



CAN Europe response to EU Call for Evidence: **Unlocking Public Procurement's Potential for Climate and Social Progress**

The Commission is launching an evaluation of three legislative acts that regulate public procurement in the EU ('how to buy'): Directives [2014/23/EU](#) (the Concessions Directive), [2014/24/EU](#) (the Public Procurement Directive) and [2014/25/EU](#) (the Utilities Directive). The evaluation will be based on the following criteria: Effectiveness, Efficiency (costs/benefits), Relevance, Coherence and EU added value. In that framework, the Commission launched [a call for evidence](#) open till 7 March 2025, with a maximum of 4,000 characters.

To create a level playing field for businesses across Europe, EU law sets out minimum public procurement rules. These govern the way public authorities and certain public utility operators in the EU purchase goods, works and services above a certain value. EU directives on public procurement cover procedural rules ('how to buy'), including generally applicable rules, specific rules applicable to entities operating in the water, energy, transport and postal services sectors, and rules on concessions. The [special report](#) from the European Court of Auditors on public procurement in the EU, published in 2023 and followed by [Council Conclusions](#), points to the need for further action to address the problem of a decrease of competition in public procurement and make full use of the potential of the EU's public procurement market.

The reports by Enrico Letta ([Much more than a market](#)) and by Mario Draghi ([The future of European competitiveness](#)) acknowledge public procurement as a key tool for **promoting EU objectives** and point to several challenges. In the [Political Guidelines 2024-2029](#) for the next European Commission, President Ursula von der Leyen announced a revision of the public procurement directives to: enable preference to be given to European products in public procurement for certain strategic sectors; help ensure EU added value and security of supply for vital technologies, products and services; modernise and simplify public procurement rules, in particular with EU startups and innovators in mind. The European Economic and Social Committee [Opinion](#) on the potential of Public Procurement for Social Economy enterprises, acknowledge the role of public procurement in achieving various EU policy goals and a call for a revision of the public procurement directives.

Untapped Public Procurement potential

EU public procurement is a large source of demand, accounting for 14% of EU GDP and as such a major but underutilised lever for reaching broader societal goals. The majority of public procurement contracts are awarded based on price alone, thus not taking into account other criteria such as the quality of the tender or the environmental costs that occur over the project's lifecycle. Moreover, EU public procurement is a major buyer of key emission-intensive products such as steel and cement, and estimated to be responsible for at least 11% of the EU's GHG emissions¹.

CAN Europe therefore supports a review of public procurement rules, prioritizing best-in-class products and services from both social and environmental perspectives. Procurement should be guided by strong product requirements gradually drafted under the Ecodesign for Sustainable Products Regulation, while contracting authorities remain free to request labels demonstrating specific additional environmental/social characteristics. Introducing mandatory environmental and social criteria in public procurement could significantly strengthen green lead markets, while ensuring greater coherence between sectoral procurement rules and the general framework. Finally, improved governance - through clear targets or objectives - would further enhance the effectiveness of public procurement in driving sustainability.

Minimum binding social and environmental conditions

The inclusion of a set of minimum binding social and environmental conditions in the public procurement legal framework is necessary to strengthen its effectiveness, coherence, relevance and EU added value. Such conditions would help Member States' contracting authorities to deliver public procurement procedures in line with the sustainability principle currently laid down in Article 18(2) of Directive 2014/24/EU². The European Court of Justice has recognised that this sustainability principle is a cardinal value of the Directive that stands at the same level of the other general principles of public procurement law (principles of equal treatment, non-discrimination and transparency)³. However, the operability of the sustainability principle is undermined by the current legal framework which does not provide for clear minimum binding conditions - in addition to imposing obligations relating to the sustainability principle to Member States instead of contracting authorities directly.

¹ https://www.4i-traction.eu/sites/default/files/2023-09/4iTraction_2023_Report_Public_Procurement_for_Climate_Neutrality.pdf

² Article 18(2) of Directive 2014/24/EU provides: "Member States shall take appropriate measures to ensure that in the performance of public contracts economic operators comply with applicable obligations in the fields of environmental, social and labour law established by Union law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X."

³ Case C-395/18, Tim SpA, ECLI:EU:C:2020:58.

Principles for evaluating the Public Procurement framework

Effectiveness: One of the goals of the public procurement directives is to make the EU economy more green, social and innovative.⁴ The potential of PP to be used strategically to deliver on those outcomes has by large been untapped. Environmental, social and innovative aspects are rarely considered in public tenders and the share of contracts awarded in favour of lowest (cheapest) bids accounts for the bulk of all awards in all member states.⁵ Economic operators engaged in social and environmental dumping are not barred from procurement markets and sustainability criteria are not mandatory.⁶ A reformed legal framework should include a set of minimal social and environmental conditions that companies bidding for public procurement should be obliged to respect. In addition, as recommended by the Letta's report and the EESC, public procurement must be used strategically to support the social economy as social enterprises and other social economy actors, such as cooperatives and energy communities, are major actors of a green and social economy.

Relevance: the directives should be amended in light of the changing geo-political context, marked by the weaponisation of EU's dependency on Russian fossil fuel and the emergence of China from a supplier of Western brands to a leader and competitor in green technologies, that dominates most critical minerals value chains.⁷ Strategic dependencies make Europe's economy vulnerable and entail risks for its political sovereignty. Public Procurement should contribute to reducing these dependencies by requiring 'green' or 'clean' products to significantly reduce their material footprint and energy needs, considering the full lifecycle. Ambitious secondary legislation adopted under the Ecodesign Regulation should be developed considering those aspects, and serve as a reference for the revised public procurement framework. Bidding companies should also demonstrate the existence of a publicly available transformation plan at installation-level, to increase energy and resource efficiency. This will make our economy more resilient and allow support for the best in class rather than the incumbents, thereby strengthening our competitiveness on global markets.

Coherence: A reformed Public Procurement framework must be aligned with Europe's social and environmental goals. Binding minimal social and environmental conditions must therefore be integrated in the Public Procurement legal framework. Full respect for existing environmental and social legislation (listed in Annex X of the PP Directive, referred to in Art. 18.2), is already a requirement under the current Directive. However, it should be better operationalised, with centralised data sharing and greater support to contracting authorities, who should be directly responsible for

⁴ Recital 2 of the PP Directive (enable procurers to make better use of public procurement in support of common societal goals). See also Communication from the Commission to the Institutions: Making Public Procurement work in and for Europe, 2017, <https://ec.europa.eu/docsroom/documents/25612>. This Communication identifies the potential of the 2014 directives for achieving such EU strategic objectives.

⁵ ECA, Public Procurement in the EU, 2023.

⁶ Shaping Sustainable Public Procurement Laws in the EU, The Greens/EFA, 2022, <https://extranet.greens-efa.eu/public/media/file/1/8361>

⁷ <https://www.iea.org/reports/the-role-of-critical-minerals-in-clean-energy-transitions/executive-summary>

implementing this requirement (art 18.2). Also, the list of relevant environmental and social legislation in annex X should be extended in order to make expectations under article 18(2) more clear and concrete, as the list is very limited at the moment.

In addition to the respect of existing environmental and social legislation listed in Annex X, the following conditions should become the minimum criteria to be eligible for all public procurement bids, while sector-specific requirements would continue to apply:

- Strict respect for the **do no significant harm (DNSH)** principle and implementing guidelines or criteria;
- Existence of a publicly available transformation plan at installation-level (as already required under the [Industrial Emissions Directive](#)), to increase **energy and resources efficiency and shift processes towards phasing out fossil fuels**, including through a switch to renewable energy sources as a priority;
- Compliance with **minimum social and labour standards** (as is already the case to benefit from the subsidies of the [Common Agriculture Policy](#)), in particular:
 - Companies engage in collective bargaining and respect collective agreements;
 - Companies support upskilling and reskilling of workers;
- Companies **do not relocate** their activities to third countries with lower standards, including for reasons of tax avoidance and evasion;
- All multinational corporations should evidence **responsible tax behaviour**⁸ and should publish a full public country-by-country report annually, at least as comprehensive as the Global Reporting Initiative reporting template.

The transition plans under the Corporate Sustainability Due Diligence Directive and the Corporate Sustainability Reporting Directive would provide useful information for ex-ante checks. Enforceable decisions having identified a violation of workers' rights will also have to be [taken into account](#).

A “made in Europe” requirement would not as such guarantee social and environmental outcomes and cannot be a substitute for a security of supply strategy. However, it could be considered for some strategic goods or services for life-saving or strategic reasons. Then, these goods and services should be clearly and limitively defined, adequate regulation should be put in place to shield these sectors from external competition, and the public procurement legal framework could oblige to buy in Europe such goods and services. Defining “made in Europe” in the framework of public procurement would then be needed (cf minimum threshold of EU-origin content of products). To make such a “made in Europe” policy compatible with EU international commitments (under the General Procurement Agreement and Free Trade Agreements), these agreements should be reviewed and, if needed, amended to make them consistent with EU strategic priorities. This would also be an opportunity to reduce their fragmentation and complexity. Any new commitments regarding public procurement liberalisation should be put on hold until there is more clarity on the topic. Clear guidance should be provided to contracting authorities about favouring EU

⁸ For example, exclude companies headquartered or with a subsidiary in tax havens.

operators in public procurement, either for strategic goods and services (obligation), or based on reciprocity provisions in trade agreements (possibility).

If the goal is to promote local jobs, requirements favouring short supply chains and local requirements with social and environmental benefits for local ecosystems should be expressly allowed as exceptions to the equal treatment principle.

EU added value: The PP directives could reduce legal fragmentation and strengthen social and environmental cohesion within the EU. They need to integrate minimal binding social and environmental conditions applying to all Public Procurement. This would be much simpler for companies as conditions would be the same everywhere in the EU. Data sharing tools could strengthen transparency about companies awarded public procurement contracts. They would also lighten the administrative burden on contracting/awarding authorities when checking whether conditions have been met by bidders. With a centralised system and user-friendly templates regarding the five minimal social and environmental conditions, bidding companies would not have to submit the same documents many times. A simpler online template could be made available for MSMEs.

Conclusion

A revised procurement system, with **harmonized EU-wide minimum mandatory social and environmental criteria** would ensure that public spending drives the green transition, economic resilience, and social progress.



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