



# The Public Procurement Directives

## All you need to know

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### Author

- Federica Pozzi, Senior Programme Manager – ECOS [federica.pozzi@ecostandard.org](mailto:federica.pozzi@ecostandard.org)

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## Executive summary

Public procurement is one of the hot topics high up the EU's agenda, and it is often hailed – including in the Clean Industrial Deal as a potential enabler for decarbonisation of Europe's heavy industry.

The Public Procurement Directives will be revised over the next few years, and wild dreams about a bright future abound. But what is the starting position? What is the current status? How does this law work and what are its roles and rules, its logic and limits?

This brief is here to help you unpack the main mechanisms behind the Directives – what they do, its key principles, scope and procedure (including notification), exclusion grounds, technical specifications, awarding and monitoring & reporting. Reflections are also provided on a way forward.

## Introduction

Around EUR 2 trillion, or 14% of the EU's gross domestic product, is spent each year on public procurement<sup>i</sup>, for the purchase of public goods and services. This includes anything public authorities use taxpayers' money for – from food in school canteens to infrastructure. Across the EU, large purchases by public buyers are regulated by European law, through a horizontal set of principles public authorities are required to follow. These are contained in the **Public Procurement Directives (PPD)**, which are currently under evaluation, and soon to be revised, as announced by the European Commission's 2026 working plan<sup>ii,iii</sup>

## Background

The PPD represent Europe's horizontal framework on public procurement. Dating back to 2014, the Directives are a set of three – separate yet interconnected – pieces of legislation addressing procurement in different sectors.

They set out a legal framework for Member States, applicable to both public buyers and bidders<sup>iv</sup>. In doing so, they lay down the scope, principles, definitions, concepts, procedures and governance rules, to be mainstreamed across the EU's 27 procurement systems. As for any EU Directive, the transposition into national legislation is handled by each Member State. Most countries transposed them late, and the Directives only entered into force in 2018<sup>v</sup>. These common provisions allow Member States to maintain or adopt rules so long as they do not come in conflict with the Directives<sup>vi</sup>. The Directives cover three main types of contracts: work, supplies and services, including design contests. These include:

- The "Classical" Directive ([2014/24/EU](#)) for horizontal rules – let's call it "the PPD".
- The Concessions Directive ([2014/23/EU](#)) lies down rules for the procurement by contracting authorities and entities in the utilities sector by means of a concession<sup>vii</sup>.
- The Utilities Directive ([2014/25/EU](#)) governs procurement processes for public sectors such as water, energy, transport and postal services.

This legislative package covers all sectors of the economy, except procurement by the EU Institutions (Regulation [2024/2509](#)) and for defence ([2009/81/EC](#)).

## The Classical Directive

The PPD sets out general rules and principles, and is, therefore, **sector agnostic**. It does not deliver specific rules or requirements for the products or services procured (what to buy) but rather sets out rules on how to conduct the procurement process (how to buy). It is by far the law covering the highest number of procurement processes. The other Directives, particularly the Utilities Directive, present very similar features, and their texts overlap strongly.

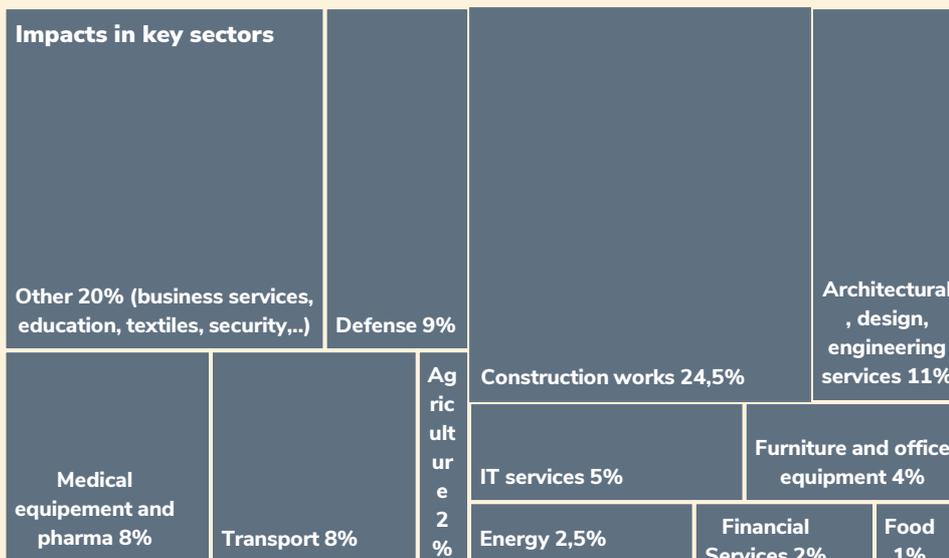
**Green Public Procurement** (GPP) doesn't legally have a definition in the PPD, nor elsewhere. Yet today EU public procurement legislation is more than just administrative rules. The same Directive (recital 2) indicates that "public procurement plays a key role (..) in achieving smart, resilient and sustainable growth, while ensuring the most efficient use of public funds".

At the EU level, GPP is defined as "a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their lifecycle when compared to goods, services and works with the same primary function that would otherwise be procured"(source, [European Commission](#), 2020). Generally, Member States do not define GPP in their domestic legal order, with some having adopted the European Commission's definition mentioned here above.

### Why procurement matters – and where it works best

- 980 000 procurement procedures, worth 2 trillion EUR/year
- 250 000 public authorities
- Germany is – by far – the country with the biggest procurement market, followed by Poland, France, Spain, Finland, Austria and Italy.
- Around 20% of overall procurement is covered by the Directives (EU thresholds)

Impacts in key sectors (per number of procedures, aggregated from TED):



## Key features of the Directive

- In essence, the common rules of the Public Procurement Directive consist of applying its basic principles to relevant contracts during the tendering process, in the following areas: Design of technical specifications
- Choice of the procurement procedure
- Award of the contract to the most economically advantageous bid.

## The Directive is based on 4+1 principles

The main objective of common EU legislation on public procurement is to remove barriers to the Single Market. It does so by applying a set of basic principles (art.18(1)) to public procurement: **competition, equal treatment, non-discrimination and transparency**. These derive from the EU Treaty on the Functioning of the EU (TFEU, art. 48, 56, 101), and are defined by the Directive:

- **Transparency:** all procurement procedures must be conducted in an open and transparent manner. This means that contracting authorities must publish public notices, ensure sufficient

advertising and, apply selection/award criteria consistently. This principle helps prevent corruption and promotes accountability, ensuring contracting authorities and economic operators are all aware of the rules of the game.

- **Competition:** public procurement procedures must promote effective competition, notably ensuring a level playing field amongst bidders. This includes preventing unjustified barriers to market access or tailoring specific criteria to favour certain bidders.
- **Equal treatment and non-discrimination:** all economic operators must be treated equally and fairly across the Single Market. This applies to EU/EEA bidders (art.1). For bidders from third countries, the principle doesn't automatically apply, pending a trade/ procurement agreement with the EU<sup>viii</sup> (i.e. the [WTO Government Procurement Agreement](#)) or under explicit consent of the public authority concerned<sup>ix</sup>.

- **Unpacking the Directive's case law** The Directive's principles are also applicable to below-threshold procurement (Case C-324/98 *Telaustria and Telefonaddress*).
- Environmental criteria do not limit competition; they are valid if justified and proportionate (Case C-513/99 – *Concordia Bus Finland*).

### Sustainability: a de facto principle?

Ensuring smart, sustainable and inclusive growth, and the most efficient use of public funds, is part of the objectives pursued by the Directive (recital 2). Yet, the law empowers without directly requiring public buyers to procure strategically<sup>1</sup>.

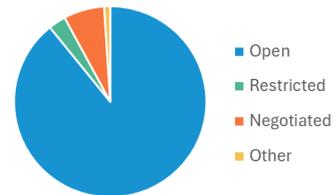
The horizontal sustainability clause (art.18(2)): sustainability is embedded across the text (and procurement phases) as a possibility for public buyers. Yet, it is not explicitly included in the objectives listed in art.18(1), which horizontally obliges buyers to uphold these principles all along the procurement process. It's only in art.18(2) – the so-called horizontal sustainability clause – that Member States are obliged to ensure bidders comply with obligations relating to environmental, social and labour laws. This applies to national, EU and international law. Yet, this obligation only applies to (a) the performance of the contract, (b) only focuses on bottom-line compliance, without supporting selection and/or awarding to the best performing bid. Moreover, penalties are relatively weak, as exclusion of bidders in case of breach is only an option, not the default case.

What case law says: a recent ruling of the European Court of Justice ([CJEU C-395/TIM case](#), par.38) established that sustainability can and should be considered the fifth cardinal principle when procuring. This implies that public buyers are bound to comply to this principle in their procurement processes covered by the Directive. This provision also applies to sub-contractors.

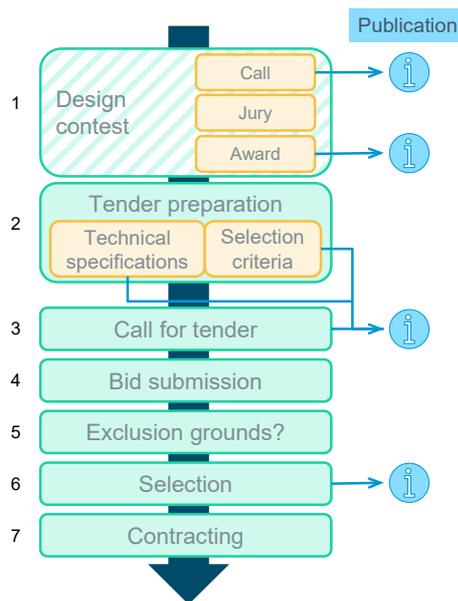
## Types of tendering processes

Public tenders aim at finding the best economic bid to carry out a specific task. The PPD foresees different types of processes:

- The **open procedure** (Art. 27), in which all market participants can submit a bid, is by far the most common procedure.<sup>x</sup>
- The **restricted procedure** (Art. 28), whereby only market participants must first request permission to apply. The tender may include social conditionalities, e.g. that works must be carried out by sheltered workshops or specific job programmes.
- The **negotiated procedure** (Art. 29), in which market participants submit a partial tender, which will then be individually further specified and negotiated with the procurer. No call for tender is needed (Art. 32(3)) when experimental items, additional deliveries, commodities or goods from an insolvent company are purchased.
- **Other** procedures (Art. 30-31) can be used in exceptional cases where requirements cannot be expressed precisely; electronic auctions (Art. 34) and dynamic purchasing systems (Art. 33) may be used for commonly used purchases.



## Tendering process steps



A typical tendering process consists of several well-defined steps, which can be schematically depicted as follows (example showing the open competition procedure).

1. An (optional) design contest may be called for (Art. 78-79). An ad-hoc jury (Art. 81) selects the preferred solution among roughly developed and anonymised (Art. 82) design ideas submitted by architects and civil engineers.
2. Technical requirements (Art. 42, Annex VII) are set by the procurer or by a consultant with adequate expert knowledge (Art. 40). The procurer also specifies the logic to select (see section 7) the winning bid.
3. The procurer publishes (art.49-51) the call for tender on TED and usually on national (art.52) or regional tendering websites, providing all relevant technical and administrative information (art. 53).
4. Bidders introduce their offers on TED within 35 days (art. 27 (1)).
5. The procurer eliminates bidders (art.57, see section 6) that have been found guilty of organised crime, corruption, fraud, terrorism, money laundering or child labour, but also where the procurer knows that the bidder has not paid taxes or social security charges. Anti-competitive collusion can also be an exclusion ground.
6. The procurers then identify the bidder with the Most Economically Advantageous Tender (MEAT) (Art. 67 and 68) based on the logic specified in step 2 (see section 7 for more detail).
7. The procurer informs bidders about the outcome (art.55) and sets up the contract with the winning bidder (Art. 70-71). Price increases up to 50% are generally covered (Art. 72 (1)).

## Monetary thresholds for European tendering

Procurement rules differ depending on the financial value of contracts. The provisions of the Directive apply to procurement procedures above certain value thresholds (art. 4), currently 5.538 million EUR for construction contracts. These are updated every two years and are published [here](#). The impact of these thresholds is as follows:

- Above-threshold procurement: contracts meeting or exceeding these thresholds must follow EU-wide rules as per the Procurement Directive. First step is the publication on TED.
- Below threshold procurement is not covered by the EU Directive and follows national procurement legislation. Below threshold contracts comprise most contracts awarded (approximately 60-70%), which then follow national rules and procedures. Most national legislation on below-threshold procurement requires awarding based on open, fair and competitive procedures, in some case mirroring the rules of the Directive.

### Example: construction of a public housing building in Lisbon, Portugal

- Buyer: City of Lisbon
- Scope of the project: construction of several building units for public housing and urban planning of the area of Vila Dias (Lisbon)
- Estimated value: EUR 12 700 385,73 (excluding VAT)
- Application: the tender exceeds the relevant thresholds for construction works (EUR 5 million). For this reason, it has been published on TED.

## Mandatory electronic publication – [Tenders Electronic Daily \(TED\)](#)

The 2014 reform introduced new rules on the advertising of tenders. This includes the mandatory use of electronic means (e-procurement) to allow for higher transparency and lower administrative burden, across borders, for tender publication and bid submission. TED publishes 3 000 procurement notices every day, worth EUR 815 billion every year<sup>xi</sup>. Requirements stemming from the Directive include the electronic transmission of contract notices, through eForms<sup>xii</sup>, the EU legislative open standard for publishing public procurement data<sup>xiii</sup>. This is essential to notify and attract economic operators of the opportunity available. It must be drafted in a way that clearly describes the nature (notice type) and scope (what is being procured), estimated value of the contract, procedure details, conditions for participation (technical and selection criteria) and award criteria (including weighting). Member States and contracting authorities remain free to go further, including e-advertising on national websites.

From its last revision, eForms include several fields dedicated to environmental considerations in public procurement notices. These fields are generally optional, unless:

- the tender includes the use of environmental award criteria (art.67), requires eco-labels or certifications (art.43) or applies life-cycle costing (art.68) with environmental factors.
- EU or national rules on specific sectors require environmental criteria.

It is also important to note that these field require generic data entries under the form of Strategic Procurement (BT-06), which flags “the use of a technical specification, selection/award criterion that aims at reducing the environmental impacts of procurement”. The Commission handbook guiding implementation of eForms indicates that this field entails minimal administrative effort. Including information on environmental impacts is not always mandatory, and depends on the nature of the contract and discretion of the contracting authority.

Source: [EForms - Publications Office of the EU](#)

### Technical specifications: pass or fail

To procure products or services, public buyers must define exactly what they intend to purchase – saying they want to purchase a school is obviously not precise enough. Technical specifications can include quality, design and accessibility, safety, production methods, and environmental performance (art.42). Drafting clear specifications is key to effective procurement, because they:

- guarantee the final product or service meets the buyer’s needs.
- provide legal clarity, avoiding legal disputes and wasted money.
- facilitate evaluation, awarding and performance monitoring.

Without specifications, suppliers would find it difficult to tailor their offers. Public buyers and their technical subcontractors can define technical specifications in a number of ways. The Directive provides guiding rules on what and how these should be developed (art.42).

	Setting technical specifications
Key components	<ul style="list-style-type: none"> <li>• Description of the object (<i>what is being procured?</i>), including technical details (<i>weight, technical drawings, operating conditions</i>).</li> <li>• Performance requirements (<i>see scope</i>)</li> <li>• Execution methods (<i>how should the service be performed?</i>)</li> </ul>
What <i>(scope, Annex VII part 1)</i>	<ul style="list-style-type: none"> <li>• Quality</li> <li>• Design and accessibility</li> <li>• Safety</li> <li>• Production methods</li> <li>• Environmental and climate performance</li> </ul>
How can they be expressed? <i>(art.42(3))</i>	<ul style="list-style-type: none"> <li>• In terms of performance or functional requirements (<i>how well is it required to perform?</i>).</li> <li>• By reference to standards, (or a combination of the two)</li> </ul>

## What is the impact of technical specifications?

When submitting a tender, bidders are required to satisfy technical specifications. Legally, **these are binding entry requirements**. If a bid does not comply with these requirements, it cannot be considered for selection. GPP can be driven by environmentally useful technical specifications, which have an effect even where the cheapest bid is selected.

### Shaping technical specifications in support of environmental and climate objectives

Public buyers can include technical specifications requiring a certain environmental performance (art.42(1)). These can be expressed as:

- Environmental performance levels (i.e. energy efficiency or emissions limits)
- Production methods (i.e. organic farming or using recycled materials)
- Lifecycle impacts (i.e. carbon footprint).

Annex VII part 1 of the Directive defines what can be included in technical specifications. For both public works and services, environmental and climate performance levels are explicitly mentioned as relevant characteristics.

### When are public buyers required to introduce environmental technical specifications?

1. When national law makes them mandatory. This is, for instance, the case of the [Italian Minimum Environmental Criteria](#) (21 products/services), and the [Slovenian environmental criteria](#) (22 products/services). When procuring the covered products/services, public authorities in Italy and Slovenia are required to systematically use those technical specifications.
2. When EU-level sectoral legislation imposes environmental requirements, as in the case of the Clean Vehicles Directive (art.5 and Annex).

### Example: catering for public canteens in Florence, Italy

- Buyer: Municipality of Florence
- Key information: the tender concerns the management of 15 municipal canteens, including collective catering services and supply of food.
- Technical specifications, include (non-exhaustive list):
  - Minimum requirements for service, including the minimum number of meals, specific menus, use of specific cutlery, and cleaning products.
  - Minimum requirements for supply, using Minimum Environmental Criteria (Criteri Ambientali Minimi) for catering services and food. These require, amongst others, that at least 50% of the food served to children must be organic and fair trade. These technical specifications are mandatory and defined by [the Italian Procurement Code](#).

More information is available on TED at [this link](#). The exhaustive list of technical specifications for this project is available [here](#) (under Capitolato Tecnico, art.29-31).

## Assess the suitability of bidders: exclusion and selection criteria

The Directive requires public buyers to **ensure that only suitable and reliable bidders can participate in public contracts**. It does so by first (a) defining situation where a candidate must (or can) be excluded from participating (**exclusion grounds**, art. 57) and then (b) evaluate whether the bidder is capable and qualified to perform the contract (**selection criteria**, art.58).

### Excluding bidders

Exclusion grounds act as a filter before applying other selection criteria. They basically determine if a bidder is allowed to participate. The Directive (art.57) sets out the ground on which a contracting authority may or must exclude bidders from public procurement procedures. It distinguishes between:

- **Mandatory exclusion grounds** (art.57(1)): public authority must exclude bidders for serious offences including corruption, fraud, child labour.
- **Discretionary exclusion grounds** (art.57(4)): public buyers may exclude bidders on the basis on tax or social security offences, conflict of interest, insolvency.

**Example: Procurement of architectural and construction services for Deutsche Welle's offices in Bonn and Berlin (TED reference: OJ 108/2024 05/06/2024)**

- Buyer: Deutsche Welle
- Scope: framework service agreement for architectural, construction, engineering and inspection services.
- Grounds for exclusion (see section 2.1.6), include bankruptcy, corruption, criminal activity, and breaching of obligations in the field of environmental law. Specific reference is made to Sections 123 and 126 of the German Procurement Code (GWB), which mirrors art.57 of the EU Directive.

### Can bidders be excluded for environmental misconduct?

Yes, but it's up to public buyers - they may decide to exclude a bidder or not (art.54(4)(a)). Obligations on environmental compliance when carrying out the works stem from art.18(2) which requires bidders to comply with national, EU and international environmental, social and labor law.

## Selecting compliant bidders

**Selection criteria are the requirements used by contracting authorities to assess the suitability of bidders to carry out the job well, before evaluating their offer against others.** They focus on determining (art.58) whether a bidder has the financial, economic, technical (i.e. skills) and professional capacity to carry out the job.

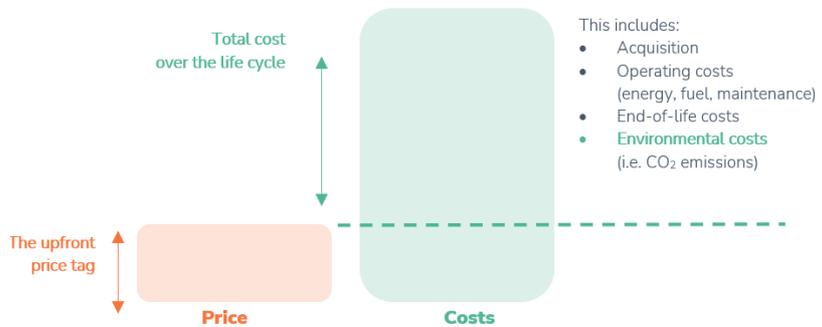
## Procuring best value for public money

After screening bidders amongst those meeting the desired technical specifications, public buyers have reached the final decision stage – the awarding phase. This is when the winning offer is

selected. Choosing the best bid is directly regulated by the Directive (art.67). Public buyers are required to choose the “**Most Economically Advantageous Tender (MEAT)**” (art. 67(1)).

### What does procuring the most economically advantageous tender mean?

Procuring the Most Economically Advantageous Tender (MEAT) means that a public authority chooses the **best overall offer**. In addition to selecting the cheapest offer, MEAT allows the procurer to consider several other factors – like quality, which

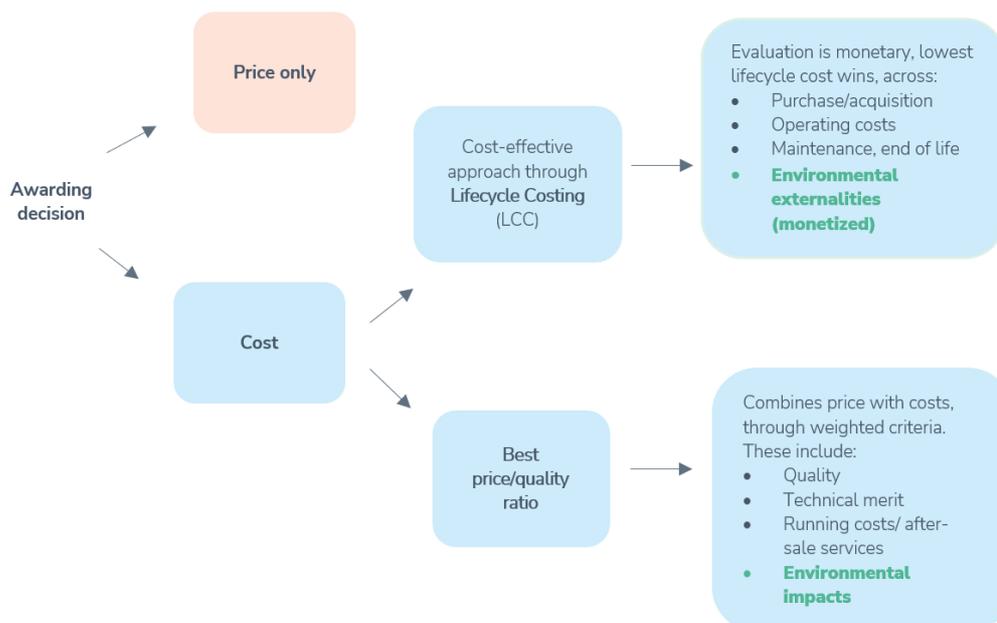


includes technical performance and environmental impact – to select the bid providing **the greatest long-term value for the money spent** (art.2(24)). In all cases, the procurer must choose the awarding logic at the beginning and communicate it in the tender publication.

The Directive (art.67(2)) introduces a **significant distinction between the price and cost** of a product or service, which can be summarised as follows:

### How do public authorities operationalise MEAT in choosing the best bid?

The Directive leaves public authorities to choose between two main options: procuring exclusively on the basis of the product/service’s price or based on its cost (art. 67(2)). According to the Directive (art.67/68), public authorities can freely choose one of the two approaches when procuring beyond price or even combine them. The table below provides an overview of when to best use these methods, what are the applicable legal conditions, and how they are used in practice. In detail, this means:



## Lifecycle costing vs best price/quality ratio

	Best price/quality ratio	LCC
Best for	When quality factors matter most.	When focusing on long-term financial value matter most (i.e. high costs after completion, such as in the construction sector).  When clear and verifiable data exist.
Conditions	Criteria must be published in advance, clear and accompanied by weighting or ranking (art.67(5)).  Public authorities are free to allocate weight to the different indicators.	Costs imputed to environmental externalities should be included in the LCC approach <sup>xiv</sup> . The procurer only communicates the calculation method. The bidder must provide the required data in the bid (art.68(2)). It is not up to the procurer to research and attribute data.
Example: Renovation of a public library	<ul style="list-style-type: none"> <li>• Price: 40%</li> <li>• Technical quality (materials used, restoration methods): 30%</li> <li>• Energy performance: 15%</li> <li>• Accessibility improvements: 10%</li> <li>• Technical skills: 5%</li> </ul>	<ul style="list-style-type: none"> <li>• Total cost over 30 years, covering construction, energy, maintenance, disposal</li> <li>• Embedded carbon cost (i.e. use of low-carbon materials)</li> </ul>

### France already requires beyond-price procurement

In 2021, the [French Climate Law](#) introduced significant amendments to the French Procurement Code, and requires that (art. 35):

- At least one award criterion must concern environmental aspects (art. L2152-7).
- Technical specifications, award criteria and action plans must consider the environment.

In addition, public buyers must adopt and publish a scheme to reduce energy use and GHG emissions (among others), and they must monitor progress against the targets set. (art. L2111-3). To implement the law, [Decree 2022-767](#) eliminates the option to award contracts based on price only (Art.R-2152-7). It also requires lifecycle costing, which must include environmental considerations. These changes will enter into force from August 2026.

## Labels: only if robust and transparent

Public buyers may require that works or services bear a specific label under strict requirements (art.43) to ensure they are fair and do not restrict competition.

- Criteria must be linked to the subject matter of the contract, meaning that they must relate directly to the goods, services or works being procured, and not to the company in general.
- Criteria must be objectively verifiable.
- Labels must be established via an open, transparent and inclusive procedure, and accessible to all interested parties. They should be set by a third party over which the bidder cannot exercise decisive influence.

A tender cannot require a label developed by individual companies or by a sector-specific industry initiative.

## How can labels be used to factor in quality, environmental and social considerations?

Authorities can use labels in **three different steps** of the procurement process, to:

- **Define technical specifications** (art.42): accepting products with a certain label only.
- **Set award criteria** (art. 67), favouring bids using products bearing a certain label, without making the label mandatory.
- **Set contract performance clauses** (art. 70), which contain mandatory rules for how a contract must be carried out.

### Why choose an environmental label?

When drafting specifications, evaluating bids or assessing compliance, labels can be instrumental in simplifying procurement processes, while promoting strategic procurement, as they:

- simplify tenders' drafting. Public buyers can simply require a product with an environmental label, instead of reinventing the wheel on technical specifications or award criteria.
- ease verification of contractors' performance, reducing the burden on verification. (source: [here](#), p.37).

### Example from TED: construction of a new data center in Flensburg, Germany ([reference OJ S 34/2024](#))

- Buyer: Central Government Authority (Kraftfahrt-Bundesamt)
- Description: the service includes the construction of a data center, including planning, construction and maintenance.
- (provisional) technical specifications include the new data center to be built in accordance with the requirements of the German Ecolabel Blue Angel (section 5.1.7).

Is the Ecolabel Blue Angel compliant the requirements of art. 43? Yes, because:

Requirements (art.43)	Blauer Engel
<ul style="list-style-type: none"><li>• Link to the subject matter</li></ul>	<ul style="list-style-type: none"><li>• it applies to specific products or services</li></ul>
<ul style="list-style-type: none"><li>• Based on objectively verifiable and non-discriminatory criteria</li></ul>	<ul style="list-style-type: none"><li>• criteria are science-based, clear and transparent</li></ul>
<ul style="list-style-type: none"><li>• Established in an open and transparent procedure</li></ul>	<ul style="list-style-type: none"><li>• criteria are developed with experts and stakeholder support</li></ul>
<ul style="list-style-type: none"><li>• Accessible to all interested parties</li></ul>	<ul style="list-style-type: none"><li>• open application process</li></ul>
<ul style="list-style-type: none"><li>• Set by a third party</li></ul>	<ul style="list-style-type: none"><li>• managed by the German Environmental Agency (Umweltbundesamt)</li></ul>

## **Governance – monitoring and reporting**

Member States are required to ensure that the performance of contracts is monitored by public buyers (Art. 83), and the monitoring method is left to the Member State's discretion. Member States are also required to critically evaluate their procurements systems every three years in reports submitted to the European Commission (Art. 83 (3)). The reports also provide relevant information on common sources of legal uncertainty, including recurring issues in the application of rules of the Directive<sup>xv</sup>. While these are intended as an obligation from the Directive, questions are generally non-binding, as indicated on the form itself<sup>xvi</sup>. A 2021 report by the European commission on the implementation of reporting requirements indicates that submitted information is inconsistent and flawed by information gaps and compound reporting. Procurement data (both qualitative and quantitative) are incomplete, limiting possibilities for a comprehensive analysis and comparison of Member States' performance<sup>xvii</sup>.

## What do national monitoring systems look like?

While impacted by the Directive, national procurement systems are only regulated at the national level. While different across the EU-27, they generally follow the structure below:



### Example of the French Monitoring System:

- Coordinating bodies: the OCEP (Observatoire Économique de la Commande Publique) collects and publishes data on public procurement, including its strategic use. It is supported by the DAE (Direction des Achats de l'État) who coordinates state-level purchasing strategy and sets sustainability objectives.
  - E-Procurement platform: PLACE – used for national tenders and connected to TED. Data collection is performed by OCEP, who gathers procurement data on indicators such as the percentage of tenders using environmental criteria, use of lifecycle costing or ecolabels.
  - National strategies: under the French Procurement Code (Code de la Commande Publique), public authorities (including local if their total procurement is above EUR 50 million) must draft a strategic procurement plan, explaining how they will integrate environmental and social concerns. These are usually referred to as SPASER plans (Schéma de Promotion des Achats Socialement et Écologiquement Responsables).
- OCEP and DAE publish national procurement reports, which are submitted to the European Commission under art. 84.

## The interplay with national and EU sectoral legislation: a dynamic EU framework

The EU procurement regime is not static, and the Directives are not the only force behind public procurement. The EU, Member States and public authorities have placed efforts in integrating rules on how to buy (the PPD) with sectoral rules<sup>xviii</sup>, specifying what to buy across different

products. Some of these go further than empowering the EU to deliver sectoral procurement requirements and include complementary or additional procedural rules<sup>xix</sup>. These can be divided in two categories:

## 1. Mandatory provisions:

### At EU level

The EU procurement acquis encompasses of 62 directives and regulations (10 pending)<sup>xx</sup>. These include both mandatory green and social procurement provisions, as well as trade-related measures. These have been integrated in recently revised laws, such as the [Battery Regulation](#) (art.7-10, 85(3)), the [Construction Products Regulation](#) (art. 83), the [Ecodesign for Sustainable Products Regulation](#) (art. 65), the [Net Zero Industry Act](#) (art. 25) and the [Clean Vehicle Directive](#) (art.1). These mostly foresee the development of secondary legislation (delegated acts) to define green procurement criteria (in the form of technical specifications and/or award criteria) unique to each product. The “mandatory” element indicates that, when fully developed, public buyers will be required<sup>xxi</sup> to integrate these in their tenders, when consciously procuring green.

### At national level

The PPDs were developed to ensure harmonisation of EU procurement systems, to facilitate the functioning of the internal market by lowering administrative and legal barriers to cross-border participation<sup>xxii</sup>. Many Member States have gone beyond requirements set by the PPDs, especially in terms of environmental regulation. This practice is defined by experts, including the European Commission, as “gold plating”<sup>xxiii</sup>. These include requirements set by Member States such as France (French Procurement Code, see green box above, Lithuania<sup>xxiv</sup> or Italy (Criteria Minimi Ambientali).

2. [Voluntary criteria for 21 products](#)<sup>xxv</sup> developed by the EU to promote consistency and facilitate Member States in applying Green Public Procurement on the ground<sup>xxvi</sup>.

## A turning point for Europe’s procurement regime

2025 marked a crucial turning point for the Directives. Greater focus on the development of lead markets for key industrial goods has sparked discussions on the need to re-align the Directives with Europe’s industrial strategy – the [Clean Industrial Deal](#). Performing a [detailed audit of the implementation](#) of the Directives, **the European Court of Auditors (ECA) has concluded that key objectives of the 2014 Directives have not been met in several areas**. Similar findings have been largely **confirmed by the** recently published [evaluation report](#) by the European Commission.

- The Directives have delivered tangible EU added value (lower administrative and legal barriers, less corruption). Yet, persistent challenges on the integration of strategic objectives exist<sup>xxvii</sup>. Cross-border procurement remains low and is hindered by non-harmonisation, including the lack of more precise, coherent and user-friendly legal drafting and requirements across EU and national sectoral legislation.
- Progress on strategic procurement – green, innovative, social – is mixed. ECA’s report finds that public buyers award more than half of bids (55%) to the cheapest option (lowest priced bid), signalling that strategic considerations in procurement are not yet the norm. However, as explained in previous sections, this isn’t the only step of the procurement process when strategic considerations can come in. Accounting for the use of technical specifications (including green requirements) should come side by side awarding when effectively evaluating the uptake of green public procurement. Results by the evaluation report are

mixed, some Member States do better than others', but lack of a clear and common requirements (on both steps) is presented as a key barrier.

- **Competition** in EU procurement **remains stable**, despite less positive findings presented by the ECA report (rising shares of single bidding). SMEs generally perform well, winning around 70% of public contracts.
- **Monitoring remains area for improvement.** It is described as ineffective, with TED failing to deliver complete, accurate and transparent information on procurement processes. Information on green public procurement is close to inexistent.

## Conclusion: where are we heading?

The shortcomings identified by the two reports signal the urgent need to revise the Procurement Directives and align them with the objectives by the Clean Industrial Deal.

Expected in 2026, the revision will play a crucial role in redefining the role of procurement in the EU. High up on the political agenda, the Directives are sought to undergo a significant overhaul – resulting in the forthcoming **EU Public Procurement Act**. Preliminary objectives of this exercise include a substantial restructuring of the EU procurement framework – covering both the “how to buy” (procedural rules) and the “what to buy” (sector-specific criteria), to simplify rules and processes while supporting strategic objectives.

This isn't an unknown challenge for Europe's procurement law. Its last revision was moved by similar objectives – mainstreaming simplification and strategic procurement. On this last objective, as shown in previous sections, this process resulted in a flexible approach, allowing public buyer to buy sustainable, rather than mandating it.

Both the ECA's and the Commission's evaluation report have pointed to critical shortcomings of this approach. The forthcoming rehaul should learn from existing failures, and work towards a clear mandate to public buyers across Europe to systematically procure in a strategic way.

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<sup>i</sup> [\[PDF\] 'Europe 2020' and the EU Public Procurement and State Aid Rules: Good Intentions That Pave a Road to Hell? | Semantic Scholar](#)

<sup>ii</sup> [aa8d20ed-148f-4eaa-b8ea-92be7acdaee6\\_en](#)

<sup>iv</sup> [The Public Procurement Directives | Public Buyers Community](#)

<sup>v</sup> National transpositions are available on Celex : [EUR-Lex - 62003CJ0264 - EN - EUR-Lex](#)

<sup>vi</sup> [Brief 01 - Public Procurement in the EU](#)

<sup>vii</sup> [Concession contracts - European Commission](#)

<sup>viii</sup> CJEU Kolin Case (C-652/22), CJEU ruled that a third country without an international public procurement agreement with the EU cannot claim equal treatment under EU procurement rules.

<sup>ix</sup> [Communication from the Commission — Guidance on the participation of third-country bidders and goods in the EU procurement market](#)

<sup>x</sup> Relative data from TED: all tenders published in 2024 and under Directive 2014/24.

<sup>xi</sup> [Official publishing services for EU institutions - ted.europa.eu - TED](#)

<sup>xii</sup> Requirements for e-Form are set by Implementing Regulation 2019/1780

<sup>xiii</sup> [eForms - European Commission](#)

<sup>xiv</sup> The text specifies that life-cycle costs must be included “to the extent relevant”. This implies that environmental costs can be disregarded only where they are irrelevant.

<sup>xv</sup> [Public procurement monitoring reports published | Public Buyers Community](#)

<sup>xvi</sup> Section on instruction for use, available [here](#).

<sup>xvii</sup> Page2, par. 2, available [here](#)

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- <sup>xviii</sup> [The coherence of public procurement legislation in the European Union - Publications Office of the EU](#)
- <sup>xix</sup> [Coherence in the EU public procurement directives - Publications Office of the EU](#)
- <sup>xx</sup> [The coherence of public procurement legislation in the European Union - Publications Office of the EU](#)
- <sup>xxi</sup> Opt-out possibilities exist in these laws.
- <sup>xxii</sup> [Evaluation study on relevance and EU added value of the public procurement legislation - Publications Office of the EU](#)  
(p.27)
- <sup>xxiii</sup> [Evaluation study on relevance and EU added value of the public procurement legislation - Publications Office of the EU](#)  
(p.29)
- <sup>xxiv</sup> [How Lithuania fast-tracked green procurement - Open Contracting Partnership](#)
- <sup>xxv</sup> These criteria cover cleaning products & services, computers, monitors & smartphones, data centres, server rules and cloud services, electricity, food catering & vending machines, furniture, imaging equipment, printing office buildings, paints, public space maintenance, road design, road lighting and traffic signals, road transport, textiles.
- <sup>xxvi</sup> [GPP Criteria and Requirements - European Commission](#)
- <sup>xxvii</sup> [Evaluation study on relevance and EU added value of the public procurement legislation - Publications Office of the EU](#)