Defence Procurement Brochure European Union

September 2026

Content

The Current state of affairs regarding the Directive on the coordination of procedures for award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security

Directive 2009/81/EC (**the "Defence and Security Procurement Directive"**) currently provides the principal EU-wide framework governing the award of certain works, supply and service contracts in the fields of defence and security. Significant reforms are expected in this year. On 17 June 2025, the European Commission presented a legislative proposal to amend the Directive, aiming to simplify and accelerate procurement procedures for defence and security equipment. Subsequently, on 26 November 2025, the Council announced its position on the amendments and made several changes to the Commission's proposal. The proposal is intended to give Member States greater flexibility to replenish stockpiles swiftly and sustainably.

This Expert Guide outlines the functioning of the current procurement regime and provides a concise overview of the European Commission's proposed amendments.

European Union ambitions for increasing defence procurement

The proposed reforms are central to delivering the European Union's ambition to scale up defence procurement, as described in the EU's ReArm Europe/ Readiness 2030 plan. This initiative aims to strengthen Europe's defence readiness by 2030, in light of an increasingly volatile security environment, such as Russia's full-scale invasion of Ukraine and expanding hybrid threats, intensifying geopolitical rivalry, and a relative shift of US strategic focus.

The plan intends to restore credible deterrence, support Ukraine as Europe's frontline defence, and safeguard Europe's ability to act free from coercion. It is designed to complement NATO as the cornerstone of collective defence, whilst significantly enhancing European capabilities and industrial capacity.

To finance and operationalise this acceleration, the plan is built around five pillars, including:

- up to EUR 150bn in SAFE loans for joint procurement of priority capabilities;
- coordinated activation of the Stability and Growth Pact's escape clause, enabling up to 1.5% of GDP in additional national defence expenditure, potentially mobilising EUR 800bn over four years;
- increased flexibility to repurpose EU instruments (e.g. cohesion funds) toward defence-related projects;
- an expanded role for the European Investment Bank, doubling defence-relevant investments and widening eligibility criteria; and
- mobilisation of private capital through reforms to the Savings and Investment Union and clarification under the EU sustainable finance framework.

These measures seek to reinforce the European defence technological and industrial base and enable Member States to procure capabilities at the necessary speed and scale. This Expert Guide summarises the main proposals for amendments of the Defence and Security Procurement Directive published by the Commission on 17 June 2025 and the Council on 26 November 2025.

Coverage and scope

Scope and contract types

The Defence and Security Procurement Directive coordinates the procurement procedures for specific works, supply and service contracts in the defence and security sector, with the objective of ensuring an open, transparent and competitive European market while safeguarding essential national security interests.

The Directive defines, inter alia, the categories "military equipment" and "sensitive equipment/works/services", as well as the distinction between contracts for works, supplies and services. "Military equipment" comprises equipment specifically designed or adapted for military purposes, intended for use as arms, munitions or war material; civilian products that have been adapted for military use are also included. "Sensitive" contracts concern contracts for security purposes that involve or require classified information.

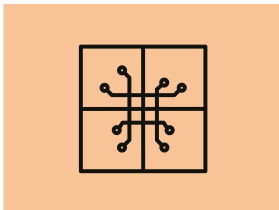
The Directive applies to defence and security contracts related to:

— the supply of military equipment (including parts/components);
— the supply of sensitive equipment (including parts/components);
— works, supplies and services directly related to the life cycle of that equipment (e.g. R&D, production, maintenance, modernisation, testing and decommissioning; and
— works and services for specifically military purposes or sensitive works and services.

Scope of the Directive

The directive applies to defence and security-related contracts for:

Military equipment



Sensitive equipment

Works, supplies and services directly related to a) and b)

For valuation purposes, the Directive's rules apply to prevent manipulation aimed at circumventing its applicability. In the case of repeated or periodic contracts, the value is determined on the basis of the actual or estimated total value over the relevant period.

Exclusions and specific derogations

Certain contracts fall outside the scope of the Defence and Security Procurement Directive, particularly where specific procedural rules already apply. These include contracts awarded:

a. Under an international agreement or arrangement between one or more Member States and one or more third countries;
b. Under an international agreement or arrangement concerning the stationing of troops; or
c. Under or in accordance with the rules of an international organisation (including where a Member State awards on behalf of that organisation).

In addition to the abovementioned specific procedural rules, there are certain other expressly identified cases that do not fall within the scope of the Defence and Security Procurement Directive. These concern the following:

a. Contracts where application of the Directive would oblige a Member State to provide information the disclosure of which would be contrary to its essential security interests;
b. Contracts for activities of intelligence services;
c. Contracts awarded under a research-and-development cooperation programme conducted jointly by at least two Member States and aimed at developing a new product (and, where applicable, subsequent life-cycle phases);
d. Contracts awarded in a third country (including civil purchases) where forces are deployed outside EU territory and the operational conditions require awarding on the spot;
e. Contracts for services relating to the acquisition or rental of immovable property or rights thereon;
f. Contracts awarded by one government to another government for the supply of military or sensitive equipment and works/services directly related thereto, or for specifically military or sensitive works and services;
g. Arbitration and mediation services;
h. Certain financial services (with the exception of insurance);
i. Employment contracts, and
j. Research and development services where the results do not accrue exclusively to the contracting authority or are not fully financed by that authority.

Where one of the above exclusions applies, the Defence and Security Procurement Directive does not govern the specific procurement contract.

Procedures under Directive 2009/81/EC

The Directive provides for four core procedures: (i) the restricted procedure, (ii) the negotiated procedure with prior publication, (iii) the competitive dialogue, and, in exhaustively defined cases, (iv) the negotiated procedure without prior publication:

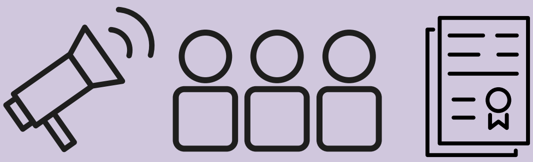
– ***Restricted procedure***
The restricted procedure is a two-stage procurement process. The procurement is publicly advertised. In the first stage, any interested economic operator may apply to be considered as a candidate. On the basis of published selection criteria, the contracting authority selects the candidates who are then invited to submit a formal tender for the contract. The contract is awarded on the basis of the tender submitted. The contracting authority may not negotiate with tenderers about their submitted tenders;

– ***Negotiated procedure with prior publication***
This is a flexible procedure in which, following the publication of a contract notice, a contracting authority may negotiate with selected tenderers on the precise specification of the contract. An initial selection takes place on the basis of pre-announced selection criteria. The selected candidates are then invited to submit a tender. The parties may subsequently negotiate on matters such as price and feasibility, while the subject-matter of the contract remains fixed in advance. After negotiations have concluded, the contract is ultimately awarded;

– ***Competitive dialogue***
Competitive dialogue initially resembles the restricted procedure. Based on suitability criteria set by the contracting authority, several candidates are selected. These candidates are invited to participate in a dialogue aimed at developing solutions. Following the solutions submitted by the participants, the contracting authority is able to better define the aims to answer its needs and participants are then requested to submit their tenders after closure of the dialogue. It is assessed whether each tender complies with the specifications defined during the dialogue. The contracting authority may negotiate with the winning tenderer to confirm the financial commitments or other terms offered in the tender, with a view to finalising the public contract. Such negotiations must not alter essential aspects of the tender or the needs and requirements set out in the notice or descriptive document, nor may they distort competition or result in discrimination. Throughout the procedure, equal treatment must be ensured, and no information may be disclosed that would advantage certain tenderers over others; or

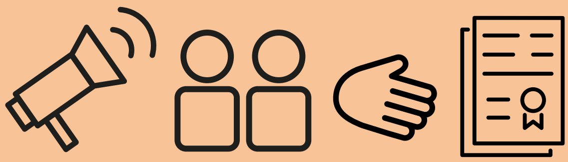
– ***Negotiated procedure without prior publication***
The negotiated procedure without prior publication is an exceptional procedure permitted only in specifically enumerated cases. These include situations where no tenders or no suitable tenders were submitted in earlier procedures; where tenders are irregular or unacceptable in the framework of a previous procedure; where urgent requirements – due to crises or compelling urgency – make compliance with the ordinary time limits objectively impossible; and certain additional deliveries, works or services, under strict conditions and within defined time limits. The use of this procedure must be duly justified and explained in the contract award notice.

Restricted Procedure



Procurement is advertised,
candidates are invited to
submit a formal

Negotiated Procedure with Prior Publication

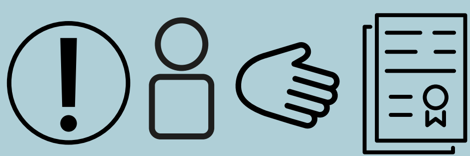


Procurement is advertised, then
negotiations with selected
candidates take place

Competitive Dialogue

Procurement is advertised,
followed by dialogue
with selected candidates

Negotiated Procedure without Prior Publication



Negotiations take place in
exceptional cases
without prior advertisement

Publication, communication and time limits

The rules ensure that clear information on procurements is available both before and after the event, without unnecessary disclosure of sensitive data. Contracting authorities may issue a prior announcement to inform the market and must, at the start of procedures and after award, publish standard information in good time, preferably electronically and in a chosen EU language. Certain information may be withheld where disclosure could harm law enforcement, the public interest, defence or security interests, legitimate commercial interests, or fair competition.

National publications may take place only after dispatch to the EU and may not contain more than the EU publication. Notices use standard forms and are subject to strict publication deadlines, with electronic transmission allowing for faster publication. Invitations to participants must always contain all practical information, and requests for clarification must be answered in good time.

When setting time limits, contracting authorities must take account of the complexity of the contract, and minimum periods apply for requests to participate and for the submission of tenders. Possibilities for reduction exist where electronic means are used or where a sufficiently detailed prior information notice has been issued. In genuine emergencies, accelerated deadlines are permitted. Communication may take place by post, fax, telephone, or electronic means, provided that the means used are generally available and non discriminatory, and that the integrity and confidentiality of tenders are preserved.

At the end of the procedure, the contracting authority must record the essential elements of the process in a report, including who participated, the reasons for the choices made, and how the procedure was conducted, so that ex post accountability can be ensured.

Finally, tenderers must be informed of decisions, the reasons for rejection, and the characteristics of the winning tender, unless such information would harm sensitive interests.

Rules Applicable to Review Procedures

Scope and access to review

Member States must ensure that companies can challenge procurement decisions quickly and effectively if they believe the rules have not been followed. Anyone who is – or could be – harmed by such a mistake must have the opportunity to ask for a review.

Countries may set requirements such as notifying the contracting authority first or lodging an internal complaint. However, these steps are only allowed if they temporarily halt the finalisation of the contract and do not shorten the legal time limits for filing a formal challenge (including the standstill period).

Core provisions and powers of review bodies

Review bodies – which may be either a Court or an independent body that is not a Court – have broad powers to ensure effective legal protection. They may order interim measures, including the suspension of the procurement procedure or the conclusion of the contract. They may annul unlawful decisions or remove discriminatory provisions and, where necessary, impose other corrective measures or periodic penalty payments. They may also award damages.

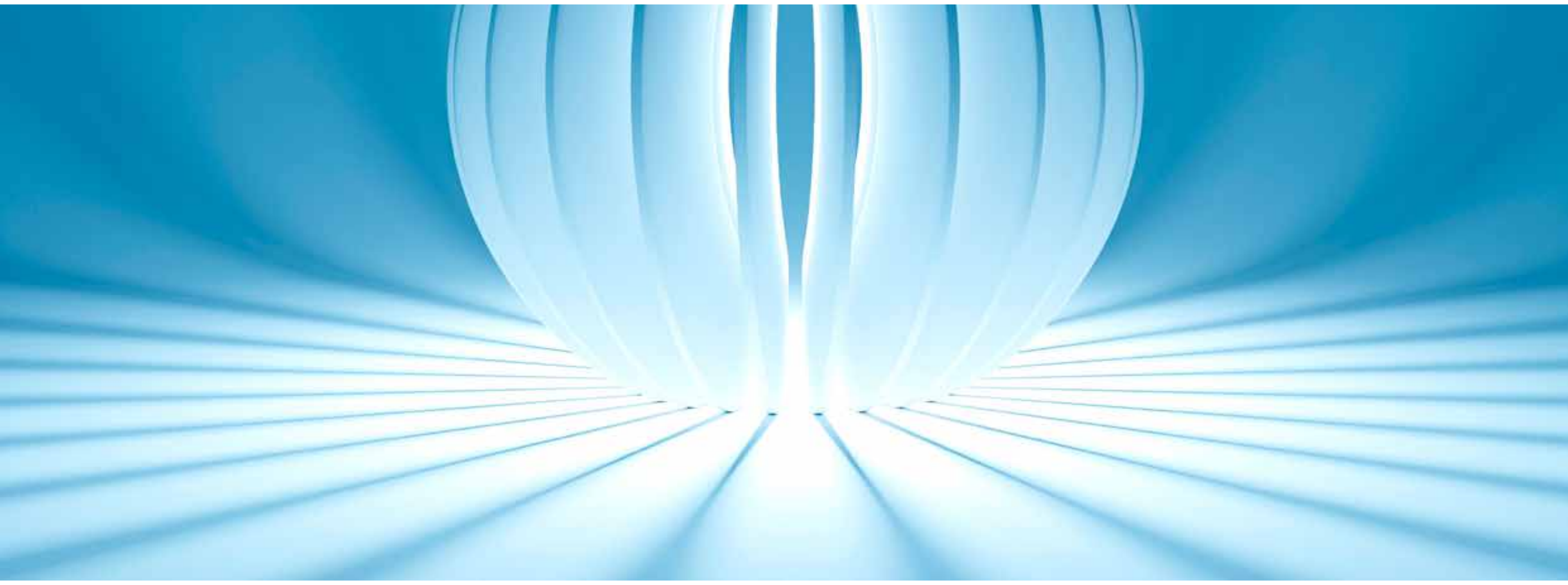
If an remedy against an award decision is pending before a review body, the contract may not be concluded until a decision has been taken on interim measures, or until the applicable suspensory periods have expired. In their assessment, review bodies may take into account the public interest as well as specific defence and security considerations.

Decisions must be reasoned and enforceable. Where the review body is not a Court, a further right of appeal must be available before a Court.

Suspensory periods and time limits: the standstill

A central pillar of legal protection is the mandatory standstill period between the award decision and the conclusion of the contract. This waiting period is at least ten days where notification is given by electronic means or fax, or fifteen days where other means are used, calculated from the day after dispatch. In some jurisdictions, an alternative period of ten days from receipt may apply. The notification to concerned tenderers and candidates must summarise the relevant reasons for the decision and state the exact duration of the standstill period. A party remains a "concerned party" until it has been definitively excluded.

Exceptions to the standstill period are possible in specific situations, such as awards without a mandatory prior publication, where the award is made to the only remaining concerned tenderer with no concerned candidates, or for call-offs under framework agreements. In such cases, other safeguards apply and breaches may attract sanctions. Where national law lays down a time limit for bringing proceedings, it must be at least ten days (for electronic or fax dispatch) or fifteen days (for other means) from dispatch, or ten days from receipt. For decisions without individual notification, a minimum period of ten days from publication applies.



Ineffectiveness
Contracts may be declared ineffective in cases of unlawful direct award; for breaches of the standstill or other suspensory obligations combined with a material infringement that could have affected the claimant's chances; and for certain errors arising within framework agreements. The precise legal consequences of ineffectiveness are determined by national law. Where full nullity is inappropriate or not possible, alternative sanctions must be imposed, such as a fine on the contracting authority or the shortening of the contract term. Damages awarded to the claimant do not, in this context, constitute a sufficient alternative sanction.

In exceptional cases, review bodies may, with reasons, refrain from declaring ineffective on compelling grounds of general interest, with particular regard to defence and security interests. Purely economic interests directly linked to the contract do not, in principle, qualify, unless declaring the contract ineffective would have disproportionately severe consequences or would jeopardise an essential defence or security programme; in such cases, alternative sanctions are mandatory.

Claims seeking a declaration of ineffectiveness are generally subject to a minimum period of at least thirty days from the publication of a reasoned notice or from individual notification with reasons, and in any event an absolute minimum period of at least six months from the conclusion of the contract.

These safeguards and time limits are designed to combine speed, effectiveness, and legal certainty while ensuring the necessary protection of confidential and security-sensitive information. For tenderers, this means acting promptly and submitting well-substantiated claims; for contracting authorities, it requires careful reasoning, correct notification, and strict compliance with the standstill and suspensory rules.

Proposed amendments by the European Commission on 17 June 2025 and the Council on 26 November 2025

Proposed amendments by the European Commission on 17 June 2025

The Commission's proposal concerns not only Directive 2009/81/EC, but also Directive 2009/43/EC which establishes the regulatory framework for intra-Community transfers of defence-related products. Directive 2009/43/EC was adopted alongside Directive 2009/81/EC as part of the 2009 Defence Package and is intended to simplify and harmonise the conditions under which defence-related products may be transferred between EU Member States. Together, the two Directives form the core of the EU's internal market rules for the defence sector. The main elements of the Commission's proposal are outlined below.

Increase in threshold values for defence procurement
The threshold values for public contracts are increased. For supplies and services, the threshold rises from EUR 443,000 to EUR 900,000; for works, from EUR 5,538m to EUR 7m. This reduces administrative burdens for smaller procurement procedures and allows Member States to focus their resources on the most significant defence contracts.

Expansion of procurement instruments
In defence and security procurement, Member States will gain access to all procedures available under Directive 2014/24/EU, such as the open procedure and the dynamic purchasing system ("**DPS**"). This broadens the range of tools available to contracting authorities when awarding public contracts.

Innovation is encouraged
The Directive must be amended to foster innovation and reduce technological dependence. To support this, the Commission is introducing a flexible procedure for innovation partnerships, thereby strengthening public contracts related to research, development and innovative defence solutions.

Simplified procedure for products from research projects
A simplified procedure is introduced for the direct award of innovative products resulting from parallel, competitive research and development projects. This enables Member States to access innovative solutions more quickly, reduces development risks and increases cost-effectiveness. It also enhances cooperation and competition within the industry.

Derogating procedure for joint procurements
Under the Commission's proposal, a temporary derogation from standard procedures applies to joint procurements. When at least three Member States jointly wish to purchase identical or slightly adapted defence products, they may use the negotiated procedure without prior publication. This is intended to stimulate joint investment in defence equipment and promote interoperability and interchangeability.

Support for defence projects after the research and development phase
Provisions will be established to allow Member States to join research-and-development-based cooperation programmes after the completion of the R&D phase. For such projects, the exemption for R&D-based cooperation programmes may be used under the

same conditions. This flexibility is intended to support projects beyond the R&D phase and to benefit Member States joining at a later stage.

Extension of the term of framework agreements
To promote long-term cooperation with industry, the Commission proposes extending the maximum duration of framework agreements from seven to ten years. This extension better reflects the characteristics and development cycles of the defence sector.

Reduced reporting obligation
The European Commission aims to reduce administrative burdens by abolishing the obligation for Member States to submit annual statistical overviews of supply, service and works contracts awarded by contracting authorities. This allows Member States to focus more directly on implementing their defence policies.

More flexible modification of ongoing contracts
The proposal provides greater flexibility to amend existing contracts by aligning the rules with those under Directive 2014/24/EU. Modifications are permitted where they were clearly and unambiguously provided for in the original procurement documents. Additional deliverables from the original contractor are also allowed where:

1. no other contractor can be engaged because the additional supplies or services must be interoperable with existing systems; and
2. changing contractor would lead to substantial costs. In cases of unforeseen circumstances, Member States will be able to act with greater agility.

Proposed amendments by the Council on 26 November 2025
On 26 November 2025, the Council adopted its position on the Commission's proposed amendments of 17 June 2025 to the Defence and Security Procurement Directive. While the Council broadly aligns with the Commission's approach, it has introduced a number of targeted and substantive modifications to the draft text. The most significant elements of the Council's amendments are outlined below.

Significantly higher thresholds and a predictable adjustment mechanism
The Council proposes a substantial increase in the threshold values applicable to defence and security procurement. For supply and service contracts, the threshold is raised to EUR 3m, and for works contracts to EUR 15m. As a result, a markedly larger share of defence acquisitions may fall outside the full procedural requirements of the Directive. This is intended to reduce administrative burden, streamline processes, and enable contracting authorities to allocate resources to strategically critical tenders. Notably, these increases go significantly beyond the European Commission's original proposal of EUR 900,000 and EUR 7m respectively.

A new feature is the introduction of a predictable, periodic revision mechanism. The Commission may adjust threshold values by delegated acts within clearly defined margins: up to +20% or –10%, at intervals of no less than two years, and based on market developments. In urgent situations, a fast-track procedure may apply. This mechanism aims to enhance planning certainty for budgeting and tendering cycles.

DPS as a fully-fledged instrument
The Council introduces the DPS as an electronic and continuously accessible procedure for the procurement of frequently purchased, market-ready items. All operators meeting the suitability criteria must be admitted, and each admitted supplier must be invited to participate in mini-competitions launched under the system.

The Council further specifies procedural requirements, including:

- a minimum of 30 days for requests to join the system;
- a minimum of 10 days for submission of tenders in each call;
- quarterly grouping of award notices; and
- the option to request renewed evidence of suitability during the system's lifetime.

The aim is to increase transparency, ensure compliance and maintain quality assurance within DPS-based procurement.

Shortened deadlines in urgent cases
The Council clarifies and, where appropriate, shortens minimum time limits. Under the open procedure, the general minimum period for receipt of tenders is 35 days. In urgent cases, this period may be reduced to 15 days, or 10 days if electronic means are used. Comparable reductions apply to requests to participate and to the restricted procedure.

This framework aims to safeguard legal certainty while allowing Member States to respond swiftly to crises and urgent capability needs.

Temporary derogation for negotiated joint procurement
The Council sets out a temporary derogation enabling the use of the negotiated procedure without prior publication for joint procurement carried out by at least two Member States (a reduction from the Commission's proposed minimum of three). The derogation is subject to strict substantive and temporal conditions.

Key requirements include:

- invitations issued before 1 October 2030;
- contract signature before 1 January 2031;
- procurement of identical or only slightly modified products, including maintenance where this is normally expected;
- compliance with origin and control requirements (EU/EFTA/UA), with only limited use of non-EU/EFTA infrastructure where no security interests are affected;
- a cap whereby no more than 35% of component costs may originate outside the EU/EFTA.

Longer durations for repeat contracts and framework agreements
The Council proposes extending the permissible duration for repeat contracts concerning similar works or services from 5 to 10 years, enhancing continuity and reducing transaction costs – particularly relevant for defence systems with extended life cycles.

Similarly, the maximum duration for framework agreements is increased to 10 years, with the possibility for further extension in cases involving substantial life-cycle or technical switching costs.

Contract modifications: new de minimis rule and clarified framework
A new, explicit de minimis rule permits modifications without a new procurement procedure where the change:

- remains below both the Directive's threshold values and
- below 10% of the initial contract value (supplies/services) or 15% (works),
- provided that the overall nature of the contract remains unchanged.

The Council also codifies the full legal framework for permissible modifications, including unforeseen circumstances, additional deliveries or services, and succession of contractors. Certain modifications trigger publication obligations, and safeguards are included to prevent substantial alterations.

Next steps in the legislative process
The European Parliament must now determine its position on the proposals presented by the Commission and endorsed, with amendments, by the Council. The Parliament's adoption of its negotiating mandate marks the next formal step in the revision process of the Defence and Security Procurement Directive.

Once the Parliament and the Council reach agreement on the amendments, the revised Directive will be formally adopted under the ordinary legislative procedure. Should the two institutions not reach immediate agreement, the process will move to a second reading. At this stage, it is common for the institutions to engage in trilogues – informal negotiations between the Commission, the Parliament and the Council – with the aim of finding a compromise acceptable to all parties.

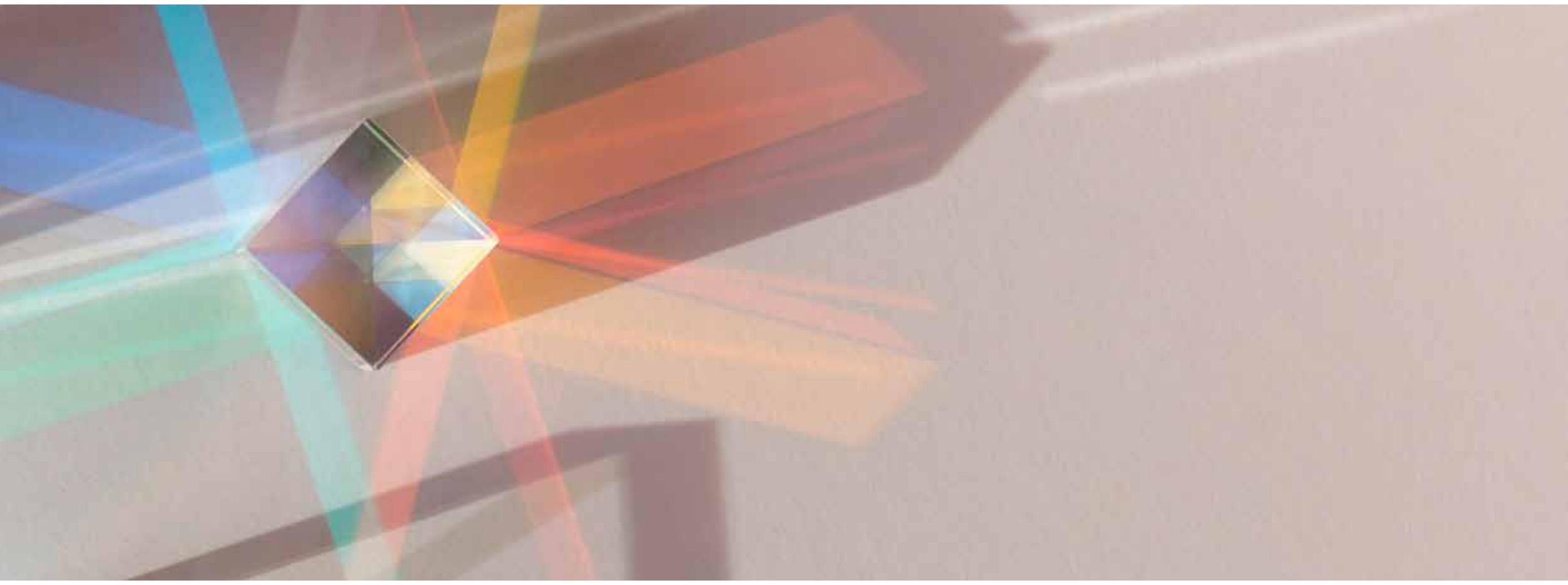
Following the adoption of the final text, the revised Directive will be published in the Official Journal of the European Union. From that moment, it will be for the EU Member States to transpose the amended provisions into their respective national legal systems within the prescribed transposition period.

Table with proposed changes

Article	Current text (Directive 2009/81)	Commission Proposal (17 June 2025)	Council Proposal (26 November 2025)
Article 1 – Definitions	-	Several definitions have been amended or added. For the amendments, see 15, 16, and 18. For the additions, see 17a, 17b, 21, and 21a.	Several definitions have been amended or added. For the amendments, see 15, 16 and 18. For the additions, see 17a, 17b, 18a, 21, 21a and 29
Article 8 – Thresholds (supplies/services)	EUR 412,000 (revised to EUR 443,000)	Increased to EUR 900,000	Increased to EUR 3m
Article 8 – Thresholds (works)	EUR 5,150m (revised to EUR 5,538m)	Increased to **EUR 7m**	Increased to **EUR 15m**
Article 9 – Calculation of estimated value	Paragraph 5: exceptions for lots with value < EUR 80,000 (services) or EUR 1m (works)	*No amendment proposed*	Paragraph 5 in point a: increased to EUR 300,000 (services) and EUR 2m (works) Paragraph 5 in point b: increased to EUR 300,000
Article 9 – paragraph 9	Framework agreements: estimated value = maximum estimated value of all contracts	Extension to "dynamic purchasing systems"	Same as Commission
Article 9 – new paragraph 10	*Does not exist*	New paragraph: calculation of value for innovation partnerships	Same as Commission
Article 10 – Central purchasing bodies	Limited provisions on procurement via central purchasing bodies	Fully rewritten: extended rules for central purchasing bodies, dynamic purchasing systems and cross-border cooperation	Same as Commission
New Article 10a	*Does not exist*	New article: procurement involving contracting authorities from different Member States	Same as Commission, with further explanation of where the national provisions will apply
New Article 10b	*Does not exist*	No amendment proposed	New article: occasional joint procurement
Article 13(c) – Exclusions (cooperation programmes)	Contracts under R&D cooperation programmes between at least two Member States	Clarification: later phases of life cycle included; Member States joining after R&D phase may also benefit from exclusion	Same as Commission
Article 13(d) – Exclusions (third countries)	Contracts awarded in a third country when forces are deployed outside EU territory	Clarification: "or for training" added	Same as Commission
Article 25 – Procedures	Choice of restricted procedure or negotiated procedure with publication; competitive dialogue under circumstances of Article 27	Addition of **open procedure** as a choice; addition of **innovation partnership** under circumstances of Article 27 or 27a	Same as Commission

Article	Current text (Directive 2009/81)	Commission Proposal (17 June 2025)	Council Proposal (26 November 2025)
Article 27 – Competitive dialogue	Paragraph 1: may be used where restricted or negotiated procedure is not suitable	Paragraph 1: open procedure also added to list of procedures that may not be suitable	Same as Commission
New Article 27a – Innovation partnership	*Does not exist*	Entirely new article: innovation partnership procedure for development and procurement of innovative products/services/works; structured in successive phases; award based on best price-quality ratio	Same as Commission
Article 28(1) – Negotiated procedure without publication	Points (a) – (c): provisions for works, supplies and services where no tenders, irregular tenders, or urgency due to crisis	Addition of open procedure and innovation partnership to list of prior procedures that may have failed	Same as Commission
Article 28(2) – new point (c)	*Does not exist*	New point: direct purchase following parallel R&D contracts with multiple operators, subject to conditions	Same as Commission, but wording amended: value "not disproportionate" instead of "max. 10x"; additional conditions on contractor establishment
Article 28(2) – new point (d)	*Does not exist*	New point: joint procurement by at least 3 Member States for identical defence products, temporarily until 1 January 2031, with conditions on contractors	Amended: by at least **2 Member States** (instead of 3)
Article 28(4)(b) – Repetition of similar works/services	May be used for 5 years after original contract, except in exceptional circumstances	*No amendment proposed*	Extended to **10 years**
Article 29(2) – Framework agreements	Maximum duration 7 years, except in exceptional circumstances	Maximum duration extended to **10 years**	Same as Commission: maximum duration **10 years**
New Article 29a – Dynamic purchasing system	*Does not exist*	Entirely new article: dynamic purchasing system for commonly used purchases; electronic process; open to any operator meeting selection criteria; may be subdivided into categories	Same as Commission, with additional provisions (paragraph 7a: possibility to require proof of selection criteria during term)

Article	Current text (Directive 2009/81)	Commission Proposal (17 June 2025)	Council Proposal (26 November 2025)
Article 30 – Notices	Paragraph 2: contracting authorities make intention known via contract notice	Paragraph 2: addition of open procedure and innovation partnership	Same as Commission
Article 30 – new paragraph 2a	*Does not exist*	New paragraph: dispatch of contract award notice within 30 days after awarding contract under dynamic purchasing system; possibility of quarterly grouping	Same as Commission
Article 33 – Time limits	Paragraph 2: minimum time limit for receipt of requests to participate = 37 days; minimum time limit for receipt of tenders (restricted) = 40 days	Paragraph 2: addition of innovation partnership; no change to time limits	Paragraph 2: addition of open procedure with time limit of **35 days** for receipt of tenders
Article 33 – paragraph 7 (urgency)	Reduced time limits in case of urgency: min. 15/10 days for requests; min. 10 days for tenders	*No amendment proposed*	Amended: addition of open procedure with reduced time limit of 15/10 days for tenders
Article 34 – Invitations	Paragraph 1: invitation to tender/negotiate/dialogue in restricted procedure, negotiated procedure, competitive dialogue	Addition of innovation partnership	Same as Commission
Article 35 – Information to candidates / tenderers	Paragraph 1: informing about award decision or framework agreement	Paragraph 1: addition of admission to dynamic purchasing system	Same as Commission
Article 35 – paragraph 3	Contracting authority may withhold information if disclosure would harm public order	Addition of reference to dynamic purchasing system	Same as Commission
Article 38 – paragraph 3	Limitation of number of candidates in restricted procedure, negotiated procedure, competitive dialogue	*No amendment proposed*	Addition of innovation partnership
Article 38 – paragraph 5	Reduction of number of solutions/tenders in accordance with Article 26(3) or 27(4)	*No amendment proposed*	Addition of reference to Article 27a(2) and (5) (innovation partnership)
New Article 42 – paragraph 7	*Does not exist*	*No amendment proposed*	New paragraph: contracting authorities may require that critical tasks be performed by the tenderer itself



Article	Current text (Directive 2009/81)	Commission Proposal (17 June 2025)	Council Proposal (26 November 2025)
New Article 46a	*Does not exist*	New article: reduction of number of qualified candidates; minimum rules (5 for restricted, 3 for negotiated/dialogue/innovation partnership)	Deleted by Council
New Article 46b	*Does not exist*	New article: reduction of number of tenders and solutions based on award criteria	Deleted by Council
New Article 49a – Modification of contracts	Does not exist	New article: extended rules for modification of contracts/ framework agreements without new procurement procedure, based on Directive 2014/24	Same as Commission, with addition of paragraph 1a on modifications below thresholds (10% for supplies/ services, 15% for works)
Article 52 – paragraph 6	7-year period for framework agreements in subcontracting	*No amendment proposed*	Extended to **10 years**
Article 55 – paragraph 1 (Review procedures)	Review procedures applicable to contracts referred to in Article 2, with exception of Articles 12 and 13	*No amendment proposed*	Addition of reference to framework agreements and dynamic purchasing systems
Article 58(c)	Derogation from standstill for framework agreements	*No amendment proposed*	Addition of reference to dynamic purchasing systems
Article 60 – paragraph 1(c)	Ineffectiveness for framework agreements	*No amendment proposed*	Addition of reference to dynamic purchasing systems
Title V	"Statistical obligations, implementing powers and final provisions"	*No amendment proposed*	Renamed to "Implementing powers and final provisions"
Article 65 – Statistical obligations	Extensive annual statistical reporting obligations	**Deleted**	**Deleted**
Article 66 – Content of statistical report	Detailed content of statistical report	**Deleted**	**Not Deleted**
Article 68 – Review of thresholds	Review of thresholds simultaneously with Directive 2004/17	**Deleted**	Replaced by new delegation of powers to Commission: thresholds may be amended by max. +20% or -10%; delegated acts
Article 69 – Amendments	Commission may amend certain procedural elements	*No amendment proposed*	Paragraph 1(a) amended with reference to Article 30

Useful link

CMS International Public Procurement Law Firm + Link:
https://cms.law/en/int/global-reach/international/expertise/public-procurement

How can CMS help?

The aerospace and defence sectors are at the forefront of technological innovation, international commerce and national security. At CMS, we provide comprehensive legal support to clients operating in these industries, whether they are established market leaders or emerging innovators.

We advise aircraft manufacturers, defence contractors, suppliers and government agencies, helping them to navigate the defence procurement rules. Often working as part of multidisciplinary teams, we advise on all aspects of defence procurement, defence contracting and related regulatory aspects around export controls, sanctions, national security, antitrust and FDI rules, intellectual property, cybersecurity and evolving international trade laws in this sector.

We provide proactive solutions, guiding our clients through critical decisions and helping them mitigate risks in a rapidly changing global environment. including on both competitive procurement processes and on single sourcing. This includes advising on variations to contracts, direct awards, the application of the Defence and Security Procurement Directive and locally implemented legislation and where necessary on pursuing legal challenges to contract award decisions or the unlawful variation or extension of existing contracts.

Key Contacts

Virginie Dor
Partner
Head of the CMS Global Public Procurement Group
Brussels, Belgium
T +32 2 743 69 72
F +32 2 743 69 01
E virginie.dor@cms-db.com

Petra Heemskerk
Partner
Head of Real Estate and Mobility, the Netherlands
Amsterdam, the Netherlands
T +31 20 3016 295
F +31 20 3016 333
E petra.heemskerk@cms-dsb.com

More Public Procurement experts can be found here:
CMS Public Procurement Group – Contact card

Disclaimer

The information held in this publication is for general purposes and guidance only and does not purport to constitute legal or professional advice. It is not intended to be comprehensive, nor does it constitute advice on any particular matter. You should not act or refrain from acting on the basis of any information in this document without obtaining specific professional advice. While we have taken care in preparing this publication, CMS accepts no liability for any errors or omissions it may contain, whether caused by negligence or otherwise, or for any loss, however caused, sustained by any person or entity that relies on it.

Our geographical spread

The Americas

Bogotá
Lima
Mexico City
Santiago de Chile
São Paulo
Silicon Valley*

Europe

Aberdeen
Amsterdam
Antwerp
Barcelona
Belgrade
Bergen
Berlin
Bratislava
Bristol
Brussels
Bucharest
Budapest
Cologne
Dublin
Duesseldorf
Edinburgh
Frankfurt
Funchal
Geneva
Glasgow
Gothenburg
Hamburg
Istanbul
Kyiv
Leipzig
Lisbon
Liverpool
Ljubljana
London
Luxembourg
Lyon
Madrid
Manchester
Milan
Monaco
Munich
Oslo
Paris
Podgorica
Poznan
Prague
Reading
Rome
Sarajevo
Sheffield
Skopje
Sofia
Stavanger
Stockholm
Strasbourg
Stuttgart
Tirana
Vienna
Warsaw
Zagreb
Zurich

Africa

Casablanca
Ebene
Johannesburg
Luanda
Maputo
Mombasa
Nairobi

Middle East

Abu Dhabi
Dubai
Muscat
Riyadh
Tel Aviv

Asia-Pacific

Beijing
Bengaluru
Brisbane
Chennai
Gurugram
Hong Kong
Hyderabad
Mumbai
New Delhi
Shanghai
Singapore
Sydney

*Representative Office

CMS Legal Updates subscription service

Sign up now for the free online email alert service delivering commentary, analyses and insights from CMS experts on the legal issues affecting your business, directly to your inbox.
cms.law/subscription

CMS locations:
Aberdeen, Abu Dhabi, Amsterdam, Antwerp, Barcelona, Beijing, Belgrade, Bengaluru, Bergen, Berlin, Bogotá, Bratislava, Brisbane, Bristol, Brussels, Bucharest, Budapest, Casablanca, Chennai, Cologne, Dubai, Dublin, Duesseldorf, Ebene, Edinburgh, Frankfurt, Funchal, Geneva, Glasgow, Gothenburg, Gurugram, Hamburg, Hong Kong, Hyderabad, Istanbul, Johannesburg, Kyiv, Leipzig, Lima, Lisbon, Liverpool, Ljubljana, London, Luanda, Luxembourg, Lyon, Madrid, Manchester, Maputo, Mexico City, Milan, Mombasa, Monaco, Mumbai, Munich, Muscat, Nairobi, New Delhi, Oslo, Paris, Podgorica, Poznan, Prague, Reading, Riyadh, Rome, Santiago de Chile, São Paulo, Sarajevo, Shanghai, Sheffield, Silicon Valley, Singapore, Skopje, Sofia, Stavanger, Stockholm, Strasbourg, Stuttgart, Sydney, Tel Aviv, Tirana, Vienna, Warsaw, Zagreb and Zurich.

Further information can be found at **cms.law**