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Sustainability Growth Innovation*

Position Paper

Revision of the EU public procurement rules
Response to the Call for Evidence

26 January 2026

Introduction

In general, the 2014 Public Procurement Directives have made public procurement processes more complicated, rather than simpler, resulting in higher associated costs and lengthier procedures. As highlighted by the European Court of Auditors, current contract award procedures take significantly longer than they did a decade ago, and the entry into force of the 2014 directives did not manage to shorten this duration.¹ This is a deterrent to participation in public procurement procedures. Inflexible and overly complicated procedures and low threshold values have resulted in fewer bids, while increasing burdens for both bidders and contracting authorities and entities.

Additionally, the European Court of Auditors concluded that the level of competition for public contracts in the Single Market has declined over the last decade. While increasing competition was one of the main objectives behind the 2014 Public Procurement Directives, the European Commission has taken limited action to identify and address the root causes of this decline.

Therefore, the European Commission's intention to reduce complexity, simplify the application of the rules and improve legal certainty is much welcomed. The upcoming revision of the 2014 Public Procurement Directives presents itself as an opportunity to deliver simpler, clearer and more coherent rules. With more than € 2 trillion being spent annually by contracting authorities and entities on purchases of goods and services across the EU, and with public procurement representing around 15% of the European Union's GDP, it is essential to get this revision right.

SGI Europe represents actors from all parts of the public procurement process, including local authorities that are contracting authorities, enterprises that deliver services of general interest and which bid for public contracts as well as public undertakings which both participate as competitors in public tender procedures and apply competitive procedures themselves for downstream supplies.

These different actors face very different challenges within the process of public procurement. As a result, they also assess the public procurement directives in diverging ways, with this position synthesizing extensive conversations and representing a balance of different perspectives on public procurement.

SGI Europe calls for the revision to focus on **reducing administrative burdens, increasing legal certainty, and preserving flexibility for contracting authorities and entities**. For this to happen, public procurement rules must be firmly refocused on their core purpose: ensuring the best possible value for money in the award and execution of public contracts, in the interest of contracting authorities and entities, public buyers and citizens. Strategic objectives – whether environmental, social, industrial, or other – can be encouraged without imposing mandatory obligations, excessive bureaucracy, or one-size-fits-all solutions. A balanced revision would strengthen the effectiveness of public procurement while ensuring that it remains a practical, flexible, strategic, and reliable tool for public buyers and contracting authorities and entities alike.

¹ The overall decision-making period up to the time of contract award not including appeal procedures against award decisions has increased from 62.5 days in 2011 to 96.4 days in 2021. Source: European Court of Auditors (2023). Special report on Public Procurement in the EU.

Simpler, more flexible public procurement rules

The revision of the public procurement framework should be clear in keeping the principle of the best value for money at the core, while focusing on ensuring clear and coherent rules, with a strong emphasis on reducing administrative burdens for contracting authorities and entities and public buyers alike. Simplification requires moving away from overly detailed and prescriptive provisions at the European level, which often create legal uncertainty and discourage efficient procurement. Simplified rules shall ensure legal clarity, minimizing ambiguity and grey areas for both contracting authorities and economic operators.

Simplifying rules should imply maintaining existing exemptions that are still relevant and needed, as well as upholding existing crucial tools and regimes, such as the procurement options in the Utilities Directive or the flexibility under the Concessions rules.

Greater flexibility for negotiations throughout the public procurement procedure is a key element of simplification. Strengthened flexibility and legal clarity regarding contract modifications are also of particular importance to public buyers, as they sometimes need to adapt contracts to changing circumstances without incurring undue legal risk, while still ensuring that contracting authorities are able to verify the legitimacy of an offer at the time of selection. Allowing corrections to procurement documents when needed and offering flexibility for the correction of bids is equally important.

Furthermore, the new rules should reflect the importance of “buying local”, in order to promote the use of local materials, and support local SMEs and micro-enterprises, acknowledging that the complexity of public procurement processes often poses a disproportionate burden on these types of companies.

The horizontal public procurement framework should remain simple, flexible, and long-lasting. While public procurement can contribute to broader EU objectives, it cannot be overburdened with the task of addressing all underlying structural challenges that the EU is facing.

Updating procurement thresholds

Public procurement thresholds should be revised and at least increased to reflect inflation, especially considering that the cumulative increase in prices since 2014 exceeds 30% and the economic conditions in all Member States have evolved significantly. Outdated thresholds place disproportionate administrative burdens on both contracting authorities and entities and bidders.

Updating the thresholds would ensure that EU public procurement rules apply primarily to contracts with a genuine potential for cross-border interest, while maintaining proportionality, efficiency in public spending, and encouraging greater competition in procurement.

Coherence of the general public procurement framework with sectoral legislation

In the last years, there has been a growing sectoral approach to public procurement, with an increasing number of sector-specific acts containing provisions related to public procurement. This trend makes the application of procurement rules more complex for contracting authorities and entities. Ensuring coherence between the horizontal and sectoral legislation is indeed essential.

The general public procurement framework should focus on the definition and simplification of “how to buy”, without determining what has to be procured. This implies respecting the principle of subsidiarity, as well as the freedom of authorities to procure according to their specific needs.

Existing specific sectoral provisions on “what to buy”, such as those included in the Net-Zero Industry Act or the Batteries Regulation, should remain within sectoral legislation. Incorporating highly specific sectoral legislation in the horizontal framework would only make its application more complex and go against simplification objectives. The same approach should apply to any future sectoral legislation.

Moreover, the idea of continuously integrating new sectoral rules into the general public procurement framework would turn it into a permanent “work in progress”. Both contracting authorities and entities and enterprises need a stable horizontal framework that ensures predictability and legal certainty. Nevertheless, future public procurement obligations introduced in sectoral legislation must be fully consistent with the general framework, and avoid the use of differing terminology for the same concepts, in order to guarantee coherence and avoid fragmentation.

Application of the MEAT approach

Since 2014, the Most Economically Advantageous Tender (MEAT) criterion has moved public procurement beyond just the lowest price, allowing for the consideration of other factors like quality, environmental performance, social considerations or lifecycle costs.

This approach continues to work well, facilitating fair, clear and value-driven decisions in public procurement. Contracting authorities and entities already consider criteria beyond the price, often in the technical specifications phase, and it should remain their decision which qualitative factors are most relevant for each contract, based on their realities and needs. The revision of public procurement rules could serve as an opportunity to reaffirm that the application of quality requirements remains at the discretion of contracting authorities and entities, while creating an enabling environment for the use of those requirements.

All this is without prejudice to the fact that, in some cases, due to the nature of a product or service or when quality differences are minimal, relying solely on the lowest price may be the most appropriate approach and should remain an option.

Strategic public procurement

There are several structural obstacles within the Single Market that limit cross-border procurement and that are not related to the design of European public procurement rules. Indeed, for bidders, cross-border public procurement only makes financial sense from a certain price, which is why it is difficult to increase cross-border awards. Other barriers include differences between national procurement systems and differing legal frameworks or language barriers. Therefore, public procurement should not be expected to address all existing challenges to cross-border procurement on its own.

Beyond sector-specific legislative acts that have introduced green and social criteria, many contracting authorities and entities already take sustainability, competitiveness, strategic autonomy or social standards into consideration in their public procurement procedures. As an example, a study carried out by Danish trade union 3F in 2021 showed that almost 90% of the municipalities in the survey had incorporated labour clauses

in their procurement and procurement policy.² An additional illustration is provided by the French social housing sector, where in 2022 nearly 4.6 million insertion hours – that is, working hours reserved for individuals facing difficulties in accessing the labour market – were carried out across more than 16,400 public procurement contracts awarded by social housing bodies.³

In practice, strategic criteria are often already integrated at the technical specifications stage in tenders, meaning that bidders that reach the award phase already comply with the requirements set by the contracting authority, and the contract can be awarded on the basis of the lowest price. This makes sense, because price is a neutral criterion, while the balancing out of strategic criteria in adjudicating a contract may leave contracting authorities and entities vulnerable to potential lawsuits from bidders. This does not preclude the fact that contracting authorities and entities should continue to be able to use strategic criteria in the awarding phase if they choose to do so, in particular in situations when applying strategic criteria in the awarding phase enables contracting authorities to access a broader pool of potential suppliers, giving preference to those that comply with strategic criteria (provided they do not result in excessive cost increases).

When assessing the uptake of strategic procurement, it is important not only to consider the number of tenders that include green or social criteria, but also the overall value of the public procurement procedures concerned, as such criteria are often applied in large-scale procedures. For example, the procurement procedures with environmental requirements among examined governmental agencies in Sweden in 2024 correspond to 92% of the total procurement value.⁴

A balance must be struck between the strategic use of public procurement and the need for a simple, flexible, and effective horizontal procurement framework. Introducing mandatory strategic criteria at EU level is not the appropriate solution, as a one-size-fits-all approach would fail to reflect the diversity of the realities contracting authorities and entities face. Contracting authorities and entities should retain the freedom to select bids based either on price and/or the use of strategic criteria, depending on their specific circumstances and the nature of each contract.

Additionally, poorly designed mandatory criteria and excessive administrative burdens risk creating litigation risks after the conclusion of public procurement procedures, leading to delays in public investment and inefficiencies. Instead, the focus should be on providing standards and guidance on assessment methods, enabling contracting authorities and entities to make informed strategic decisions. Sharing best practices is also crucial.

European preference in public procurement

At a time when Europe seeks to strengthen its industrial sovereignty and competitiveness, public procurement has the potential to become an important lever of power. Encouraging the purchase of European products and services in tenders can play a role in supporting European industry, particularly in the current, fast-changing geopolitical context.

However, this should not result in an excessive bureaucratic burden or higher costs for contracting authorities and entities or compromise security of supply. The responsibility of deciding whether a certain product or service is actually “made in Europe” or whether a company qualifies as European, should not rest on the shoulders of contracting authorities, and neither should the verification of compliance with such determinations.

² United Confederation of Workers in Denmark (2021). Municipalities’ and regions’ use of labour clauses.

³ Union sociale pour l’habitat (2025). Les clauses sociales dans le secteur Hlm.

⁴ Swedish Environmental Protection Agency (2025). Environmental requirements in government procurement.

It should be for the Commission to provide clear guidance to all stakeholders, ensuring legal certainty and predictability. In any case, any European preference in public procurement should be aligned with EU competition and international trade rules.

It should also be considered that prioritising European products and services is not always possible. Authorities should still have flexibility, for example, when the costs of buying European are disproportionately high or when a certain product is not available on the European market. Furthermore, it should be ensured that European preference criteria do not lead to an increase in the prices of delivering SGIs and essential services, which would run against the affordability and accessibility of SGIs. Additionally, mandatory European preference criteria would run against the goal of reducing bureaucracy and could hinder environmental and decarbonisation objectives.

Introducing European preference considerations in public procurement should not lead to the automatic exclusion of companies or products from certain countries in public procurement procedures; it should rather constitute a preference for European options. Otherwise, there is a real risk that a number of procedures will end with no bidders and weaken competition, in addition to potential negative repercussions for European companies abroad. In general, geographical criteria should result in bonus points (made in EU) or malus points (made in a country on which the EU is excessively dependent) but never preclude participation in the tender in the first place.

The sensitive and critical nature of some sectors aligns better with the need for such considerations. One sector that could benefit from a preference for European providers is the sovereign cloud. In this case, having technical, operational and data sovereignty, is a key matter consistent with the EU's digital and security objectives. Nonetheless, any selected strategic sectors should be well identified and delineated.

Green public procurement

Contracting authorities and entities already take into account green and environmental considerations under the current public procurement rules. Mandating further green procurement obligations when revising the 2014 Directives would only create an excessive administrative burden.

While retaining a voluntary approach, the use of labels and standards can be particularly useful for incentivising green public procurement and facilitating the work of both contracting authorities and entities and bidders. Similarly, environmental labels can also support the purchase of green solutions. However, given their large variety, public procurement actors are often not aware of the full range of existing labels. A non-exhaustive compilation list of existing labels and certificates – both at EU and at Member State level –, as well as guidance on how to use them, could therefore incentivise their use and provide clarity to authorities when choosing to rely on these instruments in their tenders.

Social considerations in public procurement

Social aspects are already considered by contracting authorities and entities under the 2014 Public Procurement Package, including existing labour legislation, collective agreements and occupational safety standards, as compiled in national and EU law. If the revision of the rules were to mandate further socially responsible public procurement obligations, it would impose a heavy administrative burden on contracting authorities and entities and increase the complexity of procurement rules.

The Commission should therefore acknowledge that socially responsible procurement is already being applied in practice under the existing legal framework. Moreover, labour relations and collective agreements differ

significantly across Member States, and rules at the EU level should not interfere with established national labour systems and collective bargaining traditions.

As regards subcontracting, there is no need to introduce additional limitations at the EU level. EU labour law already applies to subcontracting arrangements, alongside relevant national legislation, providing an adequate legal framework to ensure the protection of rights. The existing EU labour law *acquis* is applicable to all workers on an equal basis, whether under public procurement or not, and to each employer in a subcontracting chain.

Public procurement of innovation

Increasing the flexibility of public procurement rules can lead to more innovation without imposing mandatory obligations, while also requiring careful consideration to avoid the risk of selecting offers that ultimately prove unrealistic.

More possibilities to engage in long-term cooperation between bidders and buyers would enable innovative solutions. Additionally, measures such as simplifying the conditions to buy innovative solutions or the aggregation of demand when public buyers have similar needs, can be useful and facilitate the purchase of innovative solutions, especially for smaller players, without creating additional administrative burden.

While a legal definition of innovation would be too limiting and strict, further guidance from the European Commission on how to define what is “innovation” would be welcomed and could help boost public procurement of innovation. Flexible rules also facilitate cooperation with the market, encourage future-proof projects and support the uptake of innovative approaches, especially with small and medium sized companies.

Digitalisation in public procurement

Digitalisation has the potential to simplify procedures and improve transparency, for example, by avoiding the double request of documents.

However, the suggested creation of a digital public procurement marketplace with a single-entry point for economic operators to access public procurement procedures would provide a “one-size-fits-all” approach that does not reflect reality. The current eProcurement services environment is largely appropriate, and replacing all existing Member States’ services with a central one risks creating more complexity, disrupting current well-functioning workflows and increasing the risk of technical failures or inconsistent data. It also raises concerns regarding cybersecurity issues and the high costs associated with its set-up, especially considering that Member States have already invested significantly in creating their own systems.

If such a platform were to be created, it should be limited to interconnecting existing national services, based on the principles of interoperability and user-friendliness, without creating barriers for actors with limited digital capacity. It should also not result in additional burden for contracting authorities and entities and public buyers, and its design and operation should remain under the responsibility of the Commission, in coordination with Member State authorities if needed.

A well-working concessions framework

Maintaining the flexibility and existing exceptions provided under the current Concessions Directive is essential to ensure that contracting authorities and entities can adapt the application of the rules to the specific characteristics of each concession.

Services of general interest are pivotal to societies functioning and European competitiveness. Therefore, it is crucial that they are organized to best address the local and regional challenges in the context of the Member State. Subsidiarity in determining the legal status of SGIs should remain a Member State issue that procurement rules should not interfere with.

Concessions should continue to be regulated in a dedicated legal act, rather than consolidating all horizontal public procurement-related provisions into a single instrument, which could risk increasing complexity and reducing legal clarity.

At the same time, revising the duration of concessions is necessary in certain cases, and the new rules should preserve the possibility for authorities to adjust concession periods when justified, considering the nature of the project, the need for investment security, climate and energy transition goals, or the public interest, among other factors. This approach balances legal certainty with the practical flexibility that is needed for the effective management of public concessions.

Conclusion

The revision of the 2014 Public Procurement Directives represents a unique opportunity to strengthen the effectiveness of public procurement across the EU, while keeping it practical, flexible, and accessible for contracting authorities and entities and bidders alike. By focusing on simplification, updating thresholds, and the clarity of the rules, the revised framework can remain proportionate, transparent, and legally certain. Strategic objectives – whether environmental, social, industrial, or other – can be encouraged without imposing mandatory obligations, excessive bureaucracy, or one-size-fits-all solutions, as experience under the current framework has shown.

Ultimately, the revision should reinforce public procurement as a reliable, flexible, and forward-looking tool that delivers value for public spending and supports a competitive, resilient, and sustainable European market. SGI Europe stands ready to support the work toward achieving clear, pragmatic and workable public procurement rules.