

# PUBLIC PROCUREMENT and environment

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Basics of EU Environmental Law  
25 October 2023

- GPP in the context of the European Green Deal
- EU policy developments and possible mandatory measures in sectorial legislation
- European Commission GPP support tools

# What is public procurement?

- Directive 2014/24/EU on public procurement

*General rules*

*Article 18*

**Principles of procurement**

1. Contracting authorities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner.


The design of the procurement shall not be made with the intention of excluding it from the scope of this Directive or of artificially narrowing competition. Competition shall be considered to be artificially narrowed where the design of the procurement is made with the intention of unduly favouring or disadvantaging certain economic operators.

2. Member States shall take appropriate measures to ensure that in the performance of public contracts economic operators comply with applicable obligations in the fields of environmental, social and labour law established by Union law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X.


- Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors
- Directive 2014/23/EU on the award of concession contracts

EU law sets minimum harmonised rules for tenders whose **monetary value exceeds a certain amount and which are presumed to be of cross-border interest**. The European rules ensure that the award of contracts of higher value for the provision of public goods and services must be fair, equitable, transparent and non-discriminatory. For tenders of lower value however, national rules apply, which nevertheless must respect general principles of EU law.

## Concessions Directive 2014/23/EU

[Directive 2014/23/EU](#) , on the award of concession contracts.

- All works or services concessions: €5,382,000


[Commission Delegated Regulation \(EU\) 2021/1951 amending Directive 2014/23/EU of the European Parliament and of the Council in respect of the threshold for concessions](#) 

## Classical Directive 2014/24/EU


[Directive 2014/24/EU](#) , on public procurement:

	Works contracts, subsidised works contracts		€5,382,000	
	All services concerning social and other specific services listed in Annex XIV		€750 000	
	All subsidised services		€215 000	
Central Government authorities	All other service contracts and all design contests		€140 000	
	All supplies contracts awarded by contracting authorities not operating in the field of defence		€140 000	
	Supplies contracts awarded by contracting authorities operating in the field of defence	Concerning products listed in Annex III		€140 000
		Concerning other products		€215 000
	Sub-central contracting authorities	Works contracts, subsidised works contracts		€5,382,000
All services concerning social and other specific services listed in Annex XIV			€750 000	
All other service contracts, all design contests, subsidised service contracts, all supplies contracts			€215 000	

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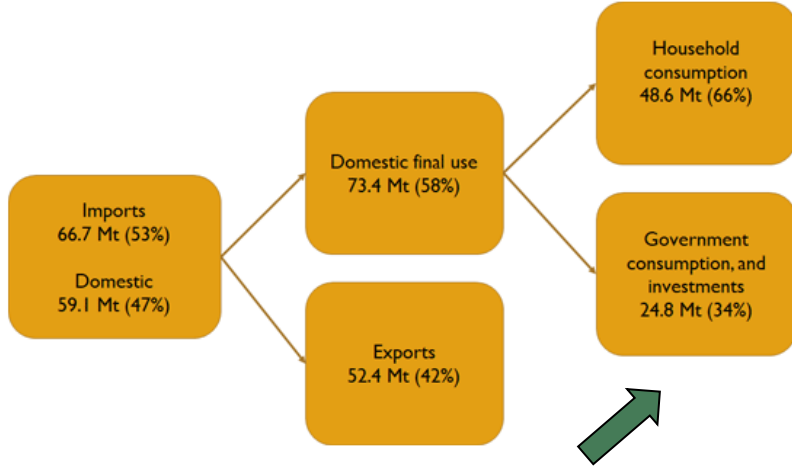
## Utilities (Sectors) Directive 2014/25/EU

[Directive 2014/25/EU](#)  on procurement by entities operating in the water, energy, transport and postal services sectors:

- Works contracts: €5,382,000
- All services concerning social and other specific services listed in Annex XVII: €1,000,000
- All other service contracts, all design contests, all supplies contracts: €431 000

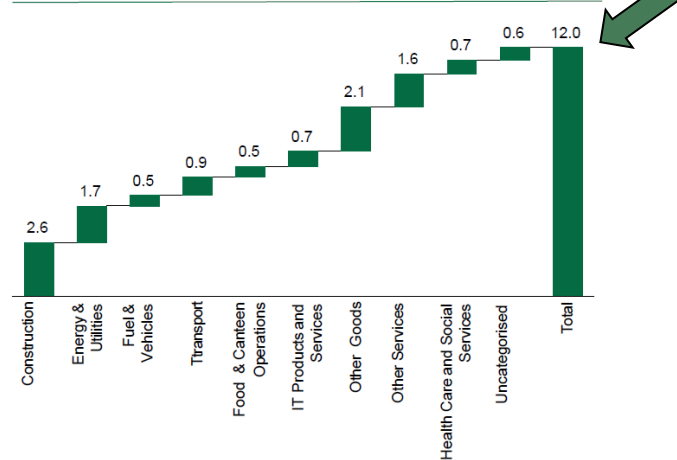
# Why GPP?

## Carbon footprint of public procurement – Finland – 2015



## Carbon footprint of public procurement – Denmark – 2019

Figure 1: The climate footprint of public procurement according to procurement area (2019; million tons of CO<sub>2</sub>eq.)



## Priorities of the European Commission 2019-2024

**A European Green Deal**

**An economy that works for people**

**A Europe fit for the digital age**

**Protecting our European way of life**

**A stronger Europe in the world**

**A new push for European democracy**

# European Green Deal and GPP

**COM (2019) 640 final of 11.12.2019**



*2.1.3. Mobilising industry for a clean and circular economy*

Brussels, 11.12.2019  
COM(2019) 640 final

Public authorities, including the EU institutions, should lead by example and ensure that their procurement is green.

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

The European Green Deal

The Commission will propose further legislation and guidance on green public purchasing.



# 2020 Circular Economy Action Plan and GPP

COM (2020) 98 final of  
11.03.2020

## 2. A SUSTAINABLE PRODUCT POLICY FRAMEWORK

### 2.2 Empowering consumers and public buyers

the Commission will propose **minimum mandatory green public procurement (GPP) criteria and targets in sectoral legislation** and phase in **compulsory reporting to monitor the uptake of Green Public Procurement (GPP)** without creating unjustified administrative burden for public buyers.

Furthermore, the Commission will continue to support capacity building with guidance, training and dissemination of good practices and encouraging public buyers to take part in a **“Public Buyers for Climate and Environment”** initiative, which will facilitate exchanges among buyers committed to GPP implementation.



# 2020 Circular economy action plan

## *Designing sustainable products*

- *Sustainable products initiative: revision of the Ecodesign Directive to go beyond energy-related products*

## *Empowering consumers and public buyers*

- Revision of the **consumer law**: consumers to receive trustworthy and relevant information on products at the point of sale
- Establishing a new **“Right to repair”**
- Legislative proposal to ensure companies substantiate their **green claims** using Product and Organisation Environmental Footprint methods

# Minimum mandatory GPP criteria in sectoral legislation – new Batteries regulation

Commission proposal for a regulation adopted on 10 December 2020

COM/2020/798 final

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020PC0798>

Chapter X - Art. 70 Green public procurement

The proposal presented by the European Commission is designed to modernise the EU's regulatory framework for batteries in order to secure the sustainability and competitiveness of battery value chains.

It would introduce mandatory requirements on sustainability (such as **carbon footprint** rules, **minimum recycled content**, **performance and durability criteria**), safety and labelling for the marketing and putting into service of batteries, and requirements for end-of-life management.

The proposal also includes **due diligence obligations** for economic operators as regards the sourcing of raw materials.

**Adopted July 2023 (Article 85)**

# Minimum mandatory GPP criteria in sectoral legislation – new Batteries regulation <sup>(2)</sup>

Art 85, point 3

The Commission shall, 12 months after the adoption of the latest of the delegated acts referred to in Article 7(2), fourth subparagraph, point (a), Article 8(1), Article 9(2) and Article 10(5), adopt delegated acts in accordance with Article 89 supplementing this Regulation by establishing award criteria for procurement procedures for batteries, or products containing batteries, based on the sustainability requirements laid down in Articles 7 to 10

# Minimum mandatory GPP criteria in sectoral legislation – EU energy efficiency directive <sup>(1)</sup>

Commission proposal for a Directive (recast) [adopted on 14 July 2021](#)

COM/2021/558 final

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0558>

Under the European Green Deal, the Commission has committed to stronger action on climate change. It aims to assess how the EU's greenhouse gas emissions could responsibly be reduced by at least 50% to 55% by 2030

As the efficient use of energy is key to achieving such a target, the review aims to provide insights into how the EED could be revised to:

- achieve a higher level of greenhouse gas reduction by 2030
- contribute to other European Green Deal initiatives

• **Adopted July 2023**

• <https://data.consilium.europa.eu/doc/document/PE-15-2023-INIT/en/pdf>

# Minimum mandatory GPP criteria in sectoral legislation – EU energy efficiency directive <sup>(2)</sup>

- Chapter II – Exemplary role of public sector
  - Art. 6 – exemplary role of public bodies **buildings**  
at least 3 % of the total floor area of heated and/or cooled buildings owned by public bodies is renovated each year to at least be transformed into nearly zero-energy buildings
  - Art. 7 – **Public procurement**  
contracting authorities to buy only products, services, buildings and works with high energy efficiency in accordance to requirements referred to in Annex IV (which makes reference, among others documents, to EU GPP criteria-set)

# Sustainable Products Initiative (SPI) (1)

- Widening the scope of the Ecodesign Directive to the broadest possible range of products
- Establishing sustainability principles and setting product requirements on:
  - Improving product durability, reusability, upgradability and reparability
  - Increasing recycled content in products and facilitating remanufacturing, including possible measures on production processes
  - Restricting single-use, countering premature obsolescence, banning the destruction of unsold durable goods
  - Incentivising product-as-a-service
  - Mandatory labelling a/o provision of information in the form of a digital product passport
  - Rewarding sustainable products by linking incentives to sustainability performance levels; minimum sustainability requirements on public procurement of products
  - Addressing social aspects throughout the lifecycle of products where feasible



*Priority to CEAP key value chains and intermediate products such as steel, cement, chemicals*

# Sustainable Products Initiative (SPI) (2)

Commission proposal [adopted on 30 March 2022](#)  
COM(2022) 142 final

Art. 58

Reference to mandatory GPP criteria that will be adopted as part of the delegated act setting requirements for specific product groups

Priority product categories:

- electronics & ICT equipment
- Textiles
- furniture
- steel, cement & chemicals.

[https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12567-Sustainable-products-initiative\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12567-Sustainable-products-initiative_en)



# Construction Products Regulation

Commission proposal [adopted on 30 March 2022](#)  
COM(2022) 144 final

The Construction Products Regulation lays down EU-wide rules for marketing construction products.

This initiative will review these rules. It includes:

- addressing the issues identified in the 2019 evaluation
- improving how the single market for construction products functions.

The aim is to unlock the sector's growth and jobs potential, promote environmental goals as part of the Green Deal and Circular Economy Action Plan, and possibly promote product safety.

Art. 84

Reference to mandatory GPP criteria that will be adopted as part of mandatory standards and implementing acts setting requirements for specific products

# Reducing packaging waste – review of rules

In a 'circular economy', waste is reduced and goods are re-used and recycled as much as possible. This means that packaging waste should also be reduced, and packaging should be made easier to recycle.

The Commission will review the requirements on packaging and packaging waste in the EU. This will include assessing how to:

- improve packaging design to promote reuse and recycling
- increase recycled content in packaging
- tackle excessive packaging
- reduce packaging waste

## Commission proposal: November 2022

Chapter IX (Article 57) concerns green public procurement and, more specifically, the possibility for the Commission to adopt delegated acts to establish requirements applicable to public contracts (e.g. technical specifications, selection criteria, award criteria, etc.), based on the sustainability requirements laid down in this Regulation.

# Legislative framework for sustainable food systems

This initiative aims to make the EU food system sustainable and to integrate sustainability into all food-related policies.

It will lay down general principles and objectives, together with the requirements and responsibilities of all actors in the EU food system.

More specifically, it will lay down rules on:

- sustainability labelling of food products
- **minimum criteria for sustainable public procurement of food**
- governance and monitoring.

Topic: Food safety

Type of act: Proposal for a regulation

Open Public consultation: 2<sup>nd</sup> quarter 2022

Commission adoption: 4th quarter 2023



[https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13174-Sustainable-EU-food-system-new-initiative\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13174-Sustainable-EU-food-system-new-initiative_en)

# GPP support tools

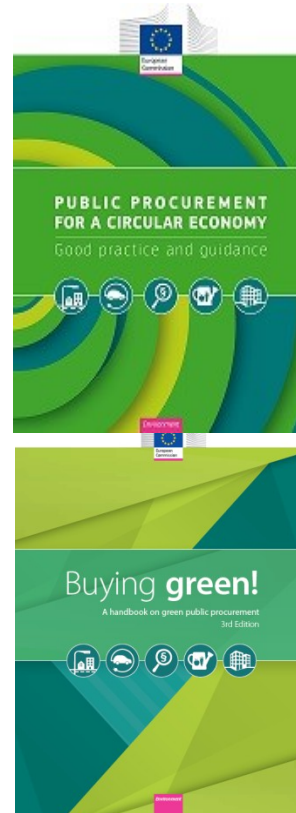
## *GPP website of the European Commission:*

- *Full sets of EU GPP criteria and background reports in 20+ languages*
- Buying Green Handbook
- Updated GPP Training Toolkit
- Circular Procurement brochure
- More than 180 GPP Examples
- News and upcoming events

*General GPP Help desk: [gpp-helpdesk@iclei.org](mailto:gpp-helpdesk@iclei.org)*

## *GPP Newsletter*

Exchange Platform - <https://procurement-forum.eu/>



# Common EU GPP Criteria

- Clear, verifiable, justifiable and ambitious environmental criteria
- Scientific evidence base, life-cycle approach
- Having common criteria reduces considerably the administrative burden for economic operators and for public administrations implementing GPP
- ~ 20 product groups covered (e.g. food and catering services, cleaning services, public space maintenance, computers, vehicles, data centres, etc.)
- Voluntary (unless differently defined by Member States)
- Section on LCC is always included

# EU GPP Criteria



Copying and graphic paper



Computer, monitors, tablets and smartphones



Road transport **NEW**



Electricity



Textiles



Cleaning products and services



Office Buildings



Furniture



Food & Catering services



Public space maintenance

→ Feedback on EU GPP criteria are welcome!

# GPP Good practice

European Commission

ENVIRONMENT

European Commission > Environment > Green Public Procurement >

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Green Public Procurement

- News and Events
- About GPP
- GPP Criteria
- GPP Good Practice**
- Legal Framework
- Policy Framework
- GPP Advisory Group
- National Action Plans
- GPP Projects and Toolkit
- FAQs
- Publications
- Studies

**GPP Good Practice**

Since January 2010, the European Commission has collected examples of GPP in practice to illustrate how European public authorities have successfully launched 'green' tenders, and provide guidance for others who wish to do the same.

The new "GPP brochure of good practice examples" presents some of the most interesting case studies collected over the years. The brochure is intended to inspire public (and private) procurers to opt for green products and services when making their purchasing decisions.


Read the brochure [here](#).

**CLEANING PRODUCTS AND SERVICES**

**COMBINED HEAT & POWER**

**BUILDINGS**

**COPYING AND GRAPHIC PAPER**



# GPP Life Cycle Costing Tools

- Computers and monitors
- Indoor lighting
- Outdoor lighting
- Imaging equipment
- Vending machines

[Life cycle costing - GPP - Environment - European Commission \(europa.eu\)](#)



**THANK YOU FOR YOUR ATTENTION!**

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