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BRIEFING

EU Public Procurement Reform
One Regulation to Replace Them All

15 July 2026

A draft text of a proposed EU Regulation on public contracts and concessions has been leaked. The draft would repeal all three existing EU procurement directives – the classical procurement directive (2014/24/EU), the utilities directive (2014/25/EU) and the concessions directive (2014/23/EU) – and replace them with a single, directly applicable Regulation. However, the draft is an internal Commission working document, not yet formally adopted. Its content is therefore subject to change – potentially significantly. Nevertheless, the text reveals the Commission's current thinking on the most ambitious overhaul of EU procurement law since 2014, with far-reaching consequences for public buyers, utilities, concession-holders and their suppliers across Europe.

Key issues

1. Why is the Commission proposing this reform, and why now?
2. How would the new European Preference regime affect suppliers from non-EU countries, including from GPA and FTA partners?
3. What would replace the familiar procurement procedures – the open procedure, restricted procedure, competitive dialogue and innovation partnership?
4. Which new mandatory quality criteria and sustainability obligations would apply?
5. How would the rules on exclusion grounds, eligibility thresholds and abnormally low tenders change?
6. When might the new rules apply, and how likely is this draft to become law unchanged?

Why?

The Commission's decision to reform the 2014 procurement directives reflects a decade of reflection. Successive evaluations have highlighted fragmentation across 27 national legal systems, uneven uptake of strategic objectives (sustainability, innovation, security of supply) and the inadequacy of the current rules to address geopolitical dependencies in supply chains. High-profile contract disputes involving suppliers from countries such as China – and the landmark judgments of the Court of Justice in Kolin (C-652/22) and Qingdao (C-266/22), which clarified that non-GPA/FTA third-country suppliers have no enforceable rights under EU procurement law – have further intensified political demand for a renewed EU-level framework.

Against this background, Commission President von der Leyen's political guidelines specifically committed to a revision of EU procurement rules, emphasising simplification and the introduction of "Made in Europe" criteria for strategic sectors. The draft Regulation is the Commission's answer to this mandate.

The central finding: a single Regulation, not a revision of three directives

The most consequential aspect of the proposal is its form. Rather than amending the existing directives, the Commission proposes to repeal all three of them simultaneously and replace them with a single Regulation – with 141 draft articles, directly applicable throughout the EU without any need for national implementing legislation. This is a deliberate choice. Unlike directives, a Regulation leaves no room for national gold-plating and eliminates the implementation margin that member states have used since 2014.

New procedural framework: the end of open and restricted procedures

The draft abolishes the familiar typology of procurement procedures. In their place, it introduces three new categories.

Open-Negotiated Procedure

This becomes the sole standard procedure for all public contracts and concessions (except where the Dynamic Simplified Procedure or the special procedure under draft Articles 49–51 applies). In structure, it resembles a simplified combination of today's open procedure and negotiated procedure: any economic operator may submit an expression of interest accompanied by an initial tender; the contracting authority then decides – and must announce in advance – whether it intends to negotiate. If it chooses to negotiate, it may do so in multiple rounds, progressively reducing the number of participants based on award criteria; if it does not, it awards the contract directly on the basis of the initial tenders received.

Eligibility criteria are optional under this procedure. If a contracting authority decides not to set selection criteria, all interested operators that are not subject to mandatory exclusion grounds may participate. This is a significant relaxation: it is designed to improve SME access but may create tensions in complex procurements where technical and financial capacity genuinely matter.

Dynamic Simplified Procedure

This new procedure is designed for repeat, off-the-shelf purchases and replaces the existing dynamic purchasing system. It has no eligibility criteria: any operator may express interest, and where more than five expressions of interest are received, the contracting authority must invite at least five selected by random algorithmic determination.

Innovation Challenge Procedure

This replaces the innovation partnership and competitive dialogue. It is a multi-stage process: a public market consultation (at least two months), a solution-proposal selection phase, a testing and validation phase (up to two years, with upfront milestone payments), and finally – if successful – a direct commercial purchase from the validated provider for up to five years without a further competitive procedure. Intellectual property rights, importantly, remain with the economic operator by default.

Framework agreements

Maximum duration is reduced: from four to three years for single-operator frameworks, and changed from four to five years for multi-operator frameworks. The existing utilities exemption allowing framework agreements of up to eight years disappears. This will require utilities and network operators to plan more frequent re-tendering cycles.

Award criteria: quality weighting becomes mandatory

The current MEAT (most economically advantageous tender) concept is replaced by the Best Price-Quality Ratio (**BPQR**), which will apply as the standard system for awarding contracts. BPQR requires a minimum 30% weighting for quality criteria; for labour-intensive contracts (where labour costs account for at least 50% of contract value), the quality weighting floor rises to 50%.

A pure price or cost award is only permissible under a "comply or explain" mechanism: the contracting authority must demonstrate in the competition information notice that quality can be adequately secured through technical specifications or contract performance conditions alone. This is a significant departure from the current regime, under which price-only award criteria are entirely permissible without explanation.

The Commission itself acknowledges in the draft explanatory memorandum that this provision attracted negative observations from the Regulatory Scrutiny Board (**RSB**) in April 2026, with a subsequent positive opinion only granted "with reservations" in June 2026. Revision of the BPQR provisions in the final Commission proposal or in the legislative process is therefore entirely plausible.

The introduction of a mandatory minimum quality weighting under the BPQR regime is unlikely to affect large-scale procurement procedures, as these typically already incorporate quality criteria alongside price. The principal impact will be on smaller procurement exercises, where price-only awards have previously been more common. For companies, this development is advantageous, as it reduces the risk of pure price competition and increases the opportunity for contracts to be awarded on the basis of quality as well as cost.

Exclusion grounds: consolidation and expansion

The draft consolidates exclusion grounds that are currently scattered across eleven separate EU legislative acts into a single catalogue. The number of mandatory exclusion grounds increases from six (under Article 57(1) of Directive 2014/24/EU) to twelve. The new grounds include:

- criminal offences relating to illegal employment of third-country nationals (Directive 2009/52/EC);
- environmental criminal offences (Directive 2024/1203);
- violations of EU restrictive measures/sanctions (Directive 2024/1226);
- fraudulent use of non-cash payment instruments (Directive 2019/713);
- sexual exploitation of children (Directive 2011/93); and
- deforestation-related offences (Regulation (EU) 2023/1115).

Importantly, self-cleaning is expressly restricted to optional exclusion grounds (draft Article 28(2)). Under current law, self-cleaning is in principle available for all exclusion grounds, including mandatory ones.

The consolidation and expansion of exclusion grounds, together with the restriction of self-cleaning to optional grounds, significantly tightens compliance requirements. Companies can no longer remedy mandatory exclusion grounds and avoid exclusion; immediate exclusion will apply without the possibility of demonstrating remedial action.

Eligibility criteria: a major shift in favour of SMEs

Where contracting authorities choose to apply eligibility criteria, the maximum annual turnover requirement is reduced from the current typical ceiling of twice the estimated contract value to 50% of the estimated contract value. This is the single most significant SME-access measure in the entire draft. However, for high-value construction and complex service procurements, it raises new practical questions about how contracting authorities can satisfy themselves of a tenderer's financial capacity without relying on turnover thresholds.

In addition, references to prior experience of public contracts as a selection criterion are in principle prohibited, except where justified by the specific complexity of the contract (draft Article 37(5)).

European Preference: a new regime for third-country suppliers

Draft Articles 69–76 introduce what the Commission describes as a "European Preference" system – a complete novelty in EU primary procurement legislation. The framework distinguishes between:

- "covered" economic operators and goods – those originating from the EU, from GPA signatories, or from countries with which the EU has a free trade agreement covering the relevant sector; and
- "non-covered" economic operators and goods – all others.

A Commission online tool (draft Article 70) will determine whether a particular procurement is covered by international commitments; use of this tool is mandatory for contracting authorities. On the basis of the coverage assessment, contracting authorities may:

- restrict participation to covered operators;
- award price or scoring preferences to covered operators; or
- reject tenders where less than 50% of the goods by value originate from covered countries.

Crucially, the Commission is also empowered to introduce these preferences as mandatory obligations by delegated act (draft Article 74) – without the need for a further co-decision procedure. The Commission may additionally close individual procurements entirely to non-covered operators on grounds of lack of reciprocity, supply chain dependency or security concerns (draft Article 71, also by delegated act).

The Commission has based these provisions on the Kolin and Qingdao judgments, which clarified the extent to which the EU can differentiate between suppliers based on their country of origin in light of international commitments. The judgment confirmed that bidders from third countries cannot generally rely on the protections or rights granted by the EU procurement directives, as these are intended for EU operators and those from countries with which the EU has binding agreements. However, any rules prohibiting third-country bidders to participate must be established at EU level, as only the EU has the legislative authority to determine the conditions for their access. This case provided legal certainty for the EU to introduce preference mechanisms, as long as they comply with its obligations under the GPA and relevant free trade agreements.

The introduction of the "European Preference" system marks a significant shift in EU procurement law, making it considerably easier for contracting authorities to exclude non-EU or non-covered bidders. Foreign suppliers face a heightened risk of exclusion or disadvantage through participation restrictions, price or scoring preferences for EU and covered operators, and potential outright rejection of their tenders.

Security and resilience: a new cross-cutting chapter

Draft Articles 65–68 introduce a standalone chapter on security and resilience with no predecessor in the existing directives. Key elements are:

- A general obligation for contracting authorities to take "appropriate measures" throughout the procurement procedure where security-relevant risks are identified – covering critical infrastructure, cybersecurity, supply chain dependencies and hybrid threats (draft Article 65). The concept of "appropriate measures" is not defined.
- A right to terminate or exclude from a contract during performance on security grounds, subject to a proportionality assessment and, in principle, a prior hearing process (draft Article 66).
- A mandatory requirement to comply with cybersecurity obligations under the EU Cyber Resilience Act (Regulation (EU) 2024/2847) for products with digital elements (draft Article 67).
- Specific resilience and security-of-supply requirements for contracting authorities and contractors that qualify as critical entities under the NIS2 Directive (Directive (EU) 2022/2555) or the CER Directive (Directive (EU) 2022/2557) (draft Article 68).

The Commission is further empowered to adopt delegated acts imposing binding security specifications (draft Articles 65(5) and 68(4)).

The new security and resilience chapter increases requirements not only for participation in procurement procedures, but also for contract performance. Bidders will need to demonstrate robust security and compliance measures throughout both the tender process and the execution of the contract to remain competitive.

Contract modifications: the end of the fixed 50% ceiling

While the current directives already provide for a materiality test and certain exemptions, these are, in principle, subject to a 50% contract value ceiling; meaning that, under Article 72 of Directive 2014/24/EU, modifications are only permitted without a new procurement procedure if their value does not exceed 50% of the original contract; where several successive modifications are made, the 50% limitation applies to the value of each modification individually. Exceeding this threshold generally requires a new tender, as the ceiling is intended to prevent significant changes that could undermine competition or bypass procurement rules.

The draft abandons this ceiling as a permissibility limit. The 50% figure reappears in draft Article 101(5), but only as the trigger for a prior publication obligation, not as a validity threshold.

The absence of an explicit de minimis threshold (which Article 72 of Directive 2014/24/EU currently provides at 10% for services/supplies and 15% for works) is a further source of uncertainty.

Another notable gap is the absence in the draft of a provision equivalent to Article 72(1)(a) of Directive 2014/24/EU, which currently allows modifications that were provided for in the initial procurement documents through clear, precise and unequivocal review clauses. It is possible that the intention is for such modifications not to be considered a "modification of the contract" within the meaning of the Regulation, and therefore to fall outside the scope of draft Article 101. However, this is not expressly stated and may itself give rise to legal uncertainty or dispute.

For clients managing long-term contracts, concessions and framework agreements, this change has immediate implications for how modification risk is assessed, priced and documented.

Sustainability, social criteria and regulatory consolidation

The draft consolidates a wide range of sectoral obligations – currently scattered across directives on energy efficiency (Directive (EU) 2023/1791), corporate sustainability due diligence (Directive (EU) 2024/1760), accessibility (Directive (EU) 2019/882) and others – into five dedicated chapters covering green, social, innovation, security and European Preference requirements. Article 31 of the CSDDD (which imposed specific procurement obligations) is repealed and absorbed into draft Article 2(4) of the new Regulation.

Most significantly, the Commission is empowered to introduce mandatory environmental requirements for specific product categories by implementing act (draft Article 55) – creating a "ratchet mechanism" for green procurement obligations. This means that mandatory green criteria for certain product categories (IT equipment, vehicles, office supplies) may follow without further co-decision.

Accessibility is elevated from a strongly recommended consideration to a mandatory requirement: contracting authorities must apply accessibility requirements when procuring goods, services or works intended for use by natural persons (draft Article 57).

While the Commission can mandate environmental criteria for certain products and accessibility becomes compulsory, most decisions remain at the discretion of contracting authorities. The overall impact is expected to be limited and largely political, with minimal disruption to most procurement processes.

Digital ecosystem and governance

Part V of the draft establishes what the Commission terms a "digital procurement ecosystem". Member states are required to:

- connect national databases (criminal records, tax, insolvency, professional registers, beneficial ownership) to a Commission-operated Electronic Eligibility Service by 15 December 2030;
- establish a National Public Procurement Data Space (NPPDS), linked to an EU-wide Public Procurement Data Space operated by the Commission; and
- ensure that eProcurement service providers are established in the EEA, store all procurement data within the EEA and are not subject to controlling influence from non-EEA persons.

The Commission will operate its own eProcurement service and release the software as open-source. This will fundamentally change the market for procurement platform providers. A Commission-operated Digital Business

Credential Tool will support the "once-only" submission of evidence – operators will no longer be required to submit the same company credentials in every procurement procedure. This is one of the most practically significant simplification measures in the draft.

New planning and governance obligations apply alongside the digital infrastructure: contracting authorities must publish a Needs Plan at the start of each budgetary period (a new obligation with no current equivalent); member states must designate a national coordinating authority and at least one national competence centre; and a seven-year evaluation cycle is established.

The digital procurement ecosystem will streamline and modernise public procurement, increasing efficiency. By integrating databases and enabling "once-only" evidence submission, the new system meets longstanding demands for simplification and benefits both authorities and suppliers.

Legislative timeline and prospects for adoption

The leaked text is an internal Commission draft, not yet formally adopted by the College of Commissioners. The Commission's own documentation reveals that the Impact Assessment was initially rejected by the RSB in April 2026 and only received a positive opinion with reservations in June 2026. Further changes to the draft before formal adoption are therefore expected.

Once formally adopted, the proposal would be submitted to the European Parliament and Council for the ordinary legislative procedure (Article 294 TFEU). Given the political sensitivity of the key provisions – notably the European Preference chapter, the mandatory BPQR and the security and resilience framework – it is virtually certain that the legislative process will involve significant amendments in both the Parliament and the Council. Trilogue negotiations, i.e. informal interinstitutional negotiations bringing together representatives of the Parliament, the Council and the Commission, are highly likely.

On the basis of the 2014 reform as a reference point (which took two years and three months from Commission proposal to publication), a realistic timeline suggests:

- formal Commission proposal: reportedly expected in September 2026;
- trilogue conclusion: 2028 to even 2030; and
- entry into application: at the earliest 2029, given the Regulation's own two-year delay clause (Recital 57).

An unmodified adoption of the current draft is, in our assessment, very unlikely. The European Preference provisions, the mandatory BPQR weighting and the security and resilience provisions are the three aspects most likely to be (substantially) altered during the legislative process.

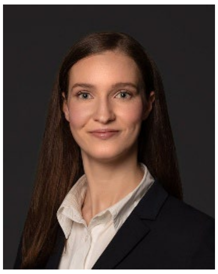
The Commission's decision to propose a Regulation rather than a directive is already facing considerable resistance from 17 Member States, who have expressed a clear preference for a directive. This issue is expected to be a major point of contention in the European Council, and it is unlikely that member states will simply accept such a significant shift in approach without extensive debate and negotiation.

What to do now

No immediate legal action is required in response to this draft: it has no legal effect and may change substantially before the Commission even submits a formal proposal to the Parliament and Council.

However, given the scale of the proposed changes, clients would benefit from using the period before formal adoption to:

- assess supply chain exposure to the European Preference framework, including the GPA and FTA coverage of key goods, services and works categories and of current and prospective bidders;
- review existing award evaluation matrices to understand how mandatory quality weighting at 30% or 50% would affect current sourcing strategies;
- map NIS2/CER/critical entity status within the business or the supply chain, and assess the readiness to comply with the new security and resilience chapter;
- consider how the reduction in permissible turnover-based eligibility thresholds (from c. 200% to 50% of contract value) affects current bid strategy for large-volume procurements; and
- monitor the formal Commission proposal when published and any changes made to the current draft, including in particular the treatment of the Remedies Directive.



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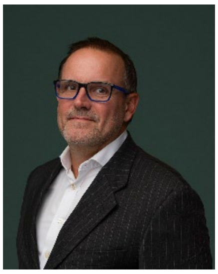

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