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Reform of the EU Public Procurement Regulation - Positions of the Technology Industries of Finland

The Commission's proposal for a regulation on public procurement is the most significant reform of the EU's procurement regulations since the 2014 directives renewal. The change from three directives to a regulation will harmonize procurement rules throughout the Union. At the same time, it will limit possibilities for national deviations. In terms of content, the proposal expands the objectives of procurement policy: economic security, resilience and security of supply will be made the main objectives of procurement, tools for European preference are introduced, and the weight of quality in the comparison of tenders is increased. Public procurement is a significant market for companies in the technology industry, and the details of the reform will have a direct impact on the competitiveness of companies, the functionality of supply chains, and the administrative burden.

Technology Industries of Finland considers the main objectives of the reform: simplifying procurement processes, digitalization, increasing the weight of quality and lifecycle costs, and improving the security of supply of critical procurements. These need to be supported. It is essential that resilience is primarily strengthened through risk-based requirements for security of supply and safety, rather than through extensive rules on origin: European companies operate in global value chains, and unjustified restrictions on competition would weaken the very competitiveness that the reform aims to achieve in the long term. The criteria must be well-defined, technology-neutral and in line with the EU's international trade agreements, and the reform must genuinely lighten the administrative burden on companies. The following are the positions of Technology Industries of Finland on the key issues of the proposal.

1. The possibility of national deviations regarding the controlled entity rules is welcome

Technology Industries of Finland strongly supports Finland's exemption regarding controlled entities. This regulation has been identified in the Commission's proposal for a regulation: In Part III, Title III (Horizontal provisions), Chapter 1 (Excluded and mixed contracts), Article 80 lays down provisions on the conditions for procurements made from a controlled entity of a Public Buyer. In Finland, the obligation to tender is more extensive than the Commission's proposal.

Finland has just tightened the definition of controlled company to ensure fair competition between publicly owned and private companies. In the Commission's proposal, cooperation between contracting entities will remain unchanged as such. The proposed change in the form of regulation (from directive to act) would have required Finland to reopen the Act on Public Procurement and Concession Contracts that increased competition, which was enacted in the summer of 2026. It is very positive that this is not currently the case for controlled entities.

Technology Industries of Finland further proposes that the Commission's proposal for a regulation should be supplemented so that a controlled entity would have to choose whether

it operates as a central purchasing body or as a controlled entity which supplies services or products to the Public Buyer. Both roles should not be possible at the same time. Article 9 regards Central purchasing bodies; Article 9 is very loose in its wording. It in practice makes it very easy for public economic operators to act as a central purchasing body outside the tendering obligation. The definition of a central purchasing body should be tightened from the one proposed.

2. Origin and resilience criteria

Criteria of origin (European preference)

The starting point for procurement regulation has been for a long-time openness, impartiality and non-discrimination. As an exception to this starting point, the Commission is now proposing the possibility of contracting entities to prefer European procurement in Articles 70-77. However, there would be no obligation to do so. A Public Buyer that does not prefer European procurement would therefore act in accordance with procurement regulations.

The technology industry has reservations about extensive local content and origin requirements in public procurement. European companies operate in global and highly specialized value chains, where competitiveness is based on the possibility of using the best available technologies, components, and raw materials. Competition should not be restricted unjustifiably. In any case, the possible use of European preference should only be developed in a prudent and controlled manner from the perspective of long-term competitiveness, leaving it to sector-specific regulations and funding programmes rather than general procurement regulation.

The Commission's proposal makes resilience and economic security the guiding objective of procurement (Article 5(d), "strategic independence"). Technology Industries of Finland supports this objective and emphasizes that in critical procurement, risk-based resilience and security of supply requirements (Article 69) are the primary tools, not the origin. Exclusionary restrictions based on origin are only used for certain strategic dependencies identified at the EU level by Commissions' delegated acts (Articles 72 and 75), not at the discretion of individual contracting entities. Resilience is built on decentralized supply chains and reliable partners.

In principle, the Technology Industries of Finland considers procurement criteria based on quality, sustainability, safety and security of supply to be more justified than extensive rules of origin or general "Buy European" requirements. The criteria must be well-defined and risk-based, and in line with the WTO GPA and EU trade agreements.

Chapter V of the proposal provides contracting entities with an extensive voluntary European preference toolbox (Article 73: limitation of participation, origin requirement, price reduction or additional points in the assessment, and rejection if the share of Union or covered origin is less than 50 per cent).

The origin of goods is determined according to the Customs Code (Article 74), which is a key issue for the technology industry operating in global value chains: the Commission must provide a binding and free digital origin tool.

It is also to be welcomed that Article 72 provides a clear power for the Commission to exclude certain entities, both considered European and non-European, if this is considered to be a threat to the security of the procurement (Article 72(1)(b)).

3. Cybersecurity rules must align with existing cyber security rules

Particular attention should be paid to ensuring that any resilience criteria for the procurement target are based on preliminary impact assessments prepared by the Public Buyer or, for example, on common European requirements (see the draft EU CSA2 Regulation), taking into account the functioning of global value chains. CSA2 proposes a justified and necessary EU ICT supply chain security management mechanism. It can be used to identify non-technical critical ICT risks caused by third countries and products coming from them and to enable these suppliers to be excluded from critical infrastructure, public procurement, and EU funding. In practice, the mechanism fills a gap that cannot be covered by the EU's NIS2 Directive and the Cyber Resilience Act (CRA). The technical compliance required by other regulations is not sufficient if the data of European operators passes through unreliable infrastructure. Article 66(5) of the proposal obliges an operator identified as a high-risk supplier in accordance with CSA2 to be excluded from procurement. Technology Industries of Finland supports this link.

Data breaches and non-technical risks carried out through supply chains have increased significantly and have a broad impact on the EU's economic and social security. The ICT supply chain security management mechanism linked to the resilience objectives must therefore be built on an EU-level, risk-based and technology-neutral framework that can be used to manage critical ICT components (component, system, device, service or platform) and the related supplier dependencies (cyber risks, regulatory or geopolitical influence of third countries) across the entire internal market.

Article 69 of the proposal (resilience and security of supply for critical entities) is the most important resilience provision in the proposal for manufacturing industries throughout Europe. According to the proposal, the diversification of the supply chain, stockpiling obligations within the EU, continuity and recovery plans, the commitment to the availability of spare parts and software updates, crisis preparedness and surge capacity, the obligation to report double-bookings and the flexible participation clause for other contracting entities largely correspond to the Finnish security of supply model. Technology Industries of Finland supports the article and proposes clarifications to it:

Firstly, Article 69 only applies to procurements, where the Public Buyer itself is a critical entity under the CER directive. The scope should be extended to procurements for critical infrastructure or its components, regardless of the status of the Public Buyer. Secondly, storage and additional capacity commitments tie up the capital of companies, so their pricing and compensation must be regulated more clearly than by reference to 'the terms and conditions to be agreed', and the requirements must be binding and based on a risk assessment under Article 12 of the CER Directive.

As a rule, the certification of products and services should remain voluntary, and certification should only be required in very limited cases. Any requirements should be based on EU-level

certification systems in accordance with the proposed CSA2. Article 68(3) of the proposal lacks a risk-based threshold similar to Articles 66 and 69, and together with Article 92(2), it allows third-party certificates to be required for products for which the CRA prescribes a manufacturer's self-assessment. The correction is structurally simple: A mechanism similar to Article 66(6) is added to both Articles 68 and 92(2), under which the Commission can establish common cybersecurity specifications or benchmarks for certain product and service groups, relying on certification schemes and harmonised standards in accordance with CSA2. At the same time, it should be noted that the requirements set under paragraph 3 primarily refer to the CRA, NIS2 and EU-level certification systems and not to national criteria.

The proposed Article 68(3) completely lacks a risk-based threshold. Any Public Buyer can set cybersecurity requirements, including specifications, selection criteria, award criteria, conditions for the performance of contracts, in any procurement, without the risk associated with the subject matter of the procurement having been identified or documented. This is contrary to the risk-based approach and the proposal's own logic in the same chapter. It is also a bad security policy: setting the highest level of cybersecurity requirements in low-risk procurements consumes the resources of both the Public Buyer and the tenderer without reducing the risk and distracts attention from those procurements where the risk is real. Technology Industries of Finland proposes that cybersecurity requirements must be proportionate to the risk documented by the Public Buyer, and that a product falling within the scope of the CRA should not be required to undergo a conformity assessment that exceeds the CRA.

In its explanatory memorandum, the Commission names CSA2, CADA, IAA and the Chips Act 2.0 as parallel pieces of legislation to the Procurement Regulation and asks the co-legislators to ensure their coherence. Technology Industries of Finland supports this: non-technical supplier risks should be managed through EU-level mechanisms in these regulations, and technical cybersecurity requirements should be anchored in the CRA, and no overlapping layer of requirements should be built into the Procurement Regulation.

4. Increasing the importance of quality is to be supported

As a rule, Public Buyers should always carry out a market consultation before publishing the actual invitation to tender. In this way, any shortcomings in the criteria set can be notified in good time, and the criteria can be implemented more appropriately. Article 30 of the proposal leaves market consultations still voluntary. Technology Industries of Finland proposes a general obligation to conduct a market consultation.

The application of the quality criteria must take into account the availability, cost impacts, technical characteristics, and market situation of products and components. It is also important that regulation allows exceptions based on, for example, a cost high-cost level, a limited number of providers, special technological expertise or security of supply. Article 76 of the proposal contains exceptions for situations where there are no suitable tenders, no reasonable alternative, or the costs are disproportionate. The reduction of dependency (Article 100), which has been raised as a criterion for division into lots, is welcome, but the division into lots must not dissolve the overall responsibility of the system supplier in complex deliveries.

Technology Industries of Finland supports the Commission's proposal that the weight of quality in the comparison of tenders must be at least 30 per cent, and in labour-intensive procurements at least 50 per cent. It is positive that in public procurement, the best price-quality ratio weighs more heavily (e.g. Life-Cycle Costing, LCC). LCC methods work best in the procurement of products with a high degree of processing, as they consider the costs of the entire life cycle, such as the costs of procurement, use and end-use. This would give a competitive advantage to European technology industry products that offer long-term savings in areas such as energy efficiency and maintenance. Article 98 of the proposal makes the best price-quality ratio for the default procedure with a quality emphasis of at least 30 per cent (paragraph 4) and explicitly names resilience and security of supply as permitted quality criteria. Technology Industries of Finland supports this.

Public procurement can be a way to steer demand towards more sustainable solutions. Technology Industries of Finland emphasizes that the exact criteria are laid down in substantive legislation, not in procurement rules. In this way, sustainability criteria remain as uniform and well-defined as possible across the EU. In addition, it is important to maintain technology neutrality and make use of international ISO standards to reduce the administrative burden.

The use of low-carbon and circular economy requirements, along with other environmental and quality criteria, is a way to steer demand towards lower-emission products that implement the circular economy. However, the dimensioning and binding nature of the requirements must take into account availability in the EU and international markets, as well as their effects on competition and costs. Quantitative criteria related to low-carbon or circular economy should not be set as a legally binding selection criteria or award criteria in EU regulation but should be applied as a non-binding target level that brings tenderers additional points in public procurement and support schemes. The requirements must also be clear and well-defined.

5. Simplification of procurement procedures is to be welcomed, but it is expensive

Technology Industries of Finland highlights that the upcoming reform of public procurement offers a unique opportunity to simplify access for companies to procurement and reduce regulatory burdens. According to the Commission's impact assessment, the new requirements will entail additional costs of €477 million per year for companies, which is why the savings generated by the digital ecosystem must be fully realized.

In addition, Technology Industries of Finland calls for effective action to combat unfair competition from third countries, for example by strengthening rules for rejecting abnormally low tenders and by using the Commission's existing instruments, such as measures under the Foreign Subsidies Regulation ((EU) 2022/2560). Article 101 of the proposal makes the requirement to explain the price mandatory, but paragraph 2(b) only accepts state aid compatible with the internal market as a criterion and does not mention aid from third countries. The obligation to investigate should be extended to aid received from third countries, and the Public Buyer should be obliged to notify the Commission in accordance with the Foreign Aid Regulation when there are indications of aid.

Further information:

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