



Mr.
MEP Christian Doleschal
European Parliament
60, rue Wiertz / Wiertzstraat 60
B-1047 Bruxelles/Brussel
B-1000 Brüssel

Brussels, 27.08.2025

Amendment of Article 27a of IMCO draft of EP Own-Initiative Report on Public Procurement

Dear Mr Doleschal,

The current EU Public Procurement Directive 2014/24/EU wisely stipulates in Article 46(1) that **"Contracting authorities may award a contract in the form of several lots and determine the size and subject matter of the lots. Contracting authorities shall... provide an indication of the main reasons for their decision not to subdivide into lots..."**. It is further clarified in Recital 78 that: **"The size and subject-matter of the lots should be determined freely by the contracting authority... The contracting authority should have a duty to consider the appropriateness of dividing contracts into lots while remaining free to decide autonomously on the basis of any reason it deems relevant, without being subject to administrative or judicial supervision"** [our emphasis].

Bearing in mind the **ambitious EU Agenda**, including industrial decarbonisation, facilitating military mobility, developing a multimodal and high-quality trans-European transport network, and providing affordable and sustainable housing, the European construction industry and EU contracting authorities alike will need contemporary, flexible and effective EU procurement rules allowing them to select the most appropriate procurement method autonomously for their individual project from a large variety of procurement options.

Against this background, the undersigning national construction industry federations eight EU Member States are utterly concerned about a text passage adopted by the IMCO Committee in relation to the upcoming EP Own-Initiative Report on Public Procurement (2024/2103(INI)). Whilst acknowledging that the IMCO Proposal comprises several positive and future-orientated aspects, such as Value for Money assessment, prevention of unfair competition from subsidised third

country bidders, and preferences for European goods and services in strategic sectors, we wish to draw your attention to the fact that the following wording of **Article 27a of the Final Compromise Amendments** – if confirmed by the EP plenary – would be extremely harmful for our industry:

*The Parliament ‘calls on the Commission to **consider mainstreaming division of contracts into smaller lots to prevent dominance by large entities and foster competition, while taking into account that contracts should not be divided where there is a genuine technological or efficiency justification; emphasises the need for clear guidelines determining when non-division of contracts is justified; notes that the division of lots is also an effective means of preventing unfeasible subcontractor chains**’ [our emphasis].*

The generalisation of mandatory division of contracts into lots at EU level would be completely inappropriate. It is essential that the appropriateness of introducing such a mechanism remains assessed at the level of each Member State, taking into account national specificities, as already provided for in Article 46(4) of European Directive 2014/24/EU. The creation of an obligation to divide contracts into lots at EU level would also force Member States that have already introduced mandatory allotment rules at national level to adapt their regulatory framework, which is well understood by the various stakeholders, who need a stable legal environment.

The introduction at EU level of a general rule on the mandatory division into “smaller” lots would also be unsuitable for addressing all of the current challenges and a source of numerous problems for construction companies on construction sites throughout Europe as well as for our public clients, e.g.:

- Dividing each award procedure into as many lots as possible would lead to appr. 60 to 80 individual lots for urgently needed social infrastructure projects, such as kindergartens, hospitals, schools or other public buildings.
- Such new rule would stifle the huge potential of industrial construction methods and technologies, for instance modular and serial construction, which are urgently needed to increase the availability of affordable and sustainable housing in Europe quickly.
- In the case of time-sensitive transport infrastructure projects involving critical deadlines, the mandatory division into lots would lead to problems of compatibility and responsibility and ultimately to delayed commissioning - especially if digital infrastructure or interoperable systems are to be integrated.
- Such new rule would impede the path towards decarbonisation and innovation, as the resulting competition favours the lowest price for a small part of the project rather than the most innovative and/or sustainable solution for the whole project.
- Mandatory division into lots fosters more bureaucracy, as contracting authority will be confronted with significant personnel, cost and time expenditure necessary to manage all the interfaces of large and complex multi-million or even multi-billion projects.
- Last but not least, any limitation of discretion of contracting authorities would inevitably lead to a large number of disputes and litigation to examine whether or a contracting authority has correctly interpreted the guidelines and its scope for discretion.

For all the reasons listed above, and to enhance the competitiveness of the European construction industry, the undersigned federations firmly believe that, whilst EU contracting authority should continue to duly consider the appropriateness of dividing contracts into lots, they must remain free to decide autonomously on the size and the scope of the lots, without being subject to administrative or judicial supervision.

We call on Members of the European Parliament to vote in favour of maintaining the current wording of Article 46, supported by Recital 78, of the EU Public Procurement Directive as proposed in the **enclosed proposal for Amendment**.

The many advantages and benefits, in certain cases, of single-source procurement or “macro” lots, are:

- Reduction of interfaces and risks
- Avoidance of disruptions in the construction process
- Facilitation of engineering, economic and ecological optimisation
- Integration of digital tools – such as BIM – throughout the project cycle
- More room for innovative and sustainable construction solutions.

Medium-sized companies can participate also in procurement procedures tendered in a single lot by partnering with each other or by partnering with a general contractor. A diverse procurement market with projects of all sizes offers the best chances to increase competitiveness of construction companies in Europe and beyond in international markets. Finally, we wish to underline that some of our medium-sized member companies will only be able to exploit their full potential if they can team up together and bring their innovative strengths and productivity into the competition. These mid-cap construction firms welcome a quality competition that rewards the best idea to implement the project rather than a competition solely based on the lowest price for the requested service.

We remain available to further explain our position in a personal dialogue.

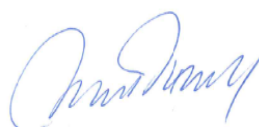
Kind regards



Jelmer Alberts
Director
Bouwend Nederland



Julien Guez
Director General
National Federation
of Public Works
(France, FNTP)



Aleksi Randell
Director General
Confederation of
Finnish Construction
Industries RT



Tim Oliver Müller
Director General
German Construction
Industry Federation



Catharina Elmsäter-Svärd

Director General
Swedish Construction
Federation



Matthias Wohlgemuth

Director General
Association of
Industrial
Construction
Companies in Austria



Niko Demeester

Director General
Embuild, the Belgian
Construction Industry
Federation



Julian Núñez

President/CEO
Association of
Construction
Companies and
Infrastructure
Concessionaires
(Spain)



Annex 1/1: Proposal for Amendment of the signatories

The undersigning associations urgently call upon Members of the European Parliament to adopt the following amendment to the IMCO Committee Report on Public Procurement (PE767.975v01-00 and A10-0147/2025) before the vote in Plenary on the 8. September 2025.

Article 27

*Text proposed in the current version of the
Draft Report*

Article 27

Calls for the urgent simplification of selection criteria and the creation of a digital database for pre-qualified SMEs and smaller actors to streamline their participation in public procurement; notes that the accreditation systems offer a possibility to determine companies' technical, financial capacity but also professional integrity prior to the tender process; criteria of professional integrity should encompass track record of compliance with applicable labour, human rights and environmental laws; stresses that the EU public procurement framework must ensure equitable access for SMEs, social economy entities and local businesses by promoting simplified procedures, including by ensuring that companies are not required to re-submit in their tender application information that is already publicly available and by applying proportional requirements based on the local context ~~and~~; calls on the Commission to consider mainstreaming division of contracts into smaller lots to prevent

***New wording proposed by the
signatories***

Article 27

Calls for the urgent simplification of selection criteria and the creation of a digital database for pre-qualified SMEs and smaller actors to streamline their participation in public procurement; notes that the accreditation systems offer a possibility to determine companies' technical, financial capacity but also professional integrity prior to the tender process; criteria of professional integrity should encompass track record of compliance with applicable labour, human rights and environmental laws; stresses that the EU public procurement framework must ensure equitable access for SMEs, social economy entities and local businesses by promoting simplified procedures, including by ensuring that companies are not required to re-submit in their tender application information that is already publicly available and by applying proportional requirements based on the local context ~~and~~; calls on the Commission to **maintain the wording of Article 46(1) [Division into lots] of Directive**

dominance by large entities and foster competition, while taking into account that contracts should not be divided where there is a genuine technological or efficiency justification; emphasises the need for clear guidelines determining when non-division of contracts is justified; notes that the division of lots is also an effective means of preventing unfeasible subcontractor chains; (719, 730, 734, 736, 737, 738, 739, 741)

2014/24/EU according to which ***“Contracting authorities may decide to award a contract in the form of separate lots and may determine the size and subject-matter of such lots.”*** supported by Recital 78 which clarifies that ***“The contracting authority should have a duty to consider the appropriateness of dividing contracts into lots while remaining free to decide autonomously on the basis of any reason it deems relevant, without being subject to administrative or judicial supervision.”***

~~consider mainstreaming division of contracts into smaller lots to prevent dominance by large entities and foster competition, while taking into account that contracts should not be divided where there is a genuine technological or efficiency justification; emphasises the need for clear guidelines determining when non-division of contracts is justified; notes that the division of lots is also an effective means of preventing unfeasible subcontractor chains; (719, 730, 734, 736, 737, 738, 739, 741)~~

Justification

The generalisation of mandatory division of contracts into lots at EU level would be completely inappropriate and counter-productive, bearing in mind the **ambitious EU Agenda**, including industrial decarbonisation, facilitating military mobility, developing a multimodal and high-quality trans-European transport network, and providing affordable and sustainable housing. EU contracting authorities will need contemporary, flexible and effective EU procurement rules allowing them to select the most appropriate procurement method autonomously for their individual project from a large variety of procurement options.

The introduction at EU level of a general rule on the mandatory division into “smaller” lots would also be unsuitable for addressing all of the current challenges and a source of numerous problems for construction companies on construction sites throughout Europe as well as for our public clients, e.g.:

- Dividing each award procedure into as many lots as possible would lead to appr. 60 to 80 individual lots for urgently needed social infrastructure projects, such as kindergartens, hospitals, schools or other public buildings.

- Such new rule would stifle the huge potential of industrial construction methods and technologies, for instance modular and serial construction, which are urgently needed to increase the availability of affordable and sustainable housing in Europe quickly.
- In the case of time-sensitive transport infrastructure projects involving critical deadlines, the mandatory division into lots would lead to problems of compatibility and responsibility and ultimately to delayed commissioning - especially if digital infrastructure or interoperable systems are to be integrated.
- Such new rule would impede the path towards decarbonisation and innovation, as the resulting competition favours the lowest price for a small part of the project rather than the most innovative and/or sustainable solution for the whole project.
- Mandatory division into lots fosters more bureaucracy, as contracting authority will be confronted with significant personnel, cost and time expenditure necessary to manage all the interfaces of large and complex multi-million or even multi-billion projects.
- Last but not least, any limitation of discretion of contracting authorities would inevitably lead to a large number of disputes and litigation to examine whether or a contracting authority has correctly interpreted the guidelines and its scope for discretion.

For the reasons listed above, and to enhance the competitiveness of the European construction industry, EU contracting authorities must remain free to decide autonomously on the size and the scope of the lots, without being subject to administrative or judicial supervision.

It is already provided for in Article 46(4) of Directive 2014/24/EU that individual "Member States may render it obligatory to award contracts in the form of separate lots under conditions to be specified in accordance with their national law and having regard for Union law". There is no need to establish such principle on Union level.