

# Foreign economic operators

## Germany - Guide to the required documentation





## Introduction

RAI, as a "body governed by public law", is required to comply with Legislative Decree 50/2016 (Code of public contracts, hereinafter the "Code"), as a law of national transposition of the Directive 24/2014 / EU. For this reason, it can not interact with economic operators who incur the exclusion criteria indicated in art. 80 of the Code.

With the aim of facilitating the understanding of the Italian regulatory environment also to foreign operators who express an interest in registering with the Rai Supplier Register and / or to entertain commercial relations in general with Rai itself, the following country form has been drawn up of the provisions of art. 80 of the Code, indicates the corresponding provision of art. 57 of Directive 24/2014 / EU to be observed and the relevant national transposition norm in the Member Country examined.

The document summarizes the documentation required for the purposes indicated above. For each exclusion criterion provided for by Italian legislation, the European normative reference and the homologous reference in the country of origin are provided.

The informative source used was the on-line register of eCertis certificates (as per article 88 of the Code), consulted in July 2017, which, although not having a legal value, can be used as a useful guide to identify the documentation to be requested to prove the absence of the exclusion criteria provided for by the specific Italian legislation (Article 80 of Legislative Decree No. 50/2016).

When the necessary information has not been entered on the eCertis page for one of the criteria, "N / A" is shown on the tabs.

## Documentation to be produced

In addition to what is indicated in more detail below, and to the integration of any information gaps, RAI may ask each operator to provide, pursuant to art. 86 of the Code:

proof of registration with one of the professional and commercial registers of the Member State of origin (see Annex XI of Directive 24/2014 / EU);

the certificate of the criminal record or in its absence, an equivalent document issued by its competent judicial or administrative authority;

a certification issued by the competent tax administration and, with reference to social security and welfare contributions, a document similar to the DURC issued by the relevant competent authority.

All documentation is required in Italian or in the original language accompanied by a certified translation into Italian and can be sent by certified e-mail. Rai reserves, upon justified request, to accept it in the language of origin of the operator.

## Germany



**Source: eCertis, July 2017**

Gesetz zur Regelung eines allgemeinen Mindestlohns – Mindestlohngesetz / Einkommensteuergesetz / Gesetz zur Regelung der Arbeitnehmerüberlassung - Arbeitnehmerüberlassungsgesetz / Verordnung über die Einrichtung und Führung des Handelsregisters - Handelsregisterverordnung /

### Exclusion criteria

The following views show, with reference to the exclusion criteria provided for by art. 80 of the Code, the forecasts that correspond to the minimum set established by Directive 24/2014 / EU and the homologous provisions in force in Germany. For each of them the national reference article and the means of proof that may be requested are indicated

ITA art.	EU art.	DE art.	Exclusion criteria	Means of proof
<b>Corruption</b>				
80.1.b	57.1.b	N/D	N/D	N/D *
<b>Fraud</b>				
80.1.c	57.1.c	N/D	N/D	N/D *
<b>Terrorism</b>				
80.1.d	57.1.d	60.1.a)	N/D	N/D *
<b>Money Laundering</b>				
80.1.e	57.1.e	60.1.a)	N/D	Conviction
<b>Child labour and other forms of trafficking in human beings</b>				
80.1.f	57.1.f	60.1.a)	N/D	N/D *
<b>Mafia Infiltration</b>				
80.2	57.2	N/D	N/D	N/D

\* The certificate of the criminal record or in its absence, an equivalent document issued by the competent judicial or administrative authority, has the value of a means of proof

Source: eCertis, July 2017



## Germany

ITA art.	EU art.	DE art.	Exclusion criteria	Means of proof
<b>Payment of tax</b>				
80.4	57.2	N/D § 48 b Absatz 1 Satz 1	Payment of taxes Payment of taxes - Exemption	Certificate in Tax matters Exemption certificate
<b>Social laws obligation</b>				
80.4	57.2	N/D	Payment of social security contributions	Clearance Certificate
<b>Compliance with labor laws (Mindestlohngesetz / Arbeitnehmerüberlassungsgesetz)</b>				
80.5.a	57.4.a	M: §§ 19, 21 Absätze 1, 2 A: § 1 Absatz 1	Other economic or financial requirements - Minimum wage law Breaching of obligations in the field of labour law - Permission to provide workers	Minimum wage law - Permission to transfer the employee (unlimited) OR - Permission to transfer the employee (limited)
<b>Serious professional misconduct - significant weaknesses in the execution of a previous contract</b>				
80.5.c	57.4.c	N/D	N/D	N/D
<b>Bankruptcy and agreement with creditor</b>				
80.5.b	57.4.b	N/D	N/D	N/D **
<b>Serious professional misconduct - an attempt to unduly influence the decision-making process of the SA or obtaining confidential information for the purpose of their own benefit / supply of false or misleading information or omit the information due</b>				
80.5.c	57.4.b	N/D	N/D	N/D
<b>Serious professional malfeasance - residual cases</b>				
80.5.c	57.4.b	N/D	N/D	N/D
<b>Conflict of interest for having participated in the preparation of the procedure</b>				
80.5.d	57.4.e	N/D	N/D	N/D
<b>Agreements to distort competition</b>				
80.5.e	57.4.f	N/D	N/D	N/D

\*\* The extract of professional and commercial records identified by Directive 24/2014 / EU containing the economic and financial information of the company has the value of a means of proof.

Source: eCertis, July 2017



## Germany

ITA art.	EU art.	DE art.	Exclusion criteria	Means of proof
<b>Prohibition to contract with the Public Administration</b>				
80.5.f		N/D	N/D	N/D
<b>Prohibition of use of unauthorized trust company</b>				
80.5.h	57.4.f	N/D	N/D	N/D
<b>Omitted extortion compliant</b>				
80.5.i		N/D	N/D	N/D
<b>Registration to the ANAC annotation database</b>				
80.5.g	57.4.h	N/D	N/D	N/D
<b>Forced Liquidation</b>				
80.5.b	57.4.b	N/D	N/D	N/D **
<b>Participation in criminal associations</b>				
80.1.a	57.1.a	N/D	N/D	N/D *
<b>Bankruptcy</b>				
80.5.b	57.4.f	N/D	Insolvency	Insolvency or liquidation

\* The certificate of the criminal record or in its absence, an equivalent document issued by the competent judicial or administrative authority, has the value of a means of proof

\*\* The extract of professional and commercial records identified by Directive 24/2014 / EU containing the economic and financial information of the company has the value of a means of proof.

Source: eCertis, July 2017