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## **Revision of Public Procurement rules**

Dear Mr Séjourné

We welcome the opportunity to provide input on the European Commission's initiative to review the Public Procurement Directives considering evolving economic, geopolitical, and climate challenges. Estonia supports this initiative and its inclusion among the Commission's legislative priorities. We agree that the primary aims of this revision should be to simplify public procurement and enhance the strategic use of public funds to advance sustainability, resilience, and social objectives.

Estonia's public procurement strategic principles align with the perspective presented in your letter. We are therefore enthusiastic about collaborating to develop an effective public procurement system that reduces administrative burdens and streamlines processes for businesses.

While guiding principles such as free competition, proportionality, and non-discrimination remain crucial, the evolving landscape demands that public procurement systematically integrates strategic objectives, including energy efficiency, environmental criteria, social goals, innovation, resilience, and strategic autonomy, alongside security considerations. A key challenge lies in achieving a harmonious balance when these policy aims conflict, such as between prudent budget use and ambitious environmental goals. We believe the focus should be on providing clear, practical rules and guidelines for contracting authorities rather than introducing further legal provisions, which often create more confusion without establishing clear priorities, as strategic procurement often suffers from a lack of application, not a lack of regulation.

Integrating a concept of "European preference" is important for enhancing the EU's competitiveness, particularly in critical sectors such as infrastructure, energy, clean technologies, digital services, pharmaceuticals, and food. This concept must be clearly formulated and technically feasible to avoid creating excessive administrative overhead. Such a preference can also support sustainability and resilience by shortening supply chains. Concurrently, the notion of "strategic dependence" requires a clear identification of key sectors where the EU or its Member States face vulnerabilities.

Future regulations must be flexible enough to adapt to continuously changing policy priorities, from sustainability targets to defence objectives. This includes updating criteria for environmental protection, regional development, and social welfare. Greater flexibility is also needed in applying social and sustainability criteria, which may require reconsidering the strict “link to the subject matter” requirement that can complicate strategic procurement. The framework must afford Member States adequate leeway, avoiding overly rigid regulations, and consider the administrative capacity of smaller Member States while fostering innovation.

The current geopolitical climate necessitates enhanced legal certainty and robust tools to mitigate national security risks, including cybersecurity, through non-military procurement and contract execution. Member States require a clear mandate to implement measures such as exclusion grounds, supply chain verification, and restrictions on products or subcontractors from high-risk third countries if there is a potential threat to Member States’ security.

Regarding specific areas for reform, Directive 2009/81/EC in the fields of defence and security requires a review to enhance agility and adaptability. The objectives should include strengthening European preference to foster the competitiveness of EU companies, increasing efficiency and speed in procurement procedures, and providing greater legal certainty for joint procurement and supply chain risk management. The requirements must also ensure equal opportunities for small and medium-sized enterprises.

Recent Court of Justice case law highlights the need for clearer rules regarding the access of third-country economic operators and products to the EU public procurement market, particularly when tenders are submitted by European-based offices of third-country companies. Furthermore, many EU sectoral laws establishing environmental requirements are not consistently aligned with the Public Procurement Directives, creating legal uncertainty for contracting authorities. Harmonization is essential, potentially through standardized template provisions and ensuring new sectoral rules are developed in coordination with procurement principles.

Recent crises also underscore the need for more efficient procurement during emergencies. A clear definition of “crisis” and the establishment of specific, streamlined rules would empower public buyers to act decisively when urgent needs arise. To further simplify the system, EU thresholds should be revised upwards to reflect inflation and current market realities, and thresholds should be unified across directives. More justifiable direct awards could be introduced, particularly in crisis situations or following premature contract termination. In addition, rules of in-house and cooperation between contracting authorities should be revised so that they are more easily and broadly implementable.

From a structural perspective, consolidating the regulations for the classical and utilities sectors into a single directive would significantly improve simplicity. Given the proliferation of procurement provisions in sectoral legislation, a broader codification is needed. The development of one-stop-shop helpdesk services and the enhancement of centralized registers like eCertis would also significantly reduce the administrative burden.

In conclusion, Estonia advocates for a revised legislative framework that has clear priorities, is simpler, more flexible, and consistent. This must lead to more effective and less time-consuming procurement procedures with reduced transaction costs.

We reiterate our gratitude for this opportunity and anticipate a constructive collaboration to achieve more strategic, resilient, and competitive public procurement throughout the European Union.

Yours sincerely,

*(signed digitally)*  
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Minister of Finance

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Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs