures within the meaning of section 123 (4) sentence 2 Competition Act. For further details, please refer to **Annex B** \_\_\_\_\_.

## Appendix 1

### **Article 5k (1) of Regulation (EU) No 833/2014, as amended by Article 1 (23) of Council Regulation (EU) 2025/2033 of 23 October 2025**

It shall be prohibited to award or continue the execution of any public or concession contract falling within the scope of the public procurement Directives, as well as Article 10 (1), (3), (6) points (a) to (e), (8), (9) and (10), Articles 11, 12, 13 and 14 of Directive 2014/23/EU, Article 7, points (a) to (d), and Article 8, Article 10 points (b) to (f) and (h) to (j) of Directive 2014/24/EU, Article 18, Article 21 points (b) to (e) and (g) to (i), Articles 29 and 30 of Directive 2014/25/EU and Article 13 points (a) to (d), (f) to (h) and (j) of Directive 2009/81/EC, to or with:

- (a) a Russian national, or a natural person residing in Russia, or a legal person, entity or body established in Russia;
- (b) a legal person, entity or body whose proprietary rights are directly or indirectly owned for more than 50 % by a natural or legal person, entity or body referred to in point (a) of this paragraph; or
- (c) a natural or legal person, entity or body acting on behalf or at the direction of a natural or legal person, entity or body referred to in point (a) or (b) of this paragraph,

including, where they account for more than 10 % of the contract value, subcontractors, suppliers or entities whose capacities are being relied on within the meaning of the public procurement Directives.

## Appendix 2

### Section 123 Competition Act Compulsory Grounds for Exclusion

(1) Public contracting authorities shall exclude an undertaking from participation at any point in the procurement procedure when they are aware that a person whose conduct is imputable to the undertaking in accordance with subsection (3) has been convicted by final judgement or a final administrative fine has been issued against the undertaking under section 30 of the German Administrative Offences Act [Gesetz über Ordnungswidrigkeiten] for a criminal offence under:

1. section 129 of the German Criminal Code [Strafgesetzbuch] (forming criminal organisations), section 129a of the German Criminal Code (forming terrorist organisations) or section 129b of the German Criminal Code (criminal and terrorist organisations abroad);
2. section 89c of the German Criminal Code (financing of terrorism) or for participation in such a crime or for the provision or collection of financial resources with the knowledge that such financial resources will be used or are intended to be used, wholly or in part, to commit a crime under section 89a (2) no. 2 of the German Criminal Code;
3. section 261 of the German Criminal Code (money laundering);
4. section 263 of the German Criminal Code (fraud), provided that the criminal offence is directed against the budget of the European Union or against budgets administered by the European Union or on its behalf;
5. section 264 of the German Criminal Code (subsidy fraud), provided that the criminal offence is directed against the budget of the European Union or against budgets administered by the European Union or on its behalf;
6. section 299 of the German Criminal Code (taking and giving bribes in commercial practice), sections 299a and 299b of the German Criminal Code (taking and giving bribes in the health sector);
7. section 108e of the German Criminal Code (taking of bribes by and giving of bribes to elected officials) or section 108f of the German Criminal Code (improper representation of interests);
8. sections 333 and 334 of the German Criminal Code (granting benefits and giving bribes), each also in conjunction with section 335a of the German Criminal Code (foreign and international officials);

9. Article 2 section 2 of the German Act on Combating International Bribery [Gesetz zur Bekämpfung internationaler Bestechung] (Bribery of Foreign Public Officials in International Business Transactions) or
  10. sections 232, 232a (1) to (5), sections 232b to 233a of the German Criminal Code (human trafficking, forced prostitution, forced labour, exploitation of labour, exploitation involving deprivation of liberty).
- (2) A conviction or the issuance of an administrative fine under the comparable provisions of other countries are the equivalent of a conviction or the issuance of an administrative fine within the meaning of subsection (1).
- (3) The conduct of a person convicted by final judgement shall be imputable to an undertaking if that person has acted as the person responsible for the management of the undertaking; this also includes supervision of management or the exercise of control in another manner in a managerial position.
- (4) Public contracting authorities shall at any point in the procurement procedure exclude an undertaking from participating in the procurement procedure if
1. the undertaking has not fulfilled its obligations relating to the payment of taxes, charges or social security contributions and this has been established by a judicial or administrative decision having final and binding effect or
  2. the public contracting authorities can prove the breach of an obligation under no 1 in another suitable manner.
- Sentence 1 shall not apply if the undertaking has fulfilled its obligations by making the payment or committing to pay the taxes, charges and social security contributions, including interest, fines for late payment and penalties.
- (5) An exclusion under subsection (1) may be disregarded if this is imperative for compelling reasons of public interest. An exclusion under subsection (4) sentence 1 may be disregarded if this is imperative for compelling reasons of public interest or if an exclusion would be obviously disproportionate. Section 125 shall remain unaffected.

## Appendix 3

### Section 124 Competition Act Facultative Grounds for Exclusion

(1) Taking the principle of proportionality into account, public contracting authorities may at any point in the procurement procedure exclude an undertaking from participating in the procurement procedure if

1. the undertaking has demonstrably breached applicable environmental, social or labour obligations in carrying out public contracts;
2. the undertaking is insolvent, an insolvency proceeding or a comparable proceeding over the assets of the undertaking has been filed or opened, the opening of such a proceeding has been denied for lack of assets, the undertaking is in liquidation proceedings or has ceased to do business;
3. the undertaking has demonstrably committed grave professional misconduct which renders its integrity questionable; section 123 (3) shall apply mutatis mutandis;
4. the public contracting authority has sufficient indications that the undertaking has concluded agreements with other undertakings or engaged in concerted practices which have as their object or effect, the prevention, restriction or distortion of competition;
5. a conflict of interest exists in the execution of the procurement procedure which could compromise the impartiality and independence of a person working for the public contracting authority in the executing of the procurement procedure and which cannot be effectively remedied by other, less intrusive measures;
6. a distortion of competition results from the prior involvement of the undertaking in the preparation of the procurement procedure, and such distortion of competition cannot be remedied by other, less intrusive measures;
7. the undertaking has produced significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract or concession contract which led to an early termination, damages or other comparable sanctions;
8. the undertaking has committed a serious misrepresentation or withheld information or is not able to submit the required evidence with respect to the grounds for exclusion or the selection criteria; or
9. the undertaking



- a) has attempted to unduly influence the decision-making process of the public contracting authority;
- b) has attempted to obtain confidential information that may confer upon it undue advantages in the procurement procedure; or
- c) has negligently or intentionally provided misleading information that may have a material influence on the decision of the public contracting authority concerning the award decision or has attempted to provide such information.

(2) Section 21 of the Posted Workers Act [Arbeitnehmer-Entsendegesetz], section 98c of the Residence Act [Aufenthaltsgesetz], section 19 of the Minimum Wage Act [Mindestlohnsgesetz], section 21 of the Act to Combat Undeclared Work and Unlawful Employment [Schwarzarbeitsbekämpfungsgesetz] and section 22 of the Act on Corporate Due Diligence Obligations in Supply Chains [Lieferkettensorgfaltspflichtengesetz] shall remain unaffected.



## Appendix 4

### **Section 19 Minimum Wage Act Exclusion from Public Procurement Procedures**

(1) Applicants on whom a fine of at least 2,500 euros has been imposed on account of a breach of section 21 (1) nos. 1 to 10, 12 and 13 or (2) are generally to be excluded from participating in a tender for a delivery, construction or service contract of one of the contracting authorities referred to in sections 99 and 100 of the Competition Act [Gesetz gegen Wettbewerbsbeschränkungen] for an appropriate period until their reliability has been proven to be re-established.

(2) The authorities responsible for prosecuting or punishing the regulatory offences referred to in section 21 (1) nos. 1 to 10, 12 and 13 or (2) may, upon request, provide the information required to the public contracting authorities referred to in section 99 of the Competition Act and to those agencies which keep pre-qualification directories or directories of entrepreneurs and suppliers admitted by public contracting authorities.

(3) Within the framework of their activities, the public contracting authorities referred to in subsection (2) request information from the Competition Register regarding final decisions on regulatory fines imposed on account of one of the regulatory offences referred to in section 21 (1) nos. 1 to 10, 12 and 13 or (2), or request applicants to make a declaration stating that the conditions for exclusion referred to in subsection (1) are not met. Where an applicant makes a declaration, the public contracting authorities referred to in subsection (2) may at any time request additional information from the Competition Register.

(4) In the case of contracts worth more than 30,000 euros, a public contracting authority as referred to in subsection (2) requests information from the Competition Register concerning the applicant who is to be awarded the contract.

(5) Applicants are to be heard before a decision is taken on their exclusion.

## **Section 21 Minimum Wage Act Regulatory Fines Provisions**

(1) Whoever intentionally or negligently,

1. contrary to section 15, in conjunction with section 5 (1) sentence 1 no. 1 of the Act to Combat Undeclared Work and Unlawful Employment, does not acquiesce to or does not cooperate with an audit,
2. contrary to section 15, in conjunction with section 5 (1) sentence 1 no. 2 of the Act to Combat Undeclared Work and Unlawful Employment, does not acquiesce to property or business premises being entered,
3. contrary to section 15, in conjunction with section 5 (1) sentence 1 no. 3 (a) of the Act to Combat Undeclared Work and Unlawful Employment, does not provide information specified therein, does not do so correctly, in full, in the prescribed manner or in good time,
4. contrary to section 15, in conjunction with section 5 (1) sentence 1 no. 3 (b) of the Act to Combat Undeclared Work and Unlawful Employment, does not provide a document specified therein, does not do so correctly, in full or in good time, or does not submit it, does not do so correctly, in full or in good time,
5. contrary to section 15, in conjunction with section 5 (1) sentence 1 no. 4 of the Act to Combat Undeclared Work and Unlawful Employment, does not allow access to a document specified therein, does not do so correctly, in full or in good time,
6. contrary to section 16 (1) sentence 1, (2) sentence 1 or (3) sentence 1, does not submit notification, does not do so correctly, in full, in the prescribed manner or in good time, or does not transmit notification, does not do so correctly, in full, in the prescribed manner or in good time,
7. contrary to section 16 (1) sentence 3, also in conjunction with subsection 2 sentence 2 or subsection (3) sentence 2, does not give notification of any changes, does not do so correctly, in full, in the prescribed manner or in good time,
8. contrary to section 17 (1) sentence 1, also in conjunction with the sentence 2, does not make a record, does not do so correctly, in full or in good time, or does not retain it or does not do so for at least two years,
9. contrary to section 17 (2), does not keep documents available, does not do so correctly, in full or in the prescribed manner,
10. contrary to section 17 (2a) sentence 1, does not ensure that the documents mentioned therein are available,

11. contrary to section 17 (2a) sentence 2, does not submit a document, does not do so correctly, in full, in the prescribed manner or in good time,
12. contrary to section 17 (2b) sentence 1 or 3, does not transmit a document, does not do so correctly, in full, in the prescribed manner or in good time, or
13. contrary to section 20, does not or does not in good time pay the remuneration referred to therein,

shall be deemed to have committed a regulatory offence.

(2) Whoever has work or services of a significant extent performed or provided by, in his or her capacity as entrepreneur, commissioning another entrepreneur of whom he or she knows or negligently does not know that that entrepreneur in the performance of the contract,

1. contrary to section 20 does not pay the remuneration referred to therein or does not do so in good time, or
2. uses a subcontractor or permits a subcontractor to perform work who, contrary to section 20, does not pay the remuneration referred to therein or does not do so in good time,

shall be deemed to have committed a regulatory offence.

(3) The administrative offence may be punished by a fine of up to 500,000 euros in the cases referred to in subsection (1) no. 13 and subsection (2), in the cases referred to in subsection (1) no. 8 of up to 50,000 euros, and up to 30,000 euros in all other cases.

(4) Administrative authorities within the meaning of section 36 (1) no. 1 of the Administrative Offences Act shall be the authorities referred to in section 14 for their respective remit.

(5) The Federal Administrative Enforcement Act applies to enforcement in favour of the federal authorities and legal entities under public law directly under Federal Government control, and to enforcement of asset seizure pursuant to section 111e of the Code of Criminal Procedure in conjunction with section 46 of the Act on Administrative Offences by the authorities referred to in section 14.

## Appendix 5

### **Section 21 Posted Workers Act Exclusion from Public Procurement Procedures**

- (1) Applicants on whom a fine of at least 2,500 euros has been imposed on account of a breach of section 23 (1) nos. 1 to 11 and 13 or (2) are generally to be excluded from participating in a tender for a delivery, construction or service contract of one of the contracting authorities referred to in sections 99 and 100 of the Competition Act [Gesetz gegen Wettbewerbsbeschränkungen, GWB] for an appropriate period until their reliability has been proven to be re-established. The same applies even before regulatory fines proceedings are conducted where, in an individual case, the body of evidence leaves no reasonable doubt as to serious misconduct within the meaning of sentence 1.
- (2) The authorities responsible for prosecuting or punishing the regulatory offences referred to in section 23 (1) nos. 1 to 11 and 13 or (2) may, upon request, provide the information required to the public contracting authorities referred to in section 99 of the Competition Act and to those agencies which keep pre-qualification directories or directories of entrepreneurs and suppliers admitted by public contracting authorities.
- (3) Within the framework of their activities, the public contracting authorities referred to in subsection (2), request information from the Competition Register regarding final decisions on regulatory fines imposed on account of one of the regulatory offences referred to in section 23 (1) nos. 1 to 11 and 13 or (2) or request applicants to make a declaration stating that the conditions for exclusion referred to in subsection (1) are not met. Where an applicant makes a declaration, the public contracting authorities referred to in subsection (2) may at any time request additional information from the Competition Register.
- (4) In the case of contracts worth more than 30,000 euros, a public contracting authority as referred to in subsection (2) requests information from the Competition Register concerning the applicant who is to be awarded the contract.
- (5) Applicants are to be heard before a decision is taken on their exclusion.

## **Section 23 Posted Workers Act**

### **Regulatory Fines Provisions**

#### (1) Whoever intentionally or negligently

1. contrary to section 8 (1) sentence 1 or (3), does not guarantee a working condition whose compliance is checked by the customs authorities pursuant to section 16, or does not do so in good time, or does not pay a contribution or does not do so in good time,
2. contrary to section 17 sentence 1, in conjunction with section 5 (1) sentence 1 no. 1 of the Act to Combat Undeclared Work and Unlawful Employment, does not acquiesce to or does not cooperate with an audit,
3. contrary to section 17 sentence 1, in conjunction with section 5 (1) sentence 1 no. 2 of the Act to Combat Undeclared Work and Unlawful Employment, does not acquiesce to entry into property or business premises,
4. contrary to section 17 sentence 1, in conjunction with section 5 (1) sentence 1 no. 3 (a) of the Act to Combat Undeclared Work and Unlawful Employment, does not provide information specified therein, does not do so correctly, in full, in the prescribed manner or in good time,
5. contrary to section 17 sentence 1, in conjunction with section 5 (1) sentence 1 no. 3 (b) of the Act to Combat Undeclared Work and Unlawful Employment, does not provide a document specified therein, or does not do so correctly, in full or in good time, or does not submit it, or does not do so correctly, in full or in good time,
6. contrary to section 17 sentence 1, in conjunction with section 5 (1) sentence 1 no. 4 of the Act to Combat Undeclared Work and Unlawful Employment, does not allow access to a document specified therein, or does not do so correctly, in full or in good time,
7. contrary to section 18 (1) sentence 1, (2) sentence 1 or (3) sentence 1, does not submit notification, does not do so correctly, in full, in the prescribed manner or in good time, or does not transmit notification, does not do so correctly, in full, in the prescribed manner or in good time,
8. contrary to section 18 (1) sentence 3, also in conjunction with subsection (2) sentence 2 or subsection (3) sentence 2, does not give notification of changes, does not do so correctly, in full, in the prescribed manner or in good time,
9. contrary to section 19 (1) sentence 1, also in conjunction with sentence 2, does not prepare records, does not do so correctly, in full or in good time, or does not retain them or does not do so for at least two years,

10. contrary to section 19 (2), does not keep available a document, does not do so correctly, in full or in the prescribed manner,
11. contrary to section 19 (2a) sentence 1, does not ensure that the documents mentioned therein are available,
12. contrary to section 19 (2a) sentence 2, does not submit a document, does not do so correctly, in full, in the prescribed manner or in good time, or
13. contrary to section 19 (2b) sentence 1 or 3, does not transmit a document, does not do so correctly, in full, in the prescribed manner or in good time

is deemed to have committed a regulatory offence.

(2) Whoever has a significant amount of work performed or services provided by contracting, in the capacity as entrepreneur, another entrepreneur and knows or negligently does not know that that entrepreneur, in fulfilling that contract,

1. contrary to section 8 (1) sentence 1 or (3), does not guarantee a working condition whose compliance is checked by the customs authorities pursuant to section 16, does not do so in good time, or does not pay a contribution or does not do so in good time, or
2. uses a subcontractor or permits a subcontractor to act who, contrary to section 8 (1) sentence 1 or (3), does not guarantee a working condition whose compliance is checked by the customs authorities pursuant to section 16, or does not do so in good time, or does not pay a contribution or does not do so in good time,,

is deemed to have committed a regulatory offence.

(3) In the cases referred to in subsection (1) no. 1 and subsection (2), a fine of up to 500,000 euros, may be imposed on the regulatory offence, in the cases referred to in subsection (1) no. 9 a fine up to 50,000 euros, in all other cases a fine of up to 30,000 euros, may be imposed for the regulatory offence.

(4) Administrative authorities within the meaning of section 36 (1) no. 1 of the Act on Regulatory Offences [Gesetz über Ordnungswidrigkeiten, OWiG] are those authorities referred to in section 16, each in respect of their remit.

(5) The Federal Administrative Enforcement Act [Verwaltungsvollstreckungsgesetz des Bundes, VwVG] applies to enforcement, by the authorities referred to in section 16, in favour of federal authorities and legal entities under public law directly under Federal Government control, as well as to enforcement, by the authorities referred to in section 16, of asset seizure in accordance with section 111e of the Code of Criminal Procedure [Strafprozessordnung, StPO] in conjunction with section 46 of the Act on Regulatory Offences.

## Appendix 6

### Section 98c Residence Act

#### Exclusion from the Award of Public Contracts

(1) Public contracting entities pursuant to section 99 of the Competition Act may exclude a candidate or tenderer from competing for a supply, construction or service contract if the candidate or tenderer or its representative authorised by statutes or law

1. has been subject to an incontestable fine of at least 2,500 euros under section 404 (2) no. 3 of Book III of the Social Code, or
2. has been sentenced to an incontestable prison term of more than three months or a fine in excess of 90 daily rates under sections 10, 10a or 11 of the Act to Combat Undeclared Work and Unlawful Employment.

Until there is proof of restoration of reliability, the candidate or tenderer may be excluded pursuant to sentence 1 for up to five years after the incontestable imposition of the fine or prison sentence depending on the severity of the offence for which the fine or prison sentence was imposed.

(2) Subsection (1) does not apply if the offence pursuant to subsection (1) sentence 1 consisted in the unlawful employment of an EU citizen.

(3) Section 21 (2) to (5) of the Posted Workers Act applies accordingly where a public contracting authority makes use of the possibility referred to in subsection (1).

## Appendix 7

### **Section 21 Act to Combat Undeclared Work and Unlawful Employment Exclusion from Public Contracts**

(1) Applicants should be excluded from competing for supply, works or service contracts of contracting authorities specified in section 99 and 100 of the Competition Act for a period of up to three years if they themselves or their authorised representatives as designated by law or articles of association have been sentenced to imprisonment of a period of more than three months or to a criminal fine exceeding 90 daily units or punished with an administrative fine of at least 2,500 euros under

1. section 8 (1) no. 2, (2) no. 3 (3) or sections 9 to 11 of this Act,
2. section 404 (1) or (2) no. 3 of Book III of the Social Code,
3. sections 15, 15a or 16 (1) nos. 1, 1a, 1c, 1d, 1f, 2, 7b or 11 to 17 of the Act on Temporary Agency Work [Arbeitnehmerüberlassungsgesetz, AÜG] or
4. section 266a (1) to (4) of the German Criminal Code.

The exclusion can also already be imposed prior to criminal or administrative fine proceedings if the evidence in the specific case leaves no reasonable doubt that a serious offence under sentence 1 has been committed. Upon request, the authorities responsible for prosecution or punishment under sentence 1 nos. 1 to 4 may provide the required information to public contracting authorities under section 99 of the Competition Act and to authorities that maintain preliminary qualification registers or registers of companies and suppliers approved by public contracting authorities. As part of their duties, public contracting authorities under sentence 3 must request information from the Competition Register or require the applicant to submit a declaration stating that there are no grounds for an exclusion under sentences 1 or 2; public contracting authorities may request information from the Competition Register at any time even if such a declaration has been submitted. In the case of contracts with a value of 30,000 euros or more, the public contracting authority under sentence 3 must, prior to awarding the contract, request information from the Competition Register regarding the applicant who is to be awarded the contract. The applicant must be heard before a decision on exclusion is taken.

(2) An offence under subsection (1) is deemed equivalent to a breach of obligations under section 241 (2) of the German Civil Code.



## Appendix 8

### **Section 22 Act on Corporate Due Diligence Obligations in Supply Chains Exclusion from the Award of Public Contracts**

(1) Enterprises that have been fined in accordance with section 24 (2) for a violation under section 24 (1) that has been established by final and binding decision shall, as a rule, be excluded from participation in a procedure for the award of a supply, works or service contract by the contracting authorities referred to in sections 99 and 100 of the Competition Act [Gesetz gegen Wettbewerbsbeschränkungen] until they have proved that they have cleared themselves in accordance with section 125 of the Competition Act. The exclusion pursuant to sentence 1 may only take place within an appropriate period of up to three years.

(2) An exclusion according to subsection (1) requires a violation that has been established by final and binding decision carrying a fine of at least 175,000 euros. Notwithstanding sentence 1

1. in the cases of section 24 (2) sentence 2 in conjunction with section 24 (2) sentence 1 no. 2, a violation that has been established by final and binding decision carrying a fine of at least 1,500,000 euros,

2. in the cases of section 24 (2) sentence 2 in conjunction with section 24 (2) sentence 1 no. 1, a violation that has been established by final and binding decision carrying a fine of at least 2,000,000 euros, and

3. in the cases of section 24 (3), a violation that has been established by final and binding decision carrying a fine of at least 0.35 per cent of the average annual turnover is required.

(3) The applicant is to be heard before the decision on exclusion is taken.