



**European Committee
of the Regions**

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OPINION

Evaluation of the Public Procurement Directives

THE EUROPEAN COMMITTEE OF THE REGIONS (CoR)

- welcomes the European Commission’s evaluation of the 2014 Public Procurement Directives, in view of the revision proposal expected for 2026, and recognises it as an acknowledgment of the need to update this pivotal legislation, which has a significant impact on local and regional authorities and their citizens and businesses;
- calls for the revision to consolidate and simplify the general principles already underpinning the procurement framework, ensuring greater coherence and usability; recalls that the directives contain excessively prescriptive and detailed provisions, and that principles are essential to any simplification effort, as they reduce the need for detailed provisions; notes that clearer overarching principles would promote consistent interpretation, reduce litigation and allow contracting authorities to exercise proportionate and reasoned discretion;
- welcomes, for certain well-defined and limited areas of public procurement, the principle of introducing a ‘Made in Europe’ preference to be applied where appropriate by contracting authorities; underlines that clear and objective criteria must be established to determine what qualifies as ‘Made in Europe’ and ‘European supplier’, and what are the specific strategic sectors where the preference is introduced, and that the verification of such compliance should not fall on local and regional authorities but it should enable these authorities to procure EU-products from EU suppliers to strengthen their resilience, security of supply and autonomy;
- underlines public procurement has the potential to further promote social and environmental sustainability, while maintaining the application of green, social and innovation award criteria on a voluntary basis, without detriment to the principle of subsidiarity and self-governance and the practical realities faced by local and regional authorities or SMEs’ participation, and always taking into account market conditions as well as existing national and EU standards; stresses that these criteria in procurement must go hand in hand with simplification, legal certainty and cooperation with economic operators, and only where market availability exists.

Rapporteur:

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Opinion of the European Committee of the Regions – Evaluation of the Public Procurement Directives

THE EUROPEAN COMMITTEE OF THE REGIONS (CoR)

1. welcomes the European Commission’s evaluation of the 2014 Public Procurement Directives, in view of the revision proposal expected for 2026, and recognises it as an acknowledgment of the need to update this pivotal legislation, which has a significant impact on local and regional authorities (LRAs) and their citizens and businesses;
2. underlines that around 14% of the European Union’s GDP is spent via public procurement, and that nearly half (about 45%) of this is managed by local and regional contracting authorities, making it vital that their views and experience are duly taken into account in the revision and that they are structurally involved throughout the drafting and implementation phases of the revision;
3. welcomes the Commission’s recognition of the CoR’s contributions to the evaluation through its 2025 study and Regional Hubs consultation; also welcomes the good collaboration between the Committee and the Commission in gathering evidence during the evaluation process and, in that context, calls for the establishment of a successor to the Fit for Future Platform and the Committee’s involvement in it;
4. welcomes the Commission’s focus on simplifying the public procurement legislation, recognising the significant need to reduce procedural complexity to the benefit of both tenderers and bidders; simpler rules will also contribute to strengthen cross border participation in procurement procedures and to improve the ability of small and medium sized enterprises to bid for public contracts;
5. notes that local and regional contracting authorities, in this regard, are increasingly burdened by strict EU rules, complex legal requirements and excessive administrative constraints, while also facing a shortage of financial and human resources, particularly in smaller municipalities and regions;
6. refers to its 2019 opinion and RegHub consultation on this topic, which had already identified a number of implementation challenges at local and regional level, many of which have been confirmed in the Commission’s evaluation and in the European Court of Auditors’ 2023 report on public procurement;
7. welcomes that the forthcoming revision will draw on the concrete experience of local and regional authorities, which highlights both the merits of the 2014 directives and the areas where further improvement is needed; underlines, that the success of the new framework will ultimately depend on the administrative and technical capacity of contracting authorities, including local and regional authorities, which are responsible for implementing new rules, and therefore calls on the Commission to refrain from introducing additional procedural, reporting and other obligations on LRAs;

8. encourages the Commission to further integrate the territorial dimension into its announced revision proposal and to consider a proper territorial impact assessment to be carried out and integrated into the drafting process; further calls on the Commission that such territorial impact assessment be based on a common methodology producing comparable results across Member States, explicitly assess administrative, financial and competitiveness implications (including effects on SMEs, start-ups and smaller municipalities), include specific indicators for low-density and low-capacity territories (such as availability of economic operators and impact of administrative requirements), use clear scenario-based data to capture differentiated territorial effects, and guarantee the coordinated involvement of regional and local authorities and stakeholders throughout the assessment;
9. notes that cross-border procurement remains too limited, as language barriers, differing legal systems and administrative complexity continue to deter participation from firms established in other Member States; calls for a clarification on cross-border procurement and guidance on how to improve cross-border procurement, while ensuring that national frameworks for below-threshold procurement maintain flexibility without adding unnecessary layers of regulation impacting LRAs and businesses alike; calls on the Commission to provide practical guidance and standard tools to facilitate cross-border participation, including proportionate language arrangements linked to the proper performance of the contract and simplified, standardised documentation and procedures;

The principles of public procurement

10. calls for the revision to consolidate and simplify the general principles already underpinning the procurement framework, ensuring greater coherence and usability; recalls that the directives contain excessively prescriptive and detailed provisions, and that principles are essential to any simplification effort, as they reduce the need for detailed provisions; notes that clearer overarching principles would promote consistent interpretation, reduce litigation and allow contracting authorities to exercise proportionate and reasoned discretion; stresses, in this regard, that such principles alone are insufficient and should be accompanied by clear interpretative guidance and practical examples to prevent divergent interpretations across Member States; acknowledges that such general principles could guide local and regional authorities in their below-threshold procurement without establishing new obligations on them;
11. calls for the revision to introduce a principle of result, under which contracting authorities pursue the award and execution of contracts with appropriate timeliness, quality and value for money, in the interest of citizens and in line with the EU's objectives, including competitiveness and the reduction of unnecessary administrative burdens; underlines that such a principle does not alter existing legal obligations and does not expand judicial scrutiny, but supports administrations in focusing on the substance of procurement rather than on formalism, helping to avoid disputes based on non-material irregularities; notes that a result-oriented approach provides additional clarity for contracting authorities that choose to incorporate strategic objectives into their procurement procedures, while fully preserving local autonomy and the principle of subsidiarity; notes that this principle is consistent with the principle of good administration;

12. underlines that this principle is intended to reinforce, not replace, the established principles of transparency, equal treatment, non-discrimination and proportionality; emphasises that its role is to make those principles more effective by orienting their application towards measurable public value, while maintaining full legal certainty and fair competition; calls for a concise and clearly defined set of accompanying measures – including model examples and peer-learning – to ensure consistent application across Member States, prevent divergent interpretations, strengthen trust in public buyers within a coherent European framework and ensure that the intended reduction in litigation is effectively achieved;
13. calls for a more flexible application of the rules on contract modifications during execution of contracts; considers that the principle of contractual balance would encourage contracting authorities, when facing unforeseen price or market shocks, to prioritise maintenance remedies that restore the economic equilibrium of the contract rather than resorting to termination; notes that such an approach would reduce litigation and ensure continuity in the delivery of public services; a more flexible approach towards contract modifications is also necessary in order secure continuance of contracts when the main suppliers fail to deliver due to bankruptcy, insolvency etc; calls on the Commission to clarify, within the existing framework, proportionate mechanisms that would allow contracting authorities, where justified and subject to appropriate safeguards, to ensure continuity of service, without constituting a substantial modification of the contract;
14. calls for the revision to clarify and codify a general rule of conduct based on reciprocal trust and the protection of legitimate expectations in public procurement, reflecting principles already recognised in Union law; considers that such a rule would support proportionate and cooperative behaviour by contracting authorities and economic operators, reduce litigation driven by minor formal issues, and reinforce the effective application of the principle of result; stresses that this clarification should not create new legal obligations or expand judicial scrutiny, but provide greater legal certainty regarding the allocation of responsibilities throughout the procurement cycle; notes that this could translate operationally into a reduction in non-essential ex ante verifications, balanced by increased requirements for motivation, transparency and accountability;
15. believes that operational risk has limits and is confined to the ordinary contingencies inherent in contractual performance. It cannot extend to changes that are extraordinary, unforeseeable or unrelated to the normal functioning of the market. After all, this distorts the purpose of the contract, it discourages the participation of economic operators, and it may lead to situations of economic unviability incompatible with the general interest. The Directive should provide for economic rebalancing mechanisms in duly substantiated exceptional cases that substantially alter the economic conditions of the contract;
16. calls for clarification and consolidation of the principle of worker protection as an element of fair and responsible competition; points out that compliance with existing labour legislation, collective agreements, and occupational safety and health standards is already required under current directives and forms part of the conditions of equality for all tenderers; in particular, takes note of the evolving jurisprudence on social conditions in award criteria under Directive

2014/24/EU¹, in accordance with national laws and practices; stresses that enhanced implementation of existing requirements can be ensured while fully respecting the diversity of national labour systems and collective bargaining traditions, allowing Member States to apply the most appropriate mechanisms within their legal frameworks; considers that consistent application of existing standards would protect both workers and compliant businesses, and prevent unfair competition based on undercutting social standards;

Public procurement and the current global challenges

17. underlines that the evolutions in the global scenario since the 2014 directives were enacted call for a reassessment of several aspects of public procurement tools and objectives while avoiding unnecessary new administrative burdens; therefore calls on the EU to make optimal use of its purchasing power as a lever to obtain the best possible prices for public goods and services, support the creation of high-quality jobs, foster strategic sectors like defence or energy via joint procurement or long-term power purchase agreements, and encourage investment in innovation; underlines that public procurement can act as a decisive driver of innovation and competitiveness when linked with Europe's venture-capital ecosystem, enabling promising start-ups and scale-ups to test and commercialise solutions through public demand;
18. welcomes, for certain well-defined and limited areas of public procurement, the principle of introducing a 'Made in Europe' preference to be applied where appropriate by contracting authorities; considers that, in strategic sectors, such a principle could strengthen security, resilience and the development of innovative enterprises; emphasises that Europe should position itself at the forefront of developing and deploying low-carbon solutions across hard-to-abate sectors, leveraging public procurement and coordinated industrial policy to stimulate demand and accelerate market transformation; calls, however, for a well-calibrated implementation that fully respects international legal commitments and takes account of operational, supply and market realities; underlines that clear and objective criteria must be established to determine what qualifies as 'Made in Europe' and 'European supplier', and what are the specific strategic sectors where the preference is introduced, and that the verification of such compliance should not fall on local and regional authorities but it should enable these authorities to procure EU-products from EU suppliers to strengthen their resilience, security of supply and autonomy; recalls that any such preference clauses must respect EU competition and trade rules;
19. underlines that public procurement has the potential to further promote social and environmental sustainability, while maintaining the application of green, social and innovation award criteria on a voluntary basis, without detriment to the principle of subsidiarity and self-governance and the practical realities faced by local and regional authorities or SMEs' participation, and always taking into account market conditions as well as existing national and EU standards; stresses that these criteria in procurement must go hand in hand with simplification, legal certainty and cooperation with economic operators, and only where market availability exists;

¹ See cases C-115/14 *RegioPost* (17 November 2015), regarding the compatibility under EU law of the Rhineland-Palatinate law of 1 December 2010 guaranteeing collective agreements and a minimum wage in public procurement, and the more recent pending case C-210/24 *AESTE* (opinion AG, 3 July 2025), concerning a Spanish local authority's procurement criterion favouring companies that exceed sectoral collective-agreement wages.

20. emphasises the importance to LRAs to be able to cover risks to national security also outside of the Defence Directive (2009/81/EC) and calls for measures to make it possible to exclude not only tenderers or their subcontractors to prevent risks to (national) security of vital interest, but also the use of products or parts or services that represent such risks, including the possibility of establishing a recognition scheme for public procurement, similar to the Utilities Directive, focussing on security risks (for example IT security services);
21. observes that the application of the best price performance ratio, defined as the most economically advantageous tender award criterion when the evaluation parameters comprise more than price or cost only, has so far not sufficiently improved competition in practice; notes that many environmental, social and quality standards are already embedded in project design and technical specifications; insists, that the revised framework should continue to make broad use of the best price performance ratio to promote value-based procurement that rewards innovation and social and environmental performance, while avoiding any mandatory application to all procedures, which would increase administrative burden, particularly in smaller contracts; emphasises the need for a thorough impact assessment of the effects of these changes, particularly for local and regional authorities, SMEs and start-ups; calls for a reconfiguration of the concept of ‘criterion linked to the subject matter of the contract’ in a way that is clearer for application by Member States and in line with CJEU case law;
22. recommends that the Commission evaluate the experience of jurisdictions where specific obligations to use the most economically advantageous tender criterion have been introduced for specific contract areas in which quality is essential – such as social and care services, hospital and school catering, labour-intensive services, engineering and architectural services, integrated projects, competitive dialogues, innovation partnerships and contracts involving high technological or innovative content – in order to assess the efficacy of such provisions;
23. calls for a clearer and more consistent EU framework on subcontracting; stresses that measures should be developed to strengthen transparency and compliance with existing social, environmental and labour standards along the entire supply chain, supporting fair competition while avoiding unnecessary administrative burdens, and limiting, where appropriate, cascading subcontracting, while ensuring effective application of existing requirements throughout the subcontracting chain; underlines that such measures would combine open competition with resilience, security of supply and the EU’s strategic autonomy; considers that, in sectors of high public interest such as green technologies and digital innovation, targeted subcontracting to SMEs could support industrial capacity and innovation, provided that such mechanisms remain proportionate and non-discriminatory;
24. points out that, in relation to reserved contracts for certain services of a social nature under Article 77, the requirement that a contract not be awarded to an organisation that has been awarded such a contract within the past three years has not been applied in practice given the fact that it hinders the continuity and stability needed for the provision of this type of service;
25. calls for concrete measures for regional and local public services of a non-cross border nature, such as child and youth care, elderly care, food services, sport facilities, and housing for

homeless people and refugees, as they are not provided under European market conditions, and the regional and local context is of greater importance; these measures would better serve the underlying purpose: the fair and just distribution of primary social goods in liberal democracies;

Simplifications and clarifications

26. urges the Commission to ensure that its revision proposal takes into account all relevant EU sectoral legislation that systematically interacts with the public procurement rules, as stressed in both the European Commission evaluation and the CoR contributions; stresses the importance of addressing such sector-specific legislation separately and consistently within the revision process, in order to better distinguish a general procurement directive focused on how to buy and sector-specific legislation focused more on what to buy; notes the need for greater coherence between different regulatory frameworks affecting public procurement;
27. calls on the Commission to review and raise the procurement thresholds so that they reflect, at the very least, price developments and inflation; notes that promoting convergence below threshold through guidance and shared principles can strengthen the internal market while preserving flexibility appropriate to local and regional contracts; recalls the need for all relevant sector-specific EU legislation linked to procurement to be taken into account consistently in this revision process;
28. recommends allowing contracting authorities to adopt any simplification measures that do not compromise transparency, for example by extending to all procurement cases the possibility provided in Article 56(2) of Directive 2014/24/EU to verify compliance with selection criteria only for the winning bidder; considers that this would avoid unnecessary and burdensome checks on all participants, making procedures faster and more proportionate without reducing legal safeguards; recommends combining this simplification with data-driven, ideally automated checks, avoiding redundant bureaucracy for managers and operators;
29. notes that a lack of flexibility during procurement procedures and during contract execution may in some cases limit cooperation and hinder optimal solutions; calls therefore for the revised framework to provide clearer and more proportionate possibilities for the use of negotiated procedures, such as the competitive dialogue and the competitive procedure with negotiation, and for adjustments during execution, without undermining transparency, competition or legal certainty; stresses that more streamlined regulation should facilitate the use of all forms of public procurement for innovation, including pre-commercial procurement, innovation partnerships and partnership for innovation, allowing contracting authorities to adopt innovative solutions with greater speed and flexibility; notes that technical specifications should be formulated in functional terms where appropriate to promote innovative and efficient solutions;
30. endorses the Commission's assessment that the European Single Procurement Document (ESPD) needs revisions; underlines that this should be accompanied by clearer and more responsible use of discretion in non-automatic exclusions, balancing market integrity with the presumption of innocence; calls for a more uniform and evidence-based EU framework on self-cleaning, ensuring that timely and verifiable corrective measures by economic operators are duly taken into account; stresses that exclusion systems must effectively prevent rogue operators

from accessing public contracts, while allowing Member States to introduce additional proportionate grounds for exclusion where justified, simultaneously increasing proportionate use of discretion in non-automatic exclusions, balancing market integrity with presumption of innocence and legal certainty;

31. notes that Article 56(3) of Directive 2014/24/EU allows contracting authorities to request clarifications or missing documents, but remains too generic and creates uncertainty about what can be corrected without affecting competition; calls for a clearer and uniform rule at EU level distinguishing: (a) purely procedural assistance limited to administrative integrations or clerical errors; (b) a strict ban on modifying the technical or financial substance of offers; and (c) the possibility of spontaneous pre-opening corrections through secure and traceable electronic systems, e.g. by requiring tendering platforms to incorporate an automatic pre-submission validator (checklist / traffic light system) that would flag missing documents or clerical errors before the bid is submitted but would not have access to technical or economic content; underlines that such clarification would reduce burdens and litigation and facilitate proportionate use of market dialogue and innovative procedures;
32. calls for the use of voluntary regulatory sandboxes to test innovative approaches; considers that such controlled experimentation can help identify workable simplifications, assess the impact of digital and sustainability criteria, and serve as a basis for future EU guidance, including, where appropriate, testing expedited procedures for major emergencies or social emergencies, in line with transparency and integrity requirements;
33. believes that ex ante market dialogue mechanisms should be bolstered, especially when it comes to innovative sectors, complex projects and social services, ensuring that their use is proportional, transparent and duly documented without being interpreted as distorting competition;
34. considers that ‘in-house procurement’ and ‘public-public cooperation’ and ‘horizontal procurement’ have proven useful for certain specific public contracts and often lead to the best long-term solutions; therefore calls on the Commission to include in the revision provisions that extend these types of procurement, for example that jointly owned companies should be able to buy from their owners without it being considered that this distorts competition in related markets, while safeguarding the freedom of LRAs to organise public service delivery, including through public-public cooperation, without prejudice to the need to maintain guarantees of non-distortion of competition and traceability of decisions on self-organising; calls on the Commission to revise the current Directive’s concept of public-public procurement, with the cooperation being recognised in the revised Directive as any contracts or agreements concluded between two or more contracting authorities; the activity criterion does not fulfil any function in public-public procurement and should therefore be deleted;
35. emphasis the need to clarify and simplify the rules governing framework agreements and dynamic purchasing systems in order to enhance their practical usefulness for contracting authorities, while ensuring sufficient legal certainty, transparency and flexibility;

Professionalisation of the public buyer role

36. calls for a comprehensive EU strategy to professionalise public buyers at all levels, with a specific focus on local and regional administrations, without restricting local and regional autonomy, both in terms of training and professionalism; considers that the Commission's 2017 recommendations on the professionalisation of public procurement should matter for the revised framework; recommends the development of modular training programmes, helpdesks and advisory services, coordinated with cohesion and reform instruments based on a common professional competence framework that includes career management to attract and retain talent in public procurement; recommends an EU-wide framework for professionalisation, including 'smart buyer' roles for innovation-oriented projects, and dedicated competence centres providing training, model documentation and legal support; emphasises that integrity should be incorporated into this professionalisation strategy as an intrinsic part of professional conduct; stresses that this strategy should be financed through EU funding programmes and avoid imposing any obligation to establish new structures at local level;

Digitalisation and transparency

37. believes that digitalisation should be a key element in lowering costs and streamlining public procurement, including reducing the administrative burdens, improving efficiency and competitiveness, enhancing transparency and facilitating access for SMEs and cross-border bidders; underlines that digitalisation, if properly implemented, can serve many of the core objectives of the reform but that these benefits are not automatic; warns that fragmented and overly rigid digital requirements could simply add new burdens instead of reducing them; calls therefore for digitalisation to be preceded by simplification, and for the implementation of interoperable and user-friendly systems based on common data standards, enabling full traceability and automation, including with the use of artificial intelligence, across the entire procurement cycle, from planning to contract execution and monitoring; underlines the need to strengthen the existing common European vocabulary of public procurement data, ensuring its effective adoption by contracting authorities; calls for a system of mutual recognition between Member States' tenderer registers to facilitate rapid access to updated information and reduce documentation requirements for economic operators;
38. with regard to the management of public procurement, reiterates the need for an approach to transforming award procedures that is based on a digitalised design and a data-centric rather than a document-centric configuration. In addition to moving towards electronic procurement, it is necessary to develop procedures that are not document-centric. Among other things, this should enable processes to be redesigned and guarantee that the data to be used to properly monitor and check public procurement is of good quality across the board; likewise, it is necessary to provide a specific legal regime for the use of AI in the area of public procurement, thereby guaranteeing a framework of legal certainty;
39. recognises that e-procurement has brought tangible efficiency gains and cost reductions in many regions, yet also introduced new barriers for smaller enterprises and small contracting authorities and entities lacking digital capacity; urges the European Commission and Member States to combine digitalisation with capacity-building measures; encourages the Commission to

support the development of digital infrastructure that makes it easier to tender and bid while ensuring that data collection requirements do not create disproportionate administrative burdens for local and regional authorities; calls for improved interoperability of procurement data to support competition and market transparency through standardised datasets accessible to competent authorities under appropriate confidentiality safeguards; stresses that such data should also support competition-law enforcement, enabling the detection of bid-rigging indicators; recommends that business registers in Member States ensure access to registration information in interoperable digital formats;

40. recommends systematic monitoring and evaluation of procurement performances during the execution phase and calls for the revision to allow contracting authorities to track and report key performance indicators and to take past supplier performance into account when awarding new contracts, which would improve risk management during the execution phase, but without penalising competition or the entry of new suppliers (young companies or innovative SMEs with no track record); considers that some of these key performance indicators need to be set at European level, in order to ensure the comparability of results between Member States and make the monitoring of the performance of contracts more consistent across the EU;

SMEs, start-ups and social economy organisations

41. acknowledges that simplified procedures for SME have produced uneven results across the EU; stresses that for SMEs, start-ups and social economy organisations heavy documentation requirements and complex eligibility conditions continue to discourage their participation; calls on the European Commission to promote genuine simplification through proportionate documentation requirements and greater flexibility for small contracts, while ensuring that any additional measures to support SME participation remain proportionate and non-discriminatory;
42. reiterates that clear and harmonised rules on associative participation in public procurement – including consortia, temporary groupings of undertakings and reliance on the capacities of other entities – that specify the liability regime of the participating entities are essential to guarantee fair competition and equal access, while ensuring that each part of a contract is performed by operators holding the necessary and specific qualifications, and avoiding the risks of low quality, social dumping and unfair competition; underlines that such clarity would preserve the freedom of operators to associate while preventing legal uncertainty and excessive administrative burdens arising from divergent national transpositions;

43. recognises that facilitating access for smaller operators can be supported by dividing contracts into lots where market conditions allow, while ensuring proportionality to avoid collusive behaviour; notes that current rules already permit contracting authorities, in line with subsidiarity and proportionality, to make such assessments based on market circumstances and that consistent application of existing provisions benefits local and regional authorities;
44. calls on the Commission to clarify the concessions framework, particularly: (a) operational risk transfer requirements, establishing that substantial demand, performance or availability risk must be borne by the concessionaire, with sector-specific guidance rather than rigid thresholds; (b) end-of-contract asset valuation rules, requiring predetermined methodologies for compensating non-amortized investments and transferable assets, based on book value or market value as specified in contract terms; (c) recognition that legal concession classification and ESA 2010 statistical treatment serve distinct purposes and must be addressed separately, while both remaining relevant for proper concession governance; (d) privately-initiated projects should be encouraged through flexible procedures, like the competitive dialogue, and adequate award criteria that reward documented design and development contribution offered by project promoters, including measurable performance indicators, and transparent rules protecting efficient investments against expropriation; (e) recognition of energy power purchase agreements as specific PPP application, enabling competitive procurement of renewable energy through long-term contracts.

Brussels, 4 March 2026.

*The President
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Petr BLÍŽKOVSKÝ

I. PROCEDURE

Title	Evaluation of the Public Procurement Directives
Reference(s)	
Legal basis	Art. 307, 1 TFEU
Procedural basis	Rule 41(d)
Date of Council/EP referral/Date of Commission letter	16 July 2025
Date of Bureau/President's decision	23 September 2025
Commission responsible	Commission for Economic Policy (ECON)
Rapporteur	Roberto Gualtieri (IT/PES)
Discussed in commission	25 September 2025
Date adopted by commission	27/1/2026
Result of the vote in commission	Majority
Date adopted in plenary	4 March 2026
Previous Committee opinions	Public Procurement Package, CDR99-2012 Implementation report on public procurement, CDR-1136-2019
Subsidiarity reference	Not applicable