



Brussels, 26 January 2026

## ***A Modern EU Public Procurement Law For Strong Local Authorities***

### **Demands from Local Authorities in Bavaria and Baden-Württemberg**

Local authorities – i. e. the municipalities, cities, counties, and districts in Bavaria and Baden-Württemberg – contribute significantly to local societal cohesion. They provide and maintain key infrastructure and services in line with their public service mandate, which directly benefits people at the local level. However, for this to happen, the right conditions must be in place. We therefore welcome the European Commission’s current focus on simplifying EU law, reducing bureaucracy, and thus strengthening the EU’s competitiveness and resilience. In this context, any simplification efforts by the EU must keep in mind the local implementation level across all policy areas in the spirit of a ‘[local omnibus](#)’. Only then can relief measurements be designed to deliver long-term benefits not only to the economy, but also to local authorities and thus to citizens.

Public procurement law limits undertakings of local authorities particularly strongly through complex regulations and requirements. This has reached a point where local authorities, regardless of their size and their degree of ‘professionalisation’, are forced to commission external service providers in order to carry out EU-wide public tenders in compliance with EU law. This cannot be the purpose of the EU directives on public procurement. Rather, what is needed is a public procurement law that recognises the special role local authorities play for the society and for the EU’s ability to act and provides them with practical and lawful procedures.

On behalf of the associations of local authorities of Bavaria and Baden-Württemberg<sup>1</sup>, we call for:

#### **Fewer EU-wide procedures through higher EU thresholds**

The current EU thresholds have not been adjusted for inflation in decades and are hence significantly too low. We therefore request the European Commission to enter negotiations on reforming the Agreement on Government Procurement (GPA) with the World Trade Organization. A up-to-date adjustment of thresholds would relieve both bidders and local authorities. As a starting point for new thresholds, we call for:

1. at least €10 million for construction work
2. at least €750,000 for supplies and services
3. Alternatively: the introduction of a special threshold value for planning services amounting to €750,000

<sup>1</sup> Bayerischer Gemeindetag, Bayerischer Städtetag, Bayerischer Landkreistag, Bayerischer Bezirkstag; Gemeindetag Baden-Württemberg, Städtetag Baden-Württemberg, Landkreistag Baden-Württemberg.

Furthermore, it is necessary for the European Commission to make full use of the existing scope of the current GPA, in order to ease public procurement procedures for local public contracting authorities.

Moreover, we demand a more concrete depiction and reliable definition of the terms used in the CPV nomenclature, particularly regarding social and other special services, in order to be able to fully utilise the existing scope.

### **Legally compliant procedures and exceptions for small and medium-sized contracting authorities**

We welcome the European Parliament's request in its own-initiative report 2024/2103 (INI) to make public procurement more flexible while at the same time guaranteeing legal certainty for public contracting authorities. Public contracting authorities must be enabled to conduct public procurement procedures independently and without the costly and time-consuming commissioning of external service providers. This approach must apply to all public contracting authorities and reflect, in particular, the needs of small and medium-sized contracting authorities (SMCA). In consideration of the low relevance of their measures for the Internal Market and the need for a substantial reduction in bureaucracy, local authorities up to a certain size (e. g. up to 20,000 inhabitants) should be completely exempt from the application of EU public procurement law.

### **Material assessment of thresholds**

Furthermore, we consider a material assessment of public procurement to be necessary. Projects that are carried out by local authorities themselves to meet basic local needs (Public Services and Services of General Interest) and are not relevant to the Internal Market, should be exempt from the European-wide tendering requirement.

### **Exceptions for public-public cooperation as well as cooperation among local authorities without further premises**

Public-public cooperation among local authorities for the purpose of efficiently fulfilling their tasks should not be restricted by EU public procurement law. However, the prerequisites of the so-called 'cooperative concept' and the various associated rulings of the European Court of Justice have developed into a factor of legal uncertainty that complicates cooperation among local authorities. It must be possible for a local authority to forgo the building up of its own personnel capacities, its own know-how and its own operating resources in certain areas and instead be able to contract another local authority to perform the task in return for reimbursement of costs, without having to abide by public procurement law. This serves to ensure an efficient and resilient fulfilment of tasks, especially considering the demographic change and the preservation of competencies in the public sector. We therefore call for cooperation among local authorities to be exempted from the applicability of public procurement law without any further conditions.

### **Strengthening of inhouse exceptions**

Furthermore, we strongly oppose further restrictions on inhouse solutions. Restricting this possibility would mean a grave interference with local self-government and would endanger the established structures of local public services – for example in the areas of water and waste management – even though they offer a significantly higher degree of reliability and long-term planning security compared to alternatives that may appear less expensive in the short term. The European Court of Justice has

repeatedly confirmed the legitimacy of inhouse solutions since the *Teckal* case (ECJ judgment of 18 November 1999, Case C-107/98). Additional new requirements for the admissibility of inhouse solutions would create unnecessary bureaucratic hurdles and contradict the European Commission's current efforts to reduce bureaucracy. Instead, we urge further simplifications of the existing inhouse solutions: They are too complex, lack legal certainty, and do not cover all practical needs. For example, it is unclear whether Article 12(3) permits inverse inhouse solutions or inhouse tenders to 'sister entities', if control is exercised jointly by several public contracting authorities. Such concepts, as well as multi-stage inhouse solutions, play a significant role in practice. These directives need to be formulated in a simpler yet more comprehensive manner. All arrangements should be classified as exempt from tendering, if more than 80 % of the activities of the contracted legal person serve to perform tasks specified by the participating contracting authorities within the framework of the control relationship defined in Article 12.

### **Voluntary application of ESG criteria (Environmental, Social, and Governance)**

The local authorities in Bavaria and Baden-Württemberg conduct sustainable and climate-friendly procurement in accordance with national and European environmental legislation. This must be considered in every procurement process. Introducing mandatory ESG criteria would result in additional bureaucratic burdens on local authorities and interfere with their autonomy in public procurement. Therefore, public procurement law must not contain mandatory requirements regarding which service is to be procured and must confine itself on "how" to procure. For this reason, we call for ESG criteria to remain voluntary. If anything, they should be uniformly prescribed for both the public and the private sector, for example through requirements for the release of products, supplies, and services.

### **No additional bureaucracy through a "Made in Europe" approach**

We consider the introduction of a European preference to be beneficial in particularly delicate economic areas. However, it must not be extended disproportionately to other areas. Moreover, it must not create additional bureaucratic work for local authorities as public contracting authorities.

### **No changes of existing EU regulations for lot-based procurement**

We reject the European Parliament's call, set out in its own-initiative report 2024/2103 (INI), for the European Commission to examine the introduction of a requirement for lot allocation. The requirements of the current EU public procurement directives are entirely sufficient.

### **Further specific demands for changes to the current EU public procurement law:**

1. Alignment of negotiating procedures with competitive tendering and open and restricted procedures in Article 26(2) of Directive 2014/24/EU
2. Extending the possibility of waiving a competitive tendering in Article 32(2) of Directive 2014/24/EU to include used items
3. Enabling the award of a direct contract (negotiation with a single contractor) after an unsuccessful prior open or restricted procedure
4. Removal of the absolute limits for individual lots deviating from the provisions of Article 5(10) of Directive 2014/24/EU and increasing the percentage from 20 % to 40 %
5. Clarification of Article 5(10) of Directive 2014/24/EU that the allocation of a lot to the 20 % quota must be made and documented no earlier than, or at the latest upon, the initiation of the award procedure for that lot

6. Removing the minimum time limits in Articles 27 to 31 of Directive 2014/24/EU and replacing them with a time limit appropriate to the individual case (Article 47 of Directive 2014/24/EU)
7. Enhancing flexibility for contract modifications after contract conclusion in Article 72 of Directive 2014/24/EU: general admissibility of contract modifications and extensions without a new public procurement procedure; limitations to cases of abuse, especially in cases of deliberately postponed modifications or where substantial extensions that are technically, functionally and spatially separable constitute an independent contract. Alternatively, we call for at least doubling the de minimis thresholds set out in Article 72(2) of Directive 2014/24/EU and allowing their multiple application in the event of repeated amendments.
8. Extending Article 32 or Article 72(1) lit. d of Directive 2014/24/EU: In case of contract termination due to disrupted contract performance during the implementation of an ongoing project, a replacement award through a negotiated procedure without competitive tendering must be allowed without separate justification. The same shall apply if it subsequently becomes apparent that the contractor is unable to perform the service.
9. Exceptions from public procurement law for contracts for goods that are subject to price-fixing under the law of Member States (e. g. school textbooks covered by fixed book price legislation).
10. Amendment of Article 57(4) lit. g to the effect that proven significant or persistent deficiencies in prior contracts can constitute grounds for justifying the exclusion of the tender.
11. Addition to Article 5(8) of the Directive 2014/24/EU on public procurement: "Where a construction project or the intended provision of services may result in contracts that are awarded in multiple lots, the estimated total value of all such lots shall be taken into account. *For planning services, this applies only to lots for similar services.*"
12. Simplification of notifications: Contrary to the European Commission's intention, the use of eForms has proven to be unnecessarily complex, unclear, and prone to errors.

Should you have any further questions, please do not hesitate to contact the European Offices of the Bavarian Local Authorities and the Local Authorities of Baden-Württemberg.