Policy brief 2026/05

The new Public Procurement Act: What It Means for Workers and Trade Unions

Brussels, 16 September 2026

Background

The European Commission published, on **9 September 2026,** its long-awaited revision of the EU Public Procurement Directives, called the **Public Procurement Act** (link here). Before that, a leaked version had circulated ahead of the summer. It revealed plans to replace the three existing Public Procurement and Concessions Directives with a single Regulation and to introduce a **more strategic approach to public procurement**, with greater emphasis on quality, European preference, environmental and social objectives, innovation, security and resilience, while also simplifying and modernising the procurement rules.

As part of this process, the Commission launched a consultation process in November 2025, with a public consultation running until 26 January 2026. In parallel, the Commission engaged with social partners through dedicated hearings, including a hearing on 23 April 2025 and 13 January 2026. IAE responded to the public consultation (see here) and participated in the different social partners' meetings. IAE also adopted its position on public procurement in November 2025. The ETUC and ETUFs also sent a letter to the Commission on 29 May 2026.

Trade unions have long urged the Commission to reform the Public Procurement Directives so that public funds and contracts **promote quality employment in Europe and collective bargaining, rather than fuelling unfair competition and a downward spiral in working conditions and standards**. In a nutshell, the reform seems to move in the right direction regarding the concerns raised by the trade union movement. For the first time, the Commission introduces **minimum quality criteria** that can include social considerations, through the "best price-quality ratio method", and explicitly recognises the **importance of collective bargaining** in public procurement rules. The reform has the potential to bring about real progress in reforming EU public procurement law. However, it could be further improved, in particular by making the social and environmental conditionalities really binding, strengthening the European preference and addressing subcontracting.

Next step: The proposal will now be presented to the European Parliament and the Council. Both the European Parliament and the Member States should build on it to ensure that companies whose workers are covered by collective agreements are given preference in the awarding of public contracts, as part of mandatory social conditionalities. In particular, it is essential that Member States and contracting authorities maintain the possibility to go beyond EU minimum standards to achieve stronger social outcomes, and ensure there is no risk of regression from the current situation.

Key points

1) ***BPQR (best price-quality ratio) - End of the lowest price criteria:*** We fully support removing the possibility to award public contracts on the basis of price only (lowest price). This is a very important step forward in public procurement. BPQR and minimum quality criteria (of 30% or 50% for labour-intensive contracts) become the rule. However, there are some possibilities for derogation (Article 98.5) that leave the door open for public buyers to circumvent this obligation.
2) ***European preference:*** A European preference is crucial to stimulate EU demand, promote European industry, create quality jobs in Europe, and support the twin transition. Here, contracting authorities would be able to restrict participation to EU and other treaty-covered suppliers, and require goods and services to have a minimum EU or "covered" origin. This is a step in the right direction, but we have some concerns about the very broad range of economic operators, goods, services and works from third countries that could be considered as "covered", and which could dilute the proposal. This debate is closely linked to the IAA.
3) ***Social conditionalities:*** Recognition of the importance of collective bargaining is there, and this is a major improvement compared to the draft. This is also a victory for the trade union movement, following years of advocacy on this issue to ensure that the importance of collective bargaining in public procurement is recognised. Article 55 expressly mentions high-quality jobs and acknowledges collective bargaining. Article 4(4) says buyers shall ensure compliance during contract performance with applicable social and labour obligations arising from law and collective agreements. Annex II includes the fundamental ILO freedom-of-association and collective-bargaining conventions. However, Article 55 is still not formulated as an obligation for contracting authorities. A significant mandatory award criterion linked to collective bargaining should therefore be introduced in the future negotiations.
4) ***Environmental conditionalities:*** Article 54 introduces binding requirements for specified product categories (products under the following legislations: Construction Products, Ecodesign/ Sustainable Products, Batteries, Packaging, Net-Zero Technologies, Heavy Duty Vehicles, Cars…) and allows further mandatory requirements. However, general green procurement mentioned in Article 50 remains discretionary.
5) ***Subcontracting:*** Article 24 of the proposal gives additional transparency, replacement and national safeguard provisions. It says that the contract awarded to the economic operator shall not be subcontracted in its entirety and mainly contains information obligations regarding subcontractors. This is clearly not enough to address all the problems linked to subcontracting, especially in the manufacturing sector: opacity, long subcontracting chains, and a lack of traceability and transparency. We need a comprehensive, binding and cross-sectoral framework guaranteeing full chain liability, limiting subcontracting chains, prohibiting the subcontracting of core business activities, ensuring equal treatment of workers throughout the chain, regulating labour intermediation, and guaranteeing transparency and effective enforcement of social rights and obligations throughout subcontracting chains. Direct employment should remain the norm, with subcontracting chains limited to one level or, in exceptional and duly justified cases, to a maximum of two levels. Public buyers should lead by example on this issue, and the Public Procurement Act could provide a good opportunity to strengthen the legal framework.
6) ***Directive vs Regulation:*** Strong concerns about the proposal to replace the existing Directives with a Regulation, as this could make it more difficult for Member States and contracting authorities to go beyond EU minimum standards and achieve stronger social outcomes. It risks removing the transposition margin that has allowed Member States, such as Germany, to develop more ambitious collective agreement compliance models. It must be clear that the text should act as a ceiling, rather than a floor that constrains governments wishing to go further on social criteria.

Assessment of the text

The Commission proposes	IndustriAll Europe's analysis
Scope and principles *Part I - Title I* *Articles 1-6*	
Subject matter and scope Regulation establishes rules on public contracts and concessions for work, supplies or servicesby one or more public buyers from one or more economic operators, when they are equal to or above certain thresholds.	General comments: • We welcome the clear guiding principles, in particular compliance with obligations relating to collective agreements and by the international environmental, social and labour law. • We are fully aligned on the strategic goals. Public procurement reform and public spending more generally should contribute to achieving these different objectives (reinforcing the European Union's manufacturing and industrial base, achievement of climate and environmental objectives, pursuit of a fair and inclusive society, EU's economic security, including through strategic independence). **The new Article 5 now expressly includes social justice, fair working conditions and an inclusive society, including as fostered by social dialogue**, alongside the manufacturing/clean industrial base, climate objectives and security/resilience. • The scope seems very broad: it aims to repeal three different directives and amend 11 additional legislation (including on waste shipment, construction products, batteries and battery waste, packaging and packaging waste, energy efficiency, CSDDD, plus some others on waste, services and raw materials). <u>We must be cautious about possible reopening of these pieces of legislation and ensure this will not be used as a tool to further roll back provisions such as those contained in the CSDDD.</u> • No changes in the thresholds – it's more about centralising and harmonising the three concerned Directives.
Guiding principles • Equal treatment of suppliers, without discrimination. • Principle of good administration and in the interest of the citizens whom they serve. • Objective to ensure that public contracts provide the best quality for money. • Compliance with obligations relating to the strategic goals, as established by European Union law, national law, or collective agreements, and by the international environmental, social and labour law provisions listed in Annex II.	
Thresholds (a) EUR 5,404,000 for public works contracts and for concessions. (b) EUR 140,000 for public supply and service contracts awarded by central government authorities listed in Annex I. (c) EUR 216,000 for public supply and service contracts awarded by sub-central contracting authorities organised by such authorities. (d) EUR 432,000 for supply and service contracts by contracting entities operating in utilities. (e) EUR 750,000 for contracts awarded pursuant to Article 58.	
Strategic goals	

(a) Boosting the European Union's competitiveness through a thriving internal market, closing the innovation gap and reinforcing the EU's manufacturing and industrial base (b) The achievement of climate and environmental objectives of the European Union (c) The pursuit of a fair and inclusive society, **including as fostered by social dialogue** (d) The Union's economic security, including through strategic independence	
Utilities *Part II – Title I – Chapter 2* *Articles 11-19*	
There are some sector-specific provisions for gas and heat, electricity, water, transport services, ports/airports, postal services, Energy sources extraction and exploration (oil/gas). Section 2 mentions several exemptions for particular utilities, for activities directly exposed to competition.	Many sectors mentioned fall within the remit of iAE. This Chapter broadly confirms that public network activities, such as energy, water, transport, ports, airports and postal services, are within the procurement rules, with limited exemptions.
Subcontracting *Article 24*	
Article 24 on subcontracting mentions: *Parts of the public contract may be subcontracted. A contract awarded to an economic operator shall not be subcontracted in its entirety, nor be further subcontracted in its entirety.* It mainly contains obligations for public buyers to request and provide information about the subcontractor. The Article also mentions that, when justified by the nature of the contract, and in accordance with the principle of proportionality, public buyers may require that certain critical tasks be performed directly by the main contractor. There are also some provisions that ensure that, where a public buyer has applied European preference or security requirements, these requirements also apply to any subcontractor introduced or replace an existing one. However, its scope is limited to preventing circumvention of these specific requirements and does not establish broader rules governing subcontracting.	As mentioned, this is not enough to address all the problems linked to subcontracting, especially in the manufacturing sector: opacity, long subcontracting chains, and a lack of traceability and transparency. Here, the provision only encourages public buyers to require specific/critical tasks to be carried out directly by the main contractor, but it's not an obligation. Subcontracting is precisely where exploitation and labour rights violations occur, and this is something the Commission recognised in the Recital 12. In the second stage consultation on the Quality Jobs Act, the diagnosis made by the Commission also correctly identified these challenges. However, the measures envisaged are also insufficient. We need a comprehensive, binding and cross-sectoral framework guaranteeing full chain liability, limiting subcontracting chains, prohibiting the subcontracting of core business

	activities, ensuring equal treatment of workers throughout the chain, regulating labour intermediation, and guaranteeing transparency and effective enforcement of social rights and obligations throughout subcontracting. Direct employment should remain the norm, with subcontracting chains limited to one level or, in exceptional and duly justified cases, to a maximum of two levels.
Exclusion grounds *Chapter 2* *Articles 25-27*	
Articles 25-27 on Exclusions grounds The provisions distinguish between mandatory and optional exclusion grounds in public procurement. Under Article 25, contracting authorities must exclude companies convicted of serious offences, such as corruption, fraud, money laundering, terrorism or environmental crimes, as well as companies that fail to meet tax or social security obligations, subject to limited exceptions. Article 26 allows, but does not require, exclusion for issues such as serious professional misconduct, anti-competitive agreements, insolvency, poor performance of previous contracts or false information. Companies may generally avoid exclusion by demonstrating effective **self-cleaning measures**, such as compensation, cooperation with authorities and preventive organisational reforms. Public buyers must exclude an economic operator when it or its key persons have a final criminal conviction for serious offences, such as corruption, fraud, terrorism, money laundering, human trafficking, environmental crimes, sanctions violations… The exclusion generally lasts five years from the final judgement.	From a trade union perspective, these exclusion provisions are positive because they can prevent companies involved in serious misconduct from benefiting from public contracts (and public money), which is obviously a good thing. **However, if labour law violations can lead to exclusion, it's only on an optional basis.** In addition, the framework appears more focused on criminal, financial and corporate integrity than on workers' rights and collective bargaining. In particular, serious or repeated violations of labour law, collective agreements, freedom of association, or trade union rights should constitute stronger and mandatory grounds for exclusion. Public procurement should not reward companies that undermine decent working conditions or bypass collective bargaining, especially where public money is involved. Comment shared by ETUC: It is essential to stamp out unfair competition by excluding economic operators that have not respected (or whose subcontractors have not respected) trade union and workers' rights and labour obligations from public procurement processes. The same should apply to tax and social security evasion/ avoidance.
Title II **Strategic design and execution of public procurement** **Chapter 1** **Green Public Procurement** *Article 50*	

Article 50 on Green Public Procurement Focus on Green PP, circular economy and resource efficiency, energy efficiency, specific requirements for certain products. Two objectives: - reducing adverse environmental and climate impacts or pursuing positive environmental and climate impacts throughout their life cycle Environmental considerations listed: *climate change mitigation and adaptation, including emission reduction, the sustainable use and protection of water and marine resources, quality and environmentally friendly production of food, the transition to a circular economy, pollution prevention and control, or the protection and restoration of biodiversity and ecosystems.* Provisions to promote circularity and resource efficiency as well as energy efficiency. Important to note: Article 54 mentions that buyers purchasing products covered by Annex VII (= Construction Products, Ecodesign/Sustainable Products, Batteries, Packaging, Net- Zero Technologies, Heavy Duty Vehicles, Cars & Light Commercial Vehicles, Tyres) **shall include relevant environmental characteristics**, and the Commission may establish further mandatory requirements by delegated act.	Important point in the final text: Article 54 introduces binding requirements for specified product categories and allows further mandatory requirements. However, **general green procurement remains discretionary** and is not formulated as an obligation for public buyers: *Public buyers may take environmental and climate-related considerations into account when procuring...* Making green public procurement optional for public buyers is a significant shortcoming. Environmental objectives should not be treated as merely discretionary, since public procurement represents an important lever for achieving a Just Transition and creating quality jobs. Green criteria should therefore be accompanied by binding social conditions (link with Article 55, see below).
Chapter 2 **Socially Responsible Public Procurement** *Articles 55-58*	
Recital 8 mentions: *Taking into account the diversity of national systems and respecting the autonomy of social partners, public buyers can use socially responsible public procurement to support high-quality jobs and social fairness, including through acknowledging the role of collective bargaining.* **Article 55 expressly includes high-quality jobs, collective bargaining, working conditions, training/upskilling, gender equality, social economy and human-rights protection in**	This is where we notice the biggest improvement compared to the draft version. **The role of collective bargaining is now explicitly mentioned and it's an important victory for the trade union movement.** However, the text is still not formulated as a binding obligation. Companies covered by collective agreements must be clearly privileged in the EU Procurement Act. This is where the European Parliament and the Member States will have to make sure companies whose workers are covered by collective agreements are given

relevant supply chains, especially in Article 5.2 (b).	preference in the awarding of public contracts, as part of mandatory social conditionalities. Public procurement is one of the most effective tools to increase collective bargaining coverage and support the EU target of 80% (Min. Wages Directive). The core principle should be clear: public money must support quality jobs in Europe, collective bargaining and social progress, not reward employers that undercut them.
Chapter 4 **Security and Resilience** *Articles 65-68*	
Articles 65–68 strengthen security, resilience and continuity in public procurement by requiring public buyers to assess risks such as critical supply dependencies, cybersecurity, geopolitical instability and disruption of essential services. The provisions allow buyers to require diversified supply chains, EU-based stockpiling, business-continuity plans, crisis capacity and supply chain transparency. Article 66 specifically refers to termination of contracts or exclusions during contracts for security reasons.	To be assessed more in detail, but this is broadly positive to protect EU strategic manufacturing capacity and reduce excessive dependence on third country suppliers. It can also create an opportunity to connect public procurement with long-term industrial policy and secure employment in Europe. However, the provisions focus heavily on security and economic resilience without explicitly guaranteeing workers' rights, quality employment or collective bargaining as part of resilience. Risk of circumvention: requirements such as diversification or flexibility could be used by companies to increase outsourcing, subcontracting or work intensification while presenting these measures as security necessities.
Chapter 5 **European Preference**	
Chapter 5 introduces the possibility of giving preference in public procurement to European and "covered" economic operators, goods, services and works. Public buyers may restrict participation, require a certain share of EU-origin content, or give additional evaluation points to tenders with a higher proportion of European or covered production.	Positive step because public procurement can be used much more strategically to strengthen European industrial capacity, support resilient supply chains and create demand for manufacturing within the EU, and secure and maintain employment base in Europe. As mentioned by the Commission, it is an issue of preserving EU essential security interests. Several comments:

The rules also allow restrictions where third country dependencies could threaten security of supply. Publicly accessible online tool to be created by the Commission. Delegated acts to determine what is "covered" from third countries. Restriction necessary to protect public order/safety and EU essential security interests. The Commission would be able to impose mandatory European preference measures or close specific procurement markets to suppliers from third countries not covered by EU international procurement commitments where justified by security, resilience or reciprocity concerns. New compared to the draft version: "Covered" status includes not just GPA (WTO Governemnt Procurement Agreement) parties and bilateral/multilateral trade-agreement partners but **also countries linked through a customs union agreement (= mainly Turkey).** **In general, coverage is procurement-specific, depending on the relevant commitments.**	○ If no safeguard, there is a risk of having a very broad approach of economic operators/goods/services/works from third countries that would be covered. For example: - WTO Government Procurement Agreement = **22 countries including the EU.** - Or a country that has concluded a bilateral or multilateral trade agreement. **The EU currently has a network of 45 preferential trade agreements with 80 partners worldwide** (source: DG TRADE). - Customs union agreement: **this refers mainly to Turkey**. However, it is crucial to note that all these countries will not automatically be included or covered. There are some reciprocity criteria. ○ Some restrictions will be possible and mandatory according to Article 75, if there is no reciprocity and no respect of its commitments by the third country concerned. ○ Public buyers may restrict participation only to economic operators and subcontractors originating in the European Union "and those that are covered" (but the latter can be quite broad). Also, this is not formulated as an obligation. ○ They may apply a reduction % to the price of the tender (only for evaluation/ranking) where submitted only by an EU or covered economic operator, or reject a tender if the value of covered goods/services/works is below 50% of the total value of the tender. ➔ The "covered" products, works and services from third countries will be a determining factor, and the Commission's decisions concerning this coverage must be taken in a transparent and accountable manner. ➔ Concerns about a too broad scope, which could dilute the impact of the Public Procurement Act. It must be ensured that the reciprocity will apply. ➔ Could be formulated as an obligation for public buyers.

	➔ Risks of circumvention (Article 76 and exceptions are too broad). ➔ For us, Made in Europe must help protect and develop Europe's productive capacity and quality jobs, safeguarding local production and strengthening strategic autonomy and resilience. It should secure and strengthen European value chains and apply to the EU and to countries structurally integrated into the Single Market through regulatory alignment and participation in its rules-based framework, including EFTA countries, candidate countries and the UK. To be assessed in line with the "partner countries" concept introduced by the Council on the IAA.
Title III - Horizontal provisions/Chapter 1 Excluded and mixed contracts *Article 78 Defence and security contracts*	
Exclusion of defence contracts from the scope.	
Best quality criteria *Article 93-96* *Award criteria, abnormally low tenders*	
Article 98: ***Public buyers shall award the contract to the economic operator that offers the best quality for money***, according to the best price-quality ratio method. There would be a binding minimum quality weighting of 30%, rising to 50% for labour-intensive contracts, unless companies can justify relying on price alone. **Environmental, social, innovation, security and resilience considerations can all count in the quality assessment.** Article 101 mentions that public buyers shall require tenderers to explain the price when abnormally low.	This is very positive. It would improve the procurement rules by **making best price-quality ratio the standard award method, with quality criteria as the default rather than an option.** General comments: - Labour-intensive contracts and link with the manufacturing sector to be clarified. - The percentages of 30 or 50% **are a minimum and mandatary.** - Article 90 recognises that public authorities can include criteria regarding working conditions of the employees carrying out a contract as part of its "subject matter". - Important opportunity to ensure that public money contributes to quality employment, collective bargaining and Europe's industrial base, rather than encouraging competition primarily on the basis of cost.

	- Risks of circumvention: contracting authorities can avoid complying with these requirements if they explain how quality is already sufficiently guaranteed through technical specifications or contract performance clauses.