



Final
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EUDA POSITION PAPER ON THE REVISION OF THE EU PUBLIC PROCUREMENT DIRECTIVES

Executive summary

Key EuDA Recommendations in view of the 2026 revision of the Public Procurement Directives:

1. **Recognise dredging as a European strategic service:** The revised Public Procurement Directives should **recognise dredging as strategic services** and **grant European preference** to EU dredging contractors in EU public procurement procedures, particularly in security-sensitive projects.
2. **Exclusion of non-EU Operators:** The revised Public Procurement Directives should integrate the 2019 European Commission Guidance into the Public Procurement Directives to **mandatorily exclude non-EU operators** (without WTO Agreement on Government Procurement -GPA-/Free Trade Agreement with the EU) or with a documented history of anti-competitive practices (e.g. dumping and subsidies) or of highly suspicious competition behaviour targeting the EU.
3. **Environmental and Employment Standards:** The revised Public Procurement Directives should align procurement with the Green Deal objectives, promote high EU labour standards, and consider whole-life value when awarding contracts.
4. **Abnormally Low Tenders (ALT):** The revised Public Procurement Directives should strengthen the provisions of the Public Procurement Directives to reject tenders failing to meet environmental, social, or labour obligations, even if economically advantageous.
5. **Simplified Legal Framework:** The revised Public Procurement Directives should consolidate the two Public Procurement Directives (2014/24/EU and 2014/25/EU) into a single Directive.



1. Introduction

Public procurement is the process by which public authorities, national, regional and local, purchase from companies work, goods or services at all stages of a project. In total, public procurement accounts for 15-20% of global GDP and represents a substantial portion of the EU economy (14% of GDP and over EUR 2.4 trillion per year) and of many other economies around the world. Most dredging projects are awarded through public procurement in the European Union's Single Market.

Ten years after the last revision, the European Commission decided to revise the Public Procurement Directives. The **mission letter** from Commission President-elect Ursula von der Leyen to Commissioner-designated “Vice-president for Prosperity and Industrial strategy” Stéphane Séjourné¹ specifies: “You will revise the Public Procurement Directives to help ensure security of supply for certain vital technologies, products and services, while simplifying the rules and reducing administrative burden. It should enable preference for European products in public procurement for certain strategic sectors and technologies.” On the basis of this political priority, the **2026 Commission Work Programme**² states that “simpler regulation will help unlock innovation, investment and job creation. We will [...] simplify public procurement” with a Public Procurement Act³.

2. Dredging services are strategic

Dredging companies provide more and more strategic services to Europe:

- Transport: dredgers are key enablers for the construction of EU strategic assets such as **maritime and inland transport infrastructure**, including ports, which are **crucial for the competitiveness of the entire EU economy**, for strategic autonomy, for promoting economic development and territorial and social cohesion;
Ultimately, the capability of a region to construct and maintain its ports and maritime infrastructure is crucial for ensuring its preparedness for a possible military conflict. Moreover, these ports and maritime infrastructure are often the entrance gates for non-EU countries and therefore susceptible to unlawful and illegal attacks to the safety and security of the European Union.
- Energy: dredgers carry out **offshore energy infrastructure projects** that make crucial contributions to Europe's climate change targets and that become increasingly important from a geopolitical perspective, especially as the EU seeks to achieve its strategic autonomy and reduce its energy dependence on third countries;
- Telecommunication infrastructure: dredgers also play a significant role in **telecommunications infrastructure**, by installing, repairing and protecting **subsea cables**, which are increasingly security sensitive (recent cases of subsea cables sabotages in the Baltic Sea). The EU has also set the goal of making Europe

¹ https://commission.europa.eu/document/download/6ef52679-19b9-4a8d-b7b2-cb99eb384eca_en?filename=Mission%20letter%20-%20S%C3%89JOURN%C3%89.pdf (link last consulted on 01/12/2025)

² <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52025DC0870> (link last consulted on 26/11/2025)

³ The Public Procurement Act is foreseen for the second quarter of 2026 on the basis of Article 114 of the Treaty on the Functioning of the European Union



the most connected continent by 2030. Achieving this goal will require significant investment in telecommunications infrastructure. For such strategic projects, European policy should require preferential treatment of European companies in public tenders;

- Coastal protection: dredgers also enable the implementation of key EU policies, including the Green Deal, by building defences against sea level rise, coastal protection against storms and floods, by restoring marine habitats.

3. More Level Playing Field in EU Public Procurement

The 2014 Public Procurement Directives does not explicitly mandatorily exclude third country bidders from EU public procurement and thus, in principle, allows non-EU economic operators to participate in tenders in the European Union. However, the 25/2014/EU Directive also states that ONLY the economic operators from those third countries that either (i) have a Free Trade Agreement (FTA) covering public procurement with the EU or (ii) are a signatory of the WTO Agreement on Government Procurement (GPA) are guaranteed a “treatment no less favourable” than the one accorded to EU economic operators, meaning that those non-EU economic operators may rely on the provisions of the 2014 Public Procurement Directive. The text of the 2014 Public Procurement Directive is therefore somewhat ambiguous about the non-participation (possible exclusion) of third-country bidders from countries that have not signed any of these agreements (FTA or GPA).

The main issue of public procurement for dredging projects is the unfair competition from non-EU State-owned Enterprises, which creates competition distortions that can damage both the targeted markets and the competitors.

The activities of non-EU construction State-owned Enterprises (SoEs) in and around the EU have become a growing concern over the past decade. Public procurement plays a central role in creating a true level playing field in Europe (including in EU funded projects such as Connecting Europe Facility – CEF - projects).

In 2019, the European Commission “Guidance on the participation of third-country bidders and goods in the EU procurement market” clarified that Members States may exclude bids of non-EU economic operators as they do not have secured access to procurement procedures in the EU, except if they come from a country that either (i) has a Free Trade Agreement (FTA) covering public procurement with the EU or (ii) is a signatory of the WTO Agreement on Government Procurement (GPA). This obviously requires that the tender authorities make an explicit decision to that end for each individual public procurement procedure.



4. Recommendations for the upcoming Revision of the PP Directives

4.1. European Preference

EuDA recommends that dredging services (e.g. for transport, energy and telecommunication infrastructure), with higher employment and environmental standards compared to their non-EU competitors, should be recognised as strategic by the European Commission and given **favourable treatment (European preference)** in public procurement procedures.

Moreover, publicly procured dredging projects (especially the security sensitive projects) shouldn't be performed by economic operators from countries that are systemic rivals of the EU, and which might not solely be driven by economic motives.

In this respect, reference should be made to the NIS1⁴ and NIS2⁵ Directives, a European legislative framework designed to ensure a common high level of cybersecurity across the European Union by establishing a high common level of security for network and information systems and encourages collaboration within the EU for cross-border reaction and enforcement. This legal framework is aimed at protecting the European market from unlawful and illegal attacks to its strategic infrastructure by non- EU countries. A similar level of protection should be applied in the context of public procurement procedures for supplies, works and services and therefore included in the Public Procurement Directives, e.g. by requiring similar minimum standards or a certification as required by the NIS 1 and NIS 2 Directives.

4.2. 2019 European Guidance

EuDA recommends that the text of the Directives should explicitly integrate the recommendations of the Commission's 2019 "Guidance on the participation of third-country bidders and goods in the EU procurement market" and **mandatorily exclude these non-EU economic operators** (without GPA nor FTA commitments) from the EU procurement market.

*Some Member States have already adopted such an approach, for instance: Romanian law had foreseen, before the 2025 ECJ decision on the "Case CRRC Qingdao Sifang and Others C-266/22" (see below for further information), a strict interpretation of the Guidance and excluded bids from non-EU economic operators, except if they came from a country that either (i) has a Free Trade Agreement covering public procurement with the EU or (ii) is a signatory of the WTO Agreement on Government Procurement (GPA). In Case CRRC Qingdao Sifang and Others C-266/22⁶, the European Court of Justice (ECJ) decided that, since the European Union has an **exclusive competence** in the area of common commercial policy, it prevents, **on the basis of a law that that a Member State (such as, in this case. Romania) adopted, a contracting authority of a Member State***

⁴ Directive (EU) 2016/1148 concerning measures for a high common level of security of network and information systems across the Union (link last consulted on 01/12/2025)

⁵ Directive (EU) 2022/2555 on measures for a high common level of cybersecurity across the Union (link last consulted on 01/12/2025)

⁶ [https://curia.europa.eu/juris/documents.jsf?nat=or&mat=or&pcs=Oor&jur=C%2CT%2CF&num=C-266%252F22&for=&jge=&dates=&language=en&pro=&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&oqp=&td=%3BALL&avg=&lgrec=en&page=1&lg=&cid=11072224](https://curia.europa.eu/juris/documents.jsf?nat=or&mat=or&pcs=Oor&jur=C%2CT%2CF&num=C-266%252F22&for=&jge=&dates=&language=en&pro=&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&oqp=&td=%3BALL&avg=&lgrec=en&page=1&lg=&cid=11072224) (link last consulted on 01/12/2025)



from excluding an economic operator of a third country that does not have a Free Trade Agreement with the EU covering public procurement or is not signatory of the Government Procurement Agreement (GPA). However, the European Court of Justice also recognised that the **contracting authorities can decide if a non-EU economic operator of a third country** which does not have a Free Trade Agreement with the EU covering public procurement or is not signatory of the Government Procurement Agreement (GPA) **should be admitted to a public procurement procedure** or not, on the basis of the European Court of Justice *Kolin İnşaat Turizm Sanayi ve Ticaret case* Case C-652/22⁷. **Following the ECJ decision, there is an urgent need to revise the Public Procurement Directive to mandatorily exclude these non-EU economic operators** (without GPA nor FTA commitments) from the EU procurement market.

This approach alleviates public buyers from the need to, each time, exclude certain bidders during a tender process or experience interruptions in their procurement process due to legal actions. For the EU it means that trade policy is centralised at the appropriate level (EU competence), ensuring a cohesive and well-considered approach, rather than being fragmented among multiple decision-makers at public buyer level. Mandatory exclusion at EU level would reduce litigation risks, increase legal certainty and ensure uniform application across the Single Market.

Moreover, the revised Public Procurement Directives should also consider excluding bidders that have a documented history of anti-competitive practices (e.g. dumping and subsidies) or of highly suspicious competition behaviour targeting the EU.

4.3. *Enhancing environmental and employment standards in public procurement*

The biggest challenge for making public procurement more sustainable is to shift public administrations' governance and decision-making from a short-term perspective (focus on the cost of the building phase) to a long-term perspective (taking into account the entire life cycle of the asset: building/operations /decommissioning).

In order to reduce price-only decisions in public procurement procedures, EuDA recommends promoting the **highest employment standards** in the EU and **enhancing the sustainability standards in publicly procured projects** by mandating the use of sustainability, life-cycle costing, and social criteria aligned with the EU Green Deal, the EU Taxonomy, and EU labour law, rather than relying predominantly on price. Moreover, giving preference to European strategic services, such as dredging, could already raise environmental and employment standards of the publicly procured projects, in comparison with their non-EU competitors.

4.4. *Abnormally low tenders*

EuDA recommends **clarifying and adopting stricter provisions regarding abnormally low tenders (ALT)**. In particular, contracting authorities should reject a tender when no evidence justifies the low-price level. In addition, awarding a contract to a tenderer submitting the most economically advantageous tender (MEAT) should not be possible in the revised Directives when this tenderer does not comply with the applicable obligations and standards in the field of environmental, social and labour law. The revised Directives should move away from price-only decisions.

⁷ <https://curia.europa.eu/juris/liste.jsf?num=C-652/22>



4.5 *Simplified Legal Framework*

Currently, there are many European Directives covering public procurement: **Directive 2014/24/EU** on public procurement⁸, **Directive 2014/25/EU** on procurement by entities operating in the water, energy, transport and postal services sectors⁹, and **Directive 2014/23/EU** on the award of concession contracts¹⁰.

The revised Public Procurement Directives should consolidate the two Public Procurement Directives (2014/24/EU and 2014/25/EU) into a single Directive. Directive 25/2014/EU should be used as a basis since it contains the strongest wording in terms of levelling the playing field. At minimum, greater harmonisation of definitions, exclusion grounds and third-country access rules across the Directives should be achieved.

Moreover, the Commission could consider a system extending the validity of the information needed to prove the respect of the EU employment and environmental standards (provided for a specific bid) for a period of 12 months, as the repetition of the same administrative activities would unnecessarily inflate costs for EU companies.

⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02014L0024-20180101&locale=en>

⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02014L0025-20180101>

¹⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02014L0023-20180101>



EuDA

The European Dredging Association (“EuDA”), which celebrated its 30th Anniversary in 2023, was founded in 1993 as a non-profit industry organisation for European dredging companies and related organisations to interface with the various European Union’s Institutions, including the European Parliament. EuDA is registered in the EU transparency register as Interest Representative Nr. 2492574893-58.

Dredging activities are not well known by the wider public, but as a matter of fact, the European dredging companies, members of EuDA, are world market leaders with about 80% share of the (open) world dredging market and a turnover of 14.6 bn Euro in 2024. Although 70% of operations take place outside Europe, 90% of the returns flow back to Europe. EuDA members employ approximately 30,000 European employees directly “on board of the ships and on land” and more than 60,000 people indirectly (through the suppliers and services companies). The combined fleet of EuDA’s members counts approximately 750 seaworthy EU flagged ships.

The Association assists its members with all kinds of requests related to dredging issues, presently strongly focusing on Social, Environmental, Technical, Tax and Trade issues. These issues are coordinated by the Secretariat and executed by its specialised working groups composed of experts from the member companies.

The Association will pursue its goals by endorsing policies to create fair and equitable conditions for competition; commits to respecting applicable national, European and international rules and regulations; commits to operating its fleet safely, effectively and responsibly.