



## New French Public Procurement Code Published

### ***The Public Procurement Code integrates procurement and concession contract rules into a single code.***

The French Government has enacted Ordinance 2018-1074, dated November 26, 2018, and Decree 2018-1075, dated December 3, 2018, in order to integrate public procurement and concession contract rules into a single code. The Public Procurement Code, published in the *Official Journal of the French Republic* on December 5, 2018, states:

- Pursuant to the Parliament authorization to enact Ordinance 2018-1074, the Public Procurement Code shall gather the current rules.
- The code aims to modernize French regulations and finalize the transposition of the three European directives on public procurement and concessions dated February 26, 2014 (Dir. 2014/24/EU, 2014/25/EU and 2014/23/EU). It gathers the transposition measures enacted by the French Government in 2015 and 2016 and other provisions relating to public project contracting, subcontracting, or terms of payment.
- Specific rules relating to administrative contracts and resulting from the case law of the *Conseil d'Etat* are codified as the obligation for the holder to perform the contract in the event of unexpected and uncontrollable events; the power of the administration to terminate the contract on a general interest ground; or its ability to amend unilaterally the contract. The contract holder will be compensated in these situations.
- The code is divided into three parts: (i) its scope of application; (ii) the rules applicable to public procurement contracts; and (iii) the rules applicable to concession contracts.
- The code includes rules applicable to contracting authorities resulting from Directive 2014/24/EU on public procurement and rules applicable to contracting entities resulting from Directive 2014/25/EU on procurement by entities operating in the water, energy, transport, and postal services sectors.

The Public Procurement Code applies to public procurement and concession contracts procedures initiated after April 1, 2019. However, the provisions relating to the modifications of concession contracts also apply to the modifications of contracts that have already been executed. The provisions relating to the open data of concession contracts apply to procedures initiated after October 9, 2016.



Philippe Delelis  
Paris



Nicolas Brice  
Paris



Rémi Ducloyer  
Paris

---

SUBSCRIBE

SUBSCRIBE TO RSS



---

Jones Day is a global law firm with more than 2,500 lawyers on five continents. We are One Firm Worldwide<sup>SM</sup>.

**Disclaimer:** Jones Day's publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information purposes only and may not be quoted or referred to in any other publication or proceeding without the prior written consent of the Firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our "Contact Us" form, which can be found on our website at [www.jonesday.com](http://www.jonesday.com). The mailing of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship. The views set forth herein are the personal views of the authors and do not necessarily reflect those of the Firm.

© 2018 Jones Day. All rights reserved. 51 Louisiana Avenue, N.W., Washington D.C. 20001-2113