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NEWSLETTER

PUBLIC LAW, REGULATORY & AUTHORITIES; EUROPEAN LAW & ANTITRUST

The new proposal for a European regulation on the simplification of EU public procurement rules

On 9 September 2026, the European Commission published its proposal for a Regulation on public procurement (for the full text, click here), which revises Directive 2014/23/EU on the award of concession contracts, Directive 2014/24/EU on public procurement, and Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors (the "**Procurement Directives**").

Before its adoption and entry into force, the proposal will be subject to negotiations and approval by the European Parliament and the Council of the European Union.

I Rationale and objectives of the proposal

In assessing EU public procurement legislation, the European Commission and the European Court of Auditors identified significant shortcomings, including a high administrative burden, legal uncertainty and limited strategic use of procurement.
The initiative forms part of a broader political drive to modernise the Single Market: the Draghi Report on European competitiveness and the Letta Report on the Single Market identified public procurement as a lever for growth, resilience and the Union's strategic autonomy. The reform was further called for by the Council Conclusions of May 2024, the European Parliament resolution of 9 September 2025 on public procurement and the European Court of Auditors' Special Report 2023. The public consultation conducted between November 2025 and January 2026 (745 responses to the call for evidence and 1,037 to the public consultation) confirmed broad consensus on the need for action. The main shortcomings identified are excessive regulatory complexity, a lack of flexibility, legal uncertainty, the prevalence of the lowest-price criterion, limited cross-border participation and still insufficient SME access. The proposal is based on Article 114 TFEU, relating to the internal market, and opts for a directly applicable Regulation in lieu of three directives, thereby eliminating the fragmentation arising from divergent national transposition choices and ensuring greater uniformity in application.

The economic significance of the reform is considerable: public procurement accounts for approximately 15% of EU GDP, amounting to roughly EUR 2,500 billion per year.

For this reason, the Commission intends to make public procurement a more efficient investment tool and to overcome the shortcomings of the current regulatory framework. The proposal accordingly replaces the three Procurement Directives with a single Regulation directly applicable in all Member States. Consolidating the rules applicable to public contracts, utilities procurement and concessions into a single legal instrument removes the complexity and inconsistency resulting from the coexistence of separate legislative acts and divergent national transposition choices.

II Simplification and increased flexibility

Two new procedures, both possible with or without selection criteria, and with or without negotiations: an open procedure in which economic operators submit (first) tenders from the outset, and a dynamic procedure in which economic operators first join and are later invited to tender or negotiate for individual procurement opportunities.
These two procedures are complemented by an innovation procedure for the development and acquisition of innovative solutions that the public buyer wishes to have developed by an economic operator to best meet its needs.
Market consultations are encouraged as a standard preparatory tool.
Selection criteria are limited to what is necessary and proportionate; turnover requirements are curtailed and demands for prior public-sector experience are restricted.
To further simplify the overall legislative framework, the rules on concessions are incorporated in the proposal. The revised procedural rules will apply both to public contracts and concessions, complemented by adapted rules for concessions where needed to take account of certain specific characteristics.

III Quality and strategic procurement

The proposal reinforces the quality dimension of award decisions. Contracts will as a rule be awarded on the basis of the best price-quality ratio (BPQR), with minimum quality weighting requirements. In short, the new approach places greater emphasis on long-term public benefit rather than focusing exclusively on the lowest initial cost.
As a general rule, contracting authorities should evaluate tenders on the basis of both price and quality criteria and award contracts accordingly.
Such quality criteria may include the technical characteristics and functional merits of the product or service procured, as well as environmental, social or security aspects. In the award of contracts, quality criteria should carry a minimum weighting of 30% (or 50% for labour-intensive contracts). However, contracting authorities may award a contract on the basis of price alone where the quality of the works, supplies or services to be procured can be adequately ensured through technical specifications or contract performance conditions.

Green procurement: the proposal provides clearer legal bases for the use of environmental requirements throughout the procurement cycle. It strengthens the contribution of procurement to circularity, recycled and refurbished content, waste recovery and energy efficiency, and creates a framework for mandatory green procurement requirements for certain product categories.

Socially responsible procurement: the proposal highlights a number of important societal objectives, including social inclusion, labour market integration, accessibility for persons with disabilities, improved working conditions, up-skilling and re-skilling of the workforce, gender equality and human rights in supply chains. It emphasises accessibility obligations for persons with disabilities and preserves targeted instruments such as reserved contracts and tailored rules for social, health and educational services.

As regards innovation procurement, the new innovation procedure allows public buyers to formulate objectives to be achieved, rather than defining rigid and pre-determined technical specifications. It also enables them to: (i) assess proposals through a value assessment framework; (ii) test and validate the proposed approaches; (iii) subsequently procure the solutions developed and resulting from this process. In this way, public bodies can steer procurement towards innovative outcomes, giving economic operators greater flexibility in identifying the most effective technical solutions.

IV Economic security and strategic autonomy

Without prejudice to provisions covering specific products or services, new provisions on **resilience and security of supply** apply to contracts involving essential or important entities and critical infrastructures.

The proposal clarifies the treatment of **third-country participation**; it distinguishes between operators, works, services or supplies covered by the Union's international procurement commitments and those that are not, and establishes a common framework, supported by a Commission online tool (the **Access2Markets** web portal), to determine such coverage. The Commission may restrict such coverage where a market access analysis establishes that a third country has failed to provide equivalent national treatment to Union operators, or where restriction is necessary to protect essential Union interests.

The proposal introduces a **European Preference** to strengthen security of supply and industrial resilience. **Article 70** defines "covered" economic operators: operators established in the EU/EEA, in countries party to the WTO GPA or in countries linked to the Union by bilateral or multilateral trade agreements.

Article 73 provides for four mechanisms: (a) restricting participation only to Union or covered economic operators; (b) requiring minimum Union or covered origin for goods and services; (c) evaluation preferences through price reductions or additional award points for tenders with higher Union content; and (d) a content threshold, with rejection of tenders whose Union or covered content is below 50%.

Article 74 governs the rules of origin: for economic operators, the IPI Regulation (EU) 2022/1031 applies; for goods, the Union Customs Code; for services, the origin of the operator. **Article 75** empowers the Commission to adopt delegated acts to make

European Preference mandatory and, where provided, to close specific procedures to non-covered operators; **Article 76** provides for exceptions in case of unavailability from Union or covered sources, absence of suitable tenders or disproportionate costs. The mechanism is fully compatible with the WTO GPA and the stakeholder consultation showed support exceeding 80% for European Preference. The Regulation operates as a horizontal framework, consistent with sector-specific Union legislation (e.g. the Industrial Accelerator Act), which prevails where it provides otherwise.

V European digital procurement marketplace

A **common digital ecosystem** will be established, based on interoperable networks, harmonised standards and common specifications, enabling public buyers and economic operators using different eProcurement systems to communicate with one another. **Article 131** requires eProcurement service providers to be established in the EEA, be subject to EEA control and store procurement-related data in the EEA. **Article 132** provides that the Commission shall make available an **open-source eProcurement platform**. The ecosystem will also include an **electronic eligibility service** built around digital business credentials and digital company profiles.

The proposal establishes **National Public Procurement Data Spaces** and a **Union-level Public Procurement Data Space.**

According to the impact assessment, the new digital ecosystem and related simplifications will generate estimated recurring net savings of **EUR 1 billion** for economic operators and **EUR 220 million** for contracting authorities.

Applying the **one-stop-shop** principle, the platform will make it easier for businesses to access tenders and will allow administrations to carry out automated eligibility checks.

VI Grounds for exclusion

At present, grounds for exclusion from participation in a procurement procedure are fragmented across several sectoral acts, creating legal uncertainty. The proposal consolidates these rules into a single, coherent framework by rationalising existing grounds for exclusion as follows: (i) **7 mandatory exclusion grounds** derived from sectoral acts based on Title V of the Treaty on the Functioning of the European Union, linked to serious criminal offences including human trafficking, corruption and terrorism; and (ii) **2 exclusion grounds** taken from other Union legal acts (i.e. the grounds for exclusion hitherto provided for in the Shipments of Waste Regulation (EU) 2024/1157 and the Eco-Design Regulation (EU) 2024/1781), which will be deleted from those Regulations.

VII Regulatory empowerment

In its assessment, the Commission found that five sectoral legislative instruments contain separate and uncoordinated empowerments for the adoption of mandatory green procurement requirements in certain areas. The present proposal repeals those sectoral empowerments for the adoption of procurement-related delegated or implementing acts and replaces them with a **single empowerment** allowing the Commission to make certain environmental requirements mandatory for public buyers under certain circumstances.

VIII Governance, integrity and professionalisation

Article 140 strengthens integrity governance with proportionate and effective measures against fraud, corruption, collusion and favouritism, as well as to prevent, detect and remedy conflicts of interest. Before award and, where relevant, during contract performance, contracting authorities shall use data-driven risk analysis tools, such as Arachne+ or equivalent national tools, interoperable where appropriate with the National Public Procurement Data Spaces.

Article 137 requires Member States to monitor and assess the performance of their procurement markets on the basis of available data, with particular attention to obstacles to competition, SME access, integrity risks and the pursuit of strategic objectives. The results must be made public at least annually and reported to the Commission every three years.

Each Member State shall designate a national coordinating authority under Article 138, acting as a liaison point between the competent national authorities, the Commission, other Member States and, where appropriate, stakeholders.

Article 139 qualifies the professionalisation of public procurement as a strategic element of public governance. Member States shall adopt and update national strategies, and ensure support structures at national, regional and local level to strengthen competences, administrative capacity, risk management, integrity, digitalisation and contract performance monitoring.

The National Public Procurement Data Spaces and the Union-level Public Procurement Data Space will constitute the infrastructure for systematic monitoring of the lifecycle of procedures and contracts, including SME participation, strategic outcomes, fraud and corruption risks, and the functioning of national and cross-border markets.

IX Initial comments and next steps

Legislative procedure. The proposal will follow the ordinary legislative procedure, involving the European Parliament and the Council. The One Europe, One Market roadmap, signed on 24 April 2026 by the Presidents of the European Parliament and the European Commission and by the Council Presidency, sets the target of concluding negotiations by Q4 2027. The Regulation will apply two years after its date of entry into force. The estimated budget amounts to EUR 163.5 million over seven years; the impact assessment received a positive opinion, albeit with reservations, from the Regulatory Scrutiny Board on 8 June 2026.

Initial institutional comments. The European Parliament's resolution of 9 September 2025 had already indicated as priorities the strengthening of competitiveness, sustainability, resilience, digitalisation, SME participation, transparency and efficiency, the use of non-price-only criteria, and anti-fraud and anti-corruption measures. In 2023, in 20 Member States, over 50% of contracts were awarded on the basis of price alone.

At the Competitiveness Council of May 2025, delegations unanimously stressed the need to simplify the framework, while debating the strategic objectives procurement should pursue and when and how to introduce European Preference. Many delegations called for preserving a margin of flexibility for national, regional and local administrations.

A group of Member States (Czechia, Estonia, Finland, Ireland, Latvia, Malta, Portugal, Sweden and Slovakia) submitted a non-paper to the Competitiveness Council of December 2025, challenging the concept of "European Preference". According to those Member States, the mechanism could limit contracting authorities' choice, harm competitiveness and innovation, undermine trade relations and provoke countermeasures; it should therefore be used only as a last resort for genuinely strategic sectors.

The EPRS briefing of March 2026 identifies three key tensions that will shape the debate: (i) simplification versus new strategic criteria; (ii) European Preference versus openness, competition and international commitments; and (iii) centralised EU harmonisation versus contracting authority flexibility.

X Concluding note

The proposal represents one of the most ambitious reforms of EU public procurement law since its inception. The shift from three directives to a single Regulation, combined with the introduction of European Preference, the BPQR as the default award criterion and an integrated digital ecosystem, marks a significant strategic turning point. The legislative process is expected to be complex, with negotiations set to involve divergent interests among Member States and the European Parliament.

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