PUBLIC PROCUREMENT WITH A PURPOSE: UNDERSTANDING THE SHIFT TOWARDS SOCIAL RESPONSIBILITY

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Socially responsible public procurement (SRPP) has, over recent decades, been recognized as an important instrument for achieving broader societal objectives through public spending systems. Although the legal framework of the European Union has gradually enabled the integration of social criteria into public procurement procedures, their practical application remains uneven across Member States. This paper argues that the limited reach of SRPP cannot be attributed solely to shortcomings of positive law but rather reflects deeper structural tensions between administrative doctrines and models of the welfare state that have historically shaped public procurement. The paper combines normative legal analysis with a theoretical and doctrinal approach in order to explain the position of SRPP within the contemporary European framework. It traces the historical evolution of public procurement as a public policy instrument and its relationship with the development of the welfare state and the regulatory state. It further examines theories of the welfare state and administrative doctrines as an explanatory framework for divergent national approaches to SRPP. Attention is devoted to the European Union legal framework, especially the scope of the horizontal social clause as well as the role of soft law instruments in operationalizing social considerations. The paper ultimately proposes a conceptual framework for understanding SRPP as an instrument for the creation of public value. It concludes that the formal permissibility of social criteria is insufficient for their effective integration, and that the further development of

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SRPP requires a shift from a model of minimal legal compatibility towards one of institutionally supported implementation.

Key words: socially responsible public procurement; administrative doctrines; welfare state; welfare state regimes; public value

1. INTRODUCTION [**]

Governments continuously seek to steer social processes and respond to societal change through a variety of activities they undertake. This approach also extends to public procurement, a key instrument of contemporary governance, through which public authorities in EU Member States account for approximately 14% of GDP.[1] Whereas public procurement was historically conceived primarily as a technical and operational mechanism, elements of what is now referred to as socially responsible public procurement (SRPP) can be identified as early as the nineteenth and early twentieth centuries, before the full institutionalization of the modern welfare state. Early examples include the use of public contracts to regulate working conditions and to address unemployment and the integration of vulnerable groups into the labour market.[2] Nevertheless, its primary purpose was to ensure the provision of goods, services and works in the required quantity and quality, within a specified timeframe and at an acceptable price. Over time, however, expectations have shifted, and public procurement is now increasingly understood as a tool for generating broader public value.[3] Public procurement may also operate as a policy lever for stimulating innovation, promoting competitive markets, advancing environmental objectives, improving service quality, and supporting wider strategic goals.[4] In this broader strategic context, preference mechanisms may be used for different

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[1] European Commission, *Public procurement*, https://single-market-economy.ec.europa.eu/single-market/public-procurement_en (17 February 2026).

[2] See *infra*, Section 3.

[3] Schotanus, F.; Grandia, J., *Public Procurement Policy and Purchasing Strategy*, in: Grandia, J.; Volker, L. (eds.), *Public Procurement: Theory, Practices and Tools*, Palgrave Macmillan, Cham, 2023, p. 74.

[4] Malacina, I. *et al.*, *Capturing the Value Creation in Public Procurement: A Practice-based View*, Journal of Purchasing and Supply Management, *vol.* 28, no. 2, 2022, art. 100745, p. 1.

purposes. For example, affirmative action programmes in procurement may give an advantage to preferred categories of suppliers, such as small, women-owned, minority-owned, local, or otherwise disadvantaged businesses, often through bid discounts. Such measures may form part of the social dimension of procurement where they aim to improve equality, social inclusion, labour-market integration, or access for disadvantaged groups. Where they primarily pursue objectives such as support for small firms, local economic development, or industrial policy, they are better understood as part of the broader category of strategic public procurement.[5] Within this broader framework, the present article focuses specifically on the social dimension of public procurement. In this context, public procurement may be used to pursue objectives that go beyond narrowly defined economic efficiency, including social efficiency, decent working conditions, and the inclusion of vulnerable groups in the labour market.[6] This understanding is commonly captured by the concept of SRPP, which reflects the idea that contracting authorities, in their capacity as buyers, may condition access to public contracts on compliance with certain social standards or incentives, while still respecting the fundamental principles of competition, transparency, and non-discrimination.[7]

Despite the gradual opening of the European Union legal framework to such considerations, the implementation of SRPP remains uneven across Member States. Policy documents typically attribute this to normative ambiguity, a lack of operational guidance, or difficulties in measuring social impact.[8] This paper, however, proceeds from a different premise: that the limited reach of SRPP cannot be explained solely by deficiencies in the positive legal framework, but must also be understood in light of deeper structural tensions between administrative doctrines, models of the welfare state, and competing values that have historically shaped public procurement. Without reducing the uneven development of SRPP to a matter of cost-efficiency, it should nevertheless be acknowledged that contracting authorities may also be influenced by practical considerations, including administrative complexity, monitoring requirements, legal uncertainty,

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5 See more: Mummalaneni, S., *Affirmative action as a cost cutting tool in procurement markets*, Quantitative Marketing and Economics, *vol*. 24, 2026, art. 3.

6 McCrudden, C., *Using public procurement to achieve social outcomes*, Natural Resources Forum, *vol*. 28, no. 4, Blackwell Publishing, 2004, p. 258.

7 Arrowsmith, S., *The Law of Public and Utilities Procurement*, 2nd ed., Sweet and Maxwell, London, 2005, pp. 6 – 7.

8 European Commission, Commission Staff Working Document Evaluation of Directive 2014/23/EU on Concessions, Directive 2014/24/EU on Public Procurement and Directive 2014/25/EU on Utilities, SWD(2025) 332 final, 2025, p. 38.

and possible effects on competition or contract prices.[9] These considerations do not replace the institutional and doctrinal explanation advanced in this paper, but rather illustrate the practical context in which different welfare state models and administrative traditions shape the use of social criteria in public procurement. Against this background, the central research question of this paper is why SRPP remains unevenly developed across EU Member States despite an increasingly permissive legal framework. A related question concerns the extent to which welfare state regimes, administrative doctrines, and institutional capacities can account for differences in its practical implementation. The analysis suggests that while theories of the welfare state provide a valuable explanatory framework, they cannot offer a complete or exclusive explanation.

2. SOCIALLY RESPONSIBLE PROCUREMENT AS A COMPONENT OF SUSTAINABLE PUBLIC PROCUREMENT

Sustainable public procurement is inherently multidimensional reflecting the broader concept of sustainability itself. As emphasised by the European Commission, its two principal pillars are green public procurement and socially responsible public procurement. These dimensions are closely interconnected and in principle mutually reinforcing. In practice, however, green public procurement has received considerably greater attention, both in terms of regulatory development and actual implementation across European Union Member States.[10] The Brundtland Report expands the concept of sustainability by introducing an economic dimension alongside the environmental and social ones, thereby framing sustainable development as composing green, social, and economic components. Importantly, the report already recognised that environmental and economic challenges cannot be understood in isolation from social and political conditions. It highlights, for example, how population growth affects the environment while being partly shaped by cultural norms and the social position of women. More broadly, many environmental and developmental challenges are rooted in unequal distributions of power and influence within society. From this perspective, the report identifies social development measures, particularly those aimed at empowering women and protecting vulnerable

[9] Decarolis, F.; Srhoj, S., *The Economics of Public Procurement*, CEPR Discussion Paper No. 21110, CEPR Press, Paris, London, 2026, pp. 9 – 10.

[10] Andhov, M. *et al.*, *Sustainability Through Public Procurement: The Way Forward – Reform Proposals*, University of Oslo, Faculty of Law, Legal Studies Research Paper Series, no. 2020-09, 2020, p. 7.

groups, as a potential pathway towards addressing sustainability challenges.[11] The socially responsible dimension of sustainable development thus emerges as a precondition for the effective realisation of its other components. This insight forms a central premise of this paper, which seeks to position models of the welfare state and the strengthening of the theoretical dimension as necessary foundations for achieving not only socially responsible outcomes, but also environmental and economic objectives of sustainable development. In this context, socially responsible public procurement assumes a particularly important role as an instrument through which public authorities can translate sustainability goals into concrete regulatory and market outcomes.

SRPP focuses on the consideration and management of the social impacts associated with the goods, services, and works procured by the public sector. It is grounded in the recognition that contracting authorities are not solely concerned with achieving the lowest price or the most economically advantageous tender, but also with ensuring that procurement processes generate broader societal benefits. In this sense, SRPP positions public buyers as key actors in promoting social inclusion, equal opportunities, decent working conditions, the protection of vulnerable groups, and the respect for fundamental rights. The European Commission emphasises that SRPP must comply not only with the provisions of Directive 2014/24/EU, but also with the fundamental principles enshrined in the Treaty on the Functioning of the European Union, the Charter of Fundamental Rights of the European Union, and the UN Convention on the Rights of Persons with Disabilities.[12] This implies that fundamental rights and freedoms must be respected within procurement procedures, which in turn suggests that the socially responsible dimension remains legally conditioned: it can be further pursued only insofar as it is compatible with the binding legal framework governing public procurement and fundamental rights.

At the same time, the values underpinning public procurement are often inherently conflicting.[13] Integrating objectives that may appear incompatible at first glance presents a persistent challenge. Governments, influenced by broader historical developments explored later in this paper, increasingly act

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[11] World Commission on Environment and Development, *Our Common Future: Report of the World Commission on Environment and Development*, Annex to document A/42/427, United Nations, New York, 1987, p. 33.

[12] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs*, Buying Social – A guide to taking account of social considerations in public procurement – Second edition,* 2021/C 237/01, p. 7.

[13] McCue, C. P.; Prier, E.; Swanson, D., *Five dilemmas in public procurement*, Journal of Public Procurement, *vol.* 15, no. 2, 2015, pp. 188 – 194.

as active market participants in their role as contracting authorities procuring goods, works, and services. Simultaneously, they are expected to use their purchasing power to promote public value and to embed value-based considerations into public spending, which today increasingly entails the incorporation of sustainability criteria into procurement processes. It is precisely this dual role that renders SRPP a particularly complex and tension-laden field within contemporary public procurement.

3. THE HISTORICAL DEVELOPMENT OF PUBLIC PROCUREMENT AS AN INSTRUMENT OF SOCIAL POLICY

It is instructive to observe how changing conceptions of the state and evolving systems of governance have shaped the development of public procurement. The incorporation of social objectives into public procurement is not a novel phenomenon, despite often being presented as such in contemporary discourse.

Early manifestations of socially oriented procurement can be traced back to the mid-nineteenth century. In the United States, for example, the 1840s saw the introduction of a ten-hour working day for workers engaged under certain government contracts.[14] Even earlier, in sixteenth-century England, local authorities were assigned responsibilities to provide employment opportunities for the unemployed, thereby situating such obligations at the level of government closest to citizens. The United Kingdom continued to promote socially oriented procurement practices in subsequent periods. Notably, in 1891, the House of Commons adopted the Fair Wages Resolution, which required public authorities to include contractual clauses ensuring that workers employed under public contracts were paid wages in line with prevailing standards for the relevant occupation.[15] Similar developments can also be identified on the European continent and in the broader post-war context, where public contracting was increasingly perceived as a mechanism for addressing social and labour-market needs. In the period following the First World War in the United Kingdom, government contracts served as a mechanism for creating employment opportunities for disabled ex-servicemen.[16] This illustrates that the social function of public procurement was not limited to wage protection, but also extended to the

[14] McCrudden, *op. cit.* (fn. 6), p. 258.

[15] Hepple, B. A. (ed.), *The making of labour law in Europe: A comparative study of nine countries up to 1945*, Mansell, London, 1986, p. 9.

[16] McCrudden, C., *Buying Social Justice: Equality, Government Procurement & Legal Change*, Oxford University Press, Oxford, 2007, p. 4.

integration of vulnerable groups into the labour market. Developments in the United States further illustrate the gradual consolidation of the social dimension of public procurement. In the period preceding the New Deal, there was growing support for the idea that public authorities bore responsibility for assisting able-bodied but unemployed individuals in securing employment, particularly in response to the economic and social consequences of the Great Depression. During the 1930s, under President Roosevelt, these ideas were translated into concrete policy through public works programmes and legislative initiatives aimed at ensuring fair wages and decent working conditions.[17] A key example is the National Industrial Recovery Act of 1933, which explicitly framed public procurement not as an end in itself, but as an instrument for achieving broader social objectives.[18] Throughout the nineteenth and twentieth centuries, many American cities relied on public works projects, such as the construction of water infrastructure, the renovation of public buildings, and other labour-intensive initiatives, as a means of alleviating widespread unemployment.[19] Furthermore, evidence from the 1930s shows that public works in countries such as France and Germany were already being used to address unemployment and to channel access to employment opportunities, albeit within markedly different political and normative objectives. In France, for example, the Decree of 26 July 1934 required contractors to notify public employment exchanges of their labour needs, so that vacancies could be filled, at least partly, through that channel.[20]

Contrary to the widespread assumption that public procurement has historically been a purely economic category, this overview shows that social objectives have long been embedded within it, albeit without the contemporary normative terminology and regulatory intensity. Nevertheless, the most significant expansion of public procurement as an instrument closely linked to the pursuit of national economic and social policies can be situated alongside the development of the welfare state, when procurement increasingly came to be used to support its broader policy objectives.

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17 Quigley, W. P., *The Right to Work and Earn a Living Wage: A Proposed Constitutional Amendment*, New York City Law Review, *vol*. 2, no. 2, 1998, pp. 143 – 144.

18 Caranta, R., *Towards Socially Responsible Public Procurement*, ERA Forum, *vol*. 23, 2022, p. 150.

19 Quigley, *op. cit.* (fn. 17), p. 144.

20 McCrudden, *op. cit.* (fn. 16), p. 35.

4. THE WELFARE STATE AS AN EXPLANATORY FRAMEWORK FOR THE DEVELOPMENT OF SRPP

4.1. Classical Theories of the Welfare State

The emergence of the welfare state is closely linked to fundamental structural transformations in European societies, which gave rise not only to profound social change but also to the establishment of a framework underpinning a new role of the state. In this role, the state assumes an interventionist function, acting in a corrective capacity in response to newly emerging social and economic challenges.[21] These structural changes included rapid population growth, accelerated urbanisation, and capitalist industrialisation, along with a range of related developments. The concept of the welfare state thus developed as a response to the transformation of industrial society and the need for institutional mechanisms of social security.[22]

Within classical welfare state theory, the central normative foundation lies in the idea of social rights as an integral component of citizenship. A foundational contribution in this regard was made by T. H. Marshall, who conceptualised the welfare state through the development of social citizenship. According to Marshall, citizenship evolved historically through three dimensions: civil rights, political rights, and social rights.[23] Social rights entail the individual's entitlement to a certain level of economic welfare and social security, as well as the right to participate in the social life of the community in accordance with prevailing societal standards.[24] Such a conception implies an active role of the state in ensuring minimum social standards, which may also be reflected through instruments of economic policy, including public procurement.

A comparable perspective is developed by Richard Titmuss, who understands the welfare state as a system of redistributive mechanisms through which the state seeks to mitigate social inequalities generated by market relations. Titmuss emphasises that social policy operates not only through direct social transfers, but also through so-called institutional or implicit forms of redistribution,

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[21] Blažević, R., *Upravna znanost*, Sveučilište u Rijeci, Pravni fakultet, Rijeka, 2021, p. 37.

[22] Polanyi, K., *The Great Transformation: The political and economic origins of our time*, Farrar & Rinehart, New York, 1944, p. 40.

[23] Marshall, T. H.; Bottomore, T. B., *Citizenship and Social Class*, Pluto Press, London, 1992, p. 8.

[24] Marshall, T. H., *Citizenship and Social Class and Other Essays*, Cambridge University Press, Cambridge, 1950, p. 11.

encompassing a wide range of public policies and regulatory mechanisms.[25] Importantly, he also addresses the tension between universalism and selectivity in the provision of public services. Universalist models seek to avoid stigma and ensure broad accessibility, whereas selective measures may provide a protective safety net but carry the risk of stigmatisation and fragmentation.[26] In line with Titmuss's conception, public procurement may be understood as an instrument of social policy, insofar as contracting authorities are capable of influencing the market behaviour of economic operators and thereby promoting socially desirable standards. At the same time, the aforementioned tension between universalism and selectivity can be directly related to socially responsible public procurement, raising the question of whether social clauses should be designed as universal minimum standards or as targeted measures aimed at specific groups, such as reserved contracts for particular categories within society.

4.2. Welfare State Regimes and Their Implications for Public Procurement

The welfare state is characterised by a high degree of concentration of power within central state institutions, particularly in the context of urbanisation and the emergence of new social risks associated with industrial and urban life. Under such conditions, public administration assumes an active role in mitigating the dysfunctional consequences of industrial production, market economies, unemployment, and urbanisation.[27] At the same time, the state increasingly assumes a monopolistic role in the provision of public services, which entails a corresponding responsibility for their delivery.[28] Within this context, public procurement gained prominence as an instrument through which such socio-economic objectives could be pursued. It is also noteworthy that modern political systems develop through a dynamic tension between the concentration and deconcentration of political power within the state[29], a process that significantly shapes the development of institutional frameworks, including public procurement.

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[25] Titmuss, R. M., *Social Policy: An Introduction*, Pantheon Books, New York, 1975, p. 25.

[26] Titmuss, R. M., *Commitment to Welfare*, Allen and Unwin, London, 1968, p. 132.

[27] Blažević, *op. cit.* (fn. 21), p. 37.

[28] OECD, *Modernising Government, The Way Forward,* 2005, p. 18, https://www.oecd.org/content/dam/oecd/en/publications/reports/2005/09/modernising-government_g1gh5a93/9789264010505-en.pdf (27 February 2026).

[29] Blažević, *op. cit.* (fn. 21), p. 35.

Joel Blau identifies a plurality of theoretical approaches to the welfare state that emerged following the decline of the post-war liberal consensus.[30] His analysis demonstrates that different theoretical traditions offer competing accounts of the legitimacy and function of the welfare state. Conservative approaches emphasise a limited role of the state, warning against dependency on social transfers and advocating the primacy of the market as the principal mechanism of resource allocation. Moderate approaches seek to balance social protection with economic efficiency, accepting a degree of state intervention while preserving market mechanisms. In contrast, left-oriented and rights-based approaches view the welfare state as an instrument for the realisation of social rights and as a site of political struggle for equality. In this context, social rights become a key concept underpinning the legitimacy of state intervention in redistribution and the provision of social services. Blau's classification thus does not describe concrete institutional models but rather provides a normative and political framework shaping how the welfare state is justified and developed.

The specific features of welfare states, however, are shaped by a range of contextual factors. Most notably, qualitative differences in social policy across states play a decisive role in the formation of distinct welfare state types, which in turn influence the configuration of political power and institutional arrangements. These factors determine whether liberal, conservative, or social-democratic orientations emerge as dominant frameworks guiding the development of social institutions.[31] A classical classification of welfare state regimes is provided by Esping-Andersen, whose approach is grounded in political economy, though not exclusively so. He identifies three key dimensions for analyzing welfare state regimes: the degree of decommodification of social rights, patterns of social stratification, and the public-private mix, that is, the question of who provides social security. Decommodification refers to the extent to which social rights enable individuals to maintain a socially acceptable standard of living independently of market participation. At the same time, the welfare state is not merely a corrective to inequality, but also a system of stratification that actively shapes social relations and status hierarchies, either reproducing or mitigating existing inequalities. These dimensions provide the analytical basis for identifying different welfare state regimes.[32] Building on further analyses of

[30] See more: Blau, J., *Theories of the welfare state*, Social Service Review, *vol.* 63, no. 1, 1989, pp. 26 – 38.

[31] Nohlen, D. (ed.), *Politološki rječnik, Država i politika*, Pan Liber, Osijek, Zagreb, Split, 2001, p. 415.

[32] Powell, M.; Barrientos, A., *Welfare regimes and the welfare mix*, European Journal of Political Research, *vol.* 43, no.1, 2004, p. 85.

decommodification and its measurement across states, the findings of Bambra may be linked to the development of socially responsible procurement in specific legal systems.[33] In contexts characterized by low levels of decommodification and residual models of social policy, SRPP is more likely to take the form of selective and discretionary measures. By contrast, in systems marked by higher levels of decommodification and universalist welfare arrangements, SRPP is expected to be more standardized and institutionally embedded.

Building on these analytical dimensions, Esping-Andersen identifies three ideal types of welfare state regimes: the liberal, the conservative-corporatist, and the social-democratic model. These models differ in terms of the degree of decommodification, the relative roles of the state and the market, and patterns of social stratification.[34] The liberal welfare state is characterized by a limited role for the state and a strong reliance on market mechanisms. Social policies in such systems are typically targeted at the most vulnerable groups and are often means-tested.[35] In this institutional context, public procurement is primarily understood in terms of its core function of achieving economic efficiency, while social criteria tend to play a limited or secondary role. States belonging to this model are therefore traditionally more cautious in using public procurement as an instrument of social policy. Nevertheless, the rationale for employing SRPP in such systems is often market-oriented, for instance in reducing long-term costs, increasing employment, or stabilizing labour markets. The conservative-corporatist model, characteristic of many continental European states, is based on a strong role for the state and institutional arrangements such as social insurance systems. Social rights are often linked to employment status, and procurement practices frequently incorporate social criteria related to labour standards, collective agreements, and workers' rights.[36] In this context, public procurement functions as an instrument for preserving existing social structures and institutional stability. Finally, the social-democratic model, typical of Nordic countries, is characterized by a high level of universal social rights and a strong redistributive role of the state.[37] In such systems, public procurement is more frequently used as an active instrument of social policy. Social criteria in procurement procedures may include obligations to employ long-term unem-

[33] Bambra, C., *Research Note: Decommodification and the worlds of welfare revisited,* Journal of European Social Policy, *vol.* 16, no. 1, 2006, p. 78.

[34] Esping-Andersen, G., *The Three Worlds of Welfare Capitalism,* Princeton University Press, Princeton, 1990, p. 22.

[35] *Ibid*., p. 27.

[36] *Ibid.*

[37] *Ibid.*

ployed persons, promote the inclusion of persons with disabilities, or advance gender equality. In this way, public procurement becomes an integral part of a broader strategy for achieving social objectives.

5. ADMINISTRATIVE DOCTRINES AND THE CHANGING FUNCTION OF PUBLIC PROCUREMENT

5.1. Neoliberalism and New Public Management

Under the influence of neoliberal doctrine, characterized by a significant degree of marketisation, the ideological importance of regulating public procurement has increased. This development is closely linked to the expansion of contractual arrangements for the delivery of public functions. As a result, the scope of public procurement has widened, extending into areas where the discretion of public authorities is increasingly subject to control under procurement law. At the same time, the period marked by deregulation and privatization (central features of the emergence of New Public Management) placed strong emphasis on the promotion of competition across relevant sectors as a key objective of government policy.[38] Drawing on classical liberal economic thought, associated with Adam Smith, this period was characterized by a skeptical stance towards state intervention in market processes, based on the assumption that excessive state involvement leads to monopolies, protectionism, and inefficiency. More broadly, the 1970s were marked by financial crises that placed increasing fiscal pressure on the state, limiting its capacity to maintain a monopoly over the provision of public services. Consequently, a growing number of such services came to be delivered through the private sector. Governments were thus required to respond simultaneously to fiscal constraints and shifts in the international economic order, while the obligation to provide public services, rooted in the previous phase of welfare state development, remained in place.[39] Within this context, Esping-Andersen observes that classical neoliberalism can be understood as a revival of classical liberal political economy and the liberal ideal type of the welfare state.[40] However, given the fiscal constraints associated with this period, public procurement was primarily deployed as an instrument

[38] Ogus, A., *Regulation: Legal Form and Economic Theory*, Bloomsbury Academic, Oxford, 2004, p. 10.

[39] Aucoin, P., *Administrative Reform in Public Management: Paradigms, Principles, Paradoxes and Pendulums*, Governance: An International Journal of Policy and Administration, *vol.* 3, no. 2, 1990, p. 115.

[40] Esping-Andersen, *op. cit.* (fn. 34), p. 9.

for achieving efficiency and cost reduction, most notably through the pursuit of the lowest price.

The shift was further reinforced by the expansion of outsourcing and public-private partnerships, as a result of which an increasing share of state activities came to be performed through public contracts. At the same time, such contractual arrangements are constrained by European positive law and the principle of the rule of law. In this regard, the state exercises two distinct forms of authority: *imperium*, understood as the state's monopoly over the legitimate use of force, and *dominium*, referring to the pursuit of public policy objectives through the allocation and management of public resources. In the context of public procurement, *dominium* is constrained by the rule of law.[41] At the same time, the existence of non-economic values within public procurement stands in apparent tension with neoliberalism, which prioritizes profit maximization and market-based allocation mechanisms. However, understanding public procurement as a strategic instrument reveals a broader transformation in the underlying values embedded within the institution. While neoliberalism privileged market-based instruments, public procurement, particularly within the European framework and under strategic policy agendas, has increasingly been repositioned as a tool for strengthening European competitiveness and advancing industrial policy objectives. Although the incorporation of so-called horizontal objectives in public procurement, such as innovation, environmental sustainability, and social responsibility, may at first appear incompatible with neoliberal principles, the rationale underlying their promotion is not entirely disconnected from a neoliberal perspective. Prior to the adoption of Directive 2014/24/EU, public procurement was already being deployed as a market-based instrument aimed at enhancing the international competitiveness of the European Union. This perspective can itself be understood as reflecting a classical neoliberal orientation. This orientation is further reflected in the inclusion of public procurement within World Trade Organization agreements, where the core principles of non-discrimination and transparency constitute foundational values that have significantly shaped procurement regimes.[42] Accordingly, the increasing emphasis on horizontal criteria signals a shift away from a strictly neoliberal configuration of public procurement. Nevertheless, the underlying rationale for their use, namely the strengthening of European market competitiveness, remains closely aligned with neoliberal logics.[43]

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41 Kunzlik, P., *Neoliberalism and the European Public Procurement Regime*, Cambridge Yearbook of European Legal Studies, *vol.* 15, 2013, p. 310.

42 Arrowsmith, S.; Anderson, R. D. (eds.), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, Cambridge, 2011, p. 18.

43 Kunzlik, *op. cit.* (fn. 41), pp. 353 – 356.

At the same time, it is necessary to situate these developments within the broader context that gave rise to the prominence of New Public Management. Hood characterizes this doctrine as a synthesis of two distinct poles. On the one hand, it incorporates insights from new institutional economics, including public choice theory, transaction cost theory, and principal-agent theory. On the other hand, it reflects a managerialist orientation within the public sector. Accordingly, values such as contestability, user choice, and transparency coexist with an emphasis on professional management, which is granted a significant degree of discretionary authority in order to achieve desired outcomes.[44] In a dialectical sense, often associated with Hegel, New Public Management brings together two contrasting approaches to public administration. One approach is centred on state-led economic development through professional managers, while the other is rooted in a liberal economic perspective that seeks to align individual incentives with administrative responsibilities.[45] Given that these approaches rest on fundamentally different assumptions, tensions in their practical implementation are inevitable.[46] Such tensions, as well as the expectation that the state reconcile competing values, are the product of historical developments and broader social transformations, which generate diverse and often conflicting societal demands requiring a response from the state apparatus. From this perspective, governance must be understood as an inherently dynamic activity, requiring the capacity of public administration to adapt to new methods and instruments.[47] Recognising this, the core function of the state and of public administration becomes the ability to respond to evolving social conditions and needs. Viewed in this light, the development of public administration reveals a central tension that has become one of its defining features. This is the tension between its understanding as a social science and its role as a professional practice operating within a political environment. However, as emphasised in the literature, the evolution of public administration and the public sector is not driven solely by empirical verification or falsification. Rather, it unfolds through a process of political persuasion in which administrative doctrines play a central role. Administrative doctrines represent normative ideas about how public administration ought to function and thus occupy an intermediate position between theory and politics. They offer causal explanations of administrative systems and frequently serve as a theoretical foundation for

44 Hood, C., *A Public Management for all Seasons?*, Public Administration, *vol.* 69, no. 1, 1991, p. 5.

45 *Ibid.,* p. 7.

46 Aucoin, *op. cit.* (fn. 39), p. 116.

47 Blažević, *op. cit.* (fn. 21), p. 16.

political decision-making.[48] In this sense, an administrative doctrine may be understood as a structured set of ideas concerning desirable modes of administrative action and principles of good organisation and management, grounded in normative values and accumulated experience. Such doctrines develop in response to specific economic, political, and social contexts and function as a form of standard-setting.[49] In this capacity, they shape the development of administrative law institutions, including public procurement, which reflects the dominant administrative values of a given period.

5.2. Good Governance and the Neo-Weberian Synthesis

New Public Management proved insufficient as a framework for supporting the implementation and realisation of sustainable development objectives in general, including those relating to public procurement.[50] While it undoubtedly strengthened and expanded the use of procurement, SRPP did not emerge as a priority within this paradigm, given the overriding emphasis on minimising public expenditure. Core principles of New Public Management, such as minimisation and marketization, are difficult to reconcile with the broader objectives of sustainable development. In the European context, a significant turning point in the development of SRPP can be identified in the period following the financial crisis of 2008. This period generated specific social pressures across many Member States, including the widespread prevalence of low wages, which necessitated a more socially responsive policy approach.[51] In response, greater prominence was given to the doctrine of good governance, which emphasises effective, transparent, accountable, and participatory public administration. In the context of sustainability and social policy, this shift reflects a move towards a more systemic approach to service provision, aimed at addressing complex societal needs, rather than focusing solely on the achievement of narrowly

[48] Moynihan, D. P., *Managing for Results in State Government: Evaluating a Decade of Reform*, Public Administration Review, *vol*. 66, no. 1, 2006, p. 78.

[49] Koprić, I.; Marčetić, G.; Musa, A.; Đulabić, V.; Lalić Novak, G., *Upravna znanost – javna uprava u suvremenom europskom kontekstu*, Pravni fakultet Sveučilišta u Zagrebu – Studijski centar za javnu upravu i javne financije, Zagreb, 2021, p. 11.

[50] Bouckaert, G.; Im, T., *Neo Weberian State: From Theory to Practice*?, Journal of Policy Studies, *vol*. 39, no. 2, 2024, p. 1.

[51] Semple, A., *Socially Responsible Public Procurement (SRPP) under EU Law and International Agreements: the GPA, CETA and the EU-Ukraine Deep and Comprehensive Free Trade Area,* European Procurement and Public Private Partnership Law Review, *vol*. 12, no. 3, 2017, p. 294.

defined sectoral objectives.[52] As noted by Addink, the concept of good governance pursues three key objectives. These include ensuring societal security, establishing an effective and accountable framework for public sector action, and promoting economic and socially responsive policies aligned with the needs of the population.[53] Such an approach provides both a normative and operational foundation for the development of public procurement in a socially responsible direction. The incorporation of social criteria into procurement procedures can thus be understood as a logical consequence of the broader demands for accountability, transparency, and orientation towards the public interest. In this way, public authorities are enabled to use their purchasing power to actively address societal challenges, thereby operationalizing the core values of good governance and strengthening the legitimacy of public authority.

Although the principle of good governance served as an initial driver of reform, the combination of New Public Management and New Public Governance finds its most coherent expression in the neo-Weberian state as a doctrinal synthesis capable of accommodating competing values within public procurement. This synthesis can be clearly illustrated through the instrument of reserved contracts. Under Directive 2014/24/EU, Member States may reserve participation in procurement procedures to sheltered workshops and economic operators whose primary objective is the social and professional integration of persons with disabilities or disadvantaged individuals. They may also provide for such contracts to be performed within the framework of sheltered employment programmes, provided that at least 30% of employees belong to these groups.[54] Importantly, this mechanism does not abandon the principles of competition or procedural fairness. Contracts must still be awarded through standard procurement procedures, albeit with the possibility of restricting participation to operators that meet specific social criteria. In this sense, reserved contracts preserve the procedural and competitive framework associated with New Public Management, while allowing a partial limitation of competition in favour of the integration of vulnerable groups, which reflects the normative orientation of Good Governance. The historical analysis presented above demonstrates that

[52] Bovaird, T.; Löffler, E., *Evaluating the Quality of Public Governance: Indicators, Models and Methodologies*, International Review of Administrative Sciences, *vol.* 69, no. 3, 2003, p. 315.

[53] Addink, H., *Good Governance: Concept and Context,* Oxford University Press, Oxford, 2019, p. 16.

[54] Article 20 of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014.

public procurement has never been an exclusively economic category. Elements of socially oriented procurement practices existed long before the emergence of the welfare state, particularly in efforts aimed at promoting employment among vulnerable groups.

At the same time, this example shows that the legal form through which socially responsible objectives are pursued is not merely technical. Different procurement techniques structure the market in different ways. Reserved contracts pursue the social objective by limiting participation to a defined category of suppliers, whereas other mechanisms, such as bid preferences, preserve the formal openness of competition but grant targeted suppliers an advantage at the evaluation stage.[55] This distinction is relevant because each model affects the incentives of economic operators differently: it may influence whether firms decide to participate in the procedure, how they formulate their tenders, and how competition develops within the relevant market.[56] Empirical studies on procurement preference programmes further show that the effects of targeted instruments depend on their design and on the capacity of the supplier base. Bid preferences may affect participation and bidding strategies[57], while set-asides or reserved contracts may improve access for targeted suppliers without necessarily undermining competition or contract performance when they are carefully structured.[58] Such findings support, rather than replace, the broader doctrinal argument advanced in this paper; SRPP can operate as a mode of public action through which the state shapes market behaviour in accordance with socially defined public value, but its effects depend on the institutional form through which such objectives are implemented.

Within the framework of Directive 2014/24/EU, the inclusion of social considerations may be understood as a general obligation, albeit one that must be exercised in compliance with overarching legal principles. The recitals of the Directive emphasise that social criteria in award procedures and contract performance conditions must not result in discrimination against economic operators from states that are parties to the WTO Government Procurement Agreement or to free trade agreements to which the European Union is a party.

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[55] Marion, J., *Are bid preferences benign? The effect of small business subsidies in highway procurement auctions,* Journal of Public Economics, *vol*. 91, no. 7-8, 2007, p. 1592.

[56] Krasnokutskaya, E.; Seim, K., *Bid Preference Programs and Participation in Highway Procurement Auctions*, American Economic Review, *vol*. 101, no. 6, 2011, p. 2654.

[57] Marion, *op. cit.* (fn. 55), p. 1593.

[58] Carril, R.; Guo, A., *The Impact of Preference Programs in Public Procurement: Evidence from Veteran Set-Asides*, BSE Working Paper no. 1417, Barcelona, 2023, p. 21, https://bse.eu/sites/default/files/working_paper_pdfs/1417.pdf.

The rationale underlying this formulation reflects the political dynamics of the legislative process. During the negotiations leading to the adoption of the Directive, the European Parliament actively promoted the inclusion of socially responsible criteria, while the Commission and the Council sought to balance these objectives with compliance with international trade obligations.[59]

Significant variation in the implementation of SRPP across the EU Member States suggests that the prevailing paradigm requires reconsideration. The central premise of this paper is that each national legal system should be understood as reflecting specific cultural, political, and institutional characteristics, which in turn shape the manner in which social criteria are incorporated into public procurement. While all legal systems seek, in different ways, to address fundamental societal needs, particularly in the domain of social protection, the means through which these objectives are pursued vary considerably.[60] Comparative welfare state theory therefore provides a valuable explanatory framework for understanding differences in both the scope and intensity of the integration of social criteria in public procurement. The core argument advanced in this paper is that SRPP should not be viewed merely as a technical or legal issue within procurement procedures, but rather as a part of a broader political economy encompassing social rights, labour markets, and the institutional capacities of the state.[61] It follows that in welfare regimes characterised by higher levels of universalism and decommodification, a more systematic and normatively grounded use of socially responsible clauses can be expected. By contrast, in more liberal regimes, social objectives are more likely to be pursued through selective or discretionary instruments, such as targeted measures for vulnerable groups. Accordingly, significant variations in the implementation of SRPP should be understood in light of the underlying welfare state regime within each national context. This suggests that a differentiated, context-sensitive approach to the integration of social criteria is more appropriate than the imposition of a uniform model, particularly if more effective outcomes in SRPP are to be achieved.

[59] Semple, *op. cit.* (fn. 51), p. 304.

[60] Titmuss, *op. cit.* (fn. 25), p. 22.

[61] Pierson, P., *Dismantling the Welfare State? Reagan, Thatcher and the Politics of Retrenchment*, Cambridge University Press, Cambridge, 1994, pp. 6 – 7.

6. THE EU LEGAL FRAMEWORK FOR SOCIALLY RESPONSIBLE PUBLIC PROCUREMENT

Within the European Union, the implementation of socially responsible public procurement is effectively mediated through a dual structure. On the one hand, the legal framework established by Directive 2014/24/EU provides a broad and flexible space for the integration of social considerations, while largely leaving their practical application to the discretion of Member States and contracting authorities. On the other hand, national welfare state traditions and systems of industrial relations play a decisive role in shaping what is regarded as an acceptable or "normal" level of social standards.

From a normative perspective, the EU framework relevant to SRPP is based on a combination of general procurement principles, such as equal treatment, transparency, and proportionality, together with specific provisions of the Directive that explicitly permit, and in certain cases require, the integration of social clauses. A central provision in this regard is Article 18(2) of Directive 2014/24/EU, which operates both as a general principle of public procurement and as a concrete legal obligation. It requires Member States to 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, as established by Union law, national law, collective agreements, and relevant international instruments listed in Annex X of the Directive.[62] More broadly, this provision has binding horizontal effect across all procurement procedures falling within the scope of the Directive and is therefore commonly described as a mandatory social clause. However, its formulation and scope of application give rise to significant practical challenges. As noted by the European Commission, there is a degree of overlap between Article 18(2) of Directive 2014/24/EU and Article 9 of the Directive (EU) 2022/2041 on adequate minimum wages, as both address compliance with labour and social standards in public procurement. This overlap, however, is not accompanied by clear cross-referencing or a delineation of competences. As a result, it generates legal uncertainty without amounting to a normative conflict, a situation described by Janssen as an "unclear substantive overlap without legal conflict", particularly in light of differing enforcement mechanisms.[63] At the same time, many stakeholders consider the practical impact of this clause to be limited, primarily due to un-

[62] Article 18(2) of Directive 2014/24/EU.

[63] Janssen, W. A., *The coherence of public procurement legislation in the European Union. A Study for the EU Commission into the external coherence between the public procurement directives and other legislative instruments regulating public procurement*, Utrecht University

certainty regarding which actors are responsible for its enforcement. While the provision formally obliges Member States to take appropriate measures to ensure compliance, it does not specify in detail what such measures should entail. In practice, national transposition laws often shift responsibility onto contracting authorities, which may in turn delegate enforcement to other bodies. A further inconsistency arises from Article 57(4)(a) of the Directive 2014/24/EU, which provides that the exclusion of an economic operator for non-compliance with social, labour, or environmental obligations remains discretionary. This appears to be in tension with the binding nature of the horizontal social clause, thereby weakening its practical effectiveness. These ambiguities represent significant obstacles in the implementation and effective transposition of Article 18(2) across Member States.[64] Beyond this mandatory provision, the Directive 2014/24/EU also introduces a number of optional mechanisms that enable the further integration of social considerations into procurement procedures. These include the possibility of reserving contracts for operators whose primary objective is the integration of persons with disabilities or disadvantaged individuals, subject to a minimum threshold of 30% of such employees.[65] In addition, contracting authorities may impose specific conditions for the performance of contracts, provided that such conditions are linked to the subject matter of the contract and relate to economic, environmental, or social considerations.[66] Accordingly, while the Directive establishes a mandatory baseline through the horizontal social clause, it primarily promotes the integration of socially responsible elements through discretionary mechanisms available to contracting authorities.

In parallel, the soft law framework of the EU in the field of SRPP is considerably more developed than its hard law counterpart. It has evolved in successive phases, beginning with early interpretative communications that opened space for the inclusion of social considerations, followed by policy communications establishing strategic priorities, and culminating in detailed guidance documents providing operational tools and practical models for implementation. A key example is the *Buying Social – a guide to taking account of social considerations in public procurement*, which functions as a comprehensive toolkit for SRPP. It offers detailed guidance on objectives, market engagement, award criteria, and

& University of Groningen, 2025, as cited in the European Commission, *op. cit.* (fn. 8), p. 58.

64 Caimi, V.; Sansonetti, S., *The social impact of public procurement, Can the EU do more?,* European Parliament, Policy Department for Economic, Scientific and Quality of Life Policies, Directorate-General for Internal Policies, Luxembourg, 2023, p. 46.

65 Article 20(1) of Directive 2014/24/EU.

66 Article 70(1) of Directive 2014/24/EU.

contract performance clauses, as well as addressing common practical challenges. In this sense, the document provides measurable examples of criteria and concrete guidance for drafting contractual clauses, thereby directly influencing procurement practice.[67] A more recent example is the *How to apply socially responsible public procurement: An impact-driven framework with indicators and practical examples*, which focuses on methodologies for measuring the social impact of procurement processes and provides examples of good practice across EU.[68]

7. CHALLENGES IN THE IMPLEMENTATION OF SRPP IN THE EUROPEAN UNION

The existing framework underpinning the integration of socially responsible criteria into public procurement procedures gives rise to a number of practical and structural challenges. Drawing on stakeholder feedback regarding strategic public procurement, Altaee identifies that the incorporation of strategic policy objectives into the Directive 2014/24/EU has created significant difficulties for contracting authorities. A key issue lies in the absence of a coherent framework that would assist contracting authorities in balancing competing priorities, such as transparency, market efficiency, and a broad range of strategic policy objectives. This results in fragmented and, at times, internally inconsistent implementation across procurement systems.[69] Member States themselves report several concrete challenges in practice, including the lack of clear operational guidance, difficulties in measuring social impact, and the absence of a unified and widely accepted definition of SRPP at the EU level.

Furthermore, despite efforts to develop methodologies for assessing the social impact of individual procurement procedures incorporating socially responsible elements, comprehensive data on the actual implementation of SRPP at both the European and national levels remain limited and unavailable due to the lack of reliable measurement methods.[70] An additional challenge arises from

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[67] European Commission, *op. cit.* (fn. 12).

[68] European Commission; PwC EU Services; ICLEI Europe, *How to apply socially responsible public procurement, An impact-driven framework with indicators and practical examples*, Publications Office of the European Union, Luxembourg, 2025.

[69] Altaee, *Evaluation Study on Relevance and EU added value of the Public Procurement legislation. Evaluation of the EU public procurement Directives*, 2025, p. 16, https://data.europa.eu/doi/10.2873/3480868, as cited in the European Commission, *op. cit.* (fn. 8), p. 35.

[70] *Ibid.*, p. 41.

the existence of divergent national approaches to SRPP. While some Member States have introduced specific legal provisions, policies, and strategies aimed at promoting its effective implementation, others remain at an early stage of development, where SRPP is not yet an established practice. As a result, the level of implementation varies significantly across the EU, a situation further reinforced by the fact that the use of socially responsible criteria remains largely voluntary.[71] Notably, Member States have uniformly expressed their opposition to introducing mandatory secondary criteria in contract award procedures through amendments to the Directive.[72]

The reasons for this uneven implementation can be further clarified by looking at public procurement as a process rather than as a single legal moment of contract award. Decarolis and Srhoj's five-stage framework of public procurement is useful in this regard, as it shows that procurement outcomes are shaped through demand planning, tender preparation and advertisement, bidding and contract allocation, contract execution, and the economic consequences of contract performance.[73] Applied to SRPP, this means that the formal possibility of including social criteria is only the first step. A social objective must be translated into procurement planning, expressed through lawful and operational tender requirements, accepted by the relevant supplier base, monitored during contract performance, and ultimately assessed in terms of its actual social effects.

This perspective helps to explain why the permissive character of the EU legal framework does not necessarily result in a more systematic use of SRPP. Even where contracting authorities are legally allowed to include social considerations, they may refrain from doing so if they lack adequate guidance, market knowledge, administrative capacity, or reliable mechanisms for monitoring performance and verifying social outcomes.[74] In this sense, the problem becomes whether the procurement system is institutionally capable of transforming social criteria into enforceable contractual obligations and measurable public value. This supports the broader argument of this paper that the development of SRPP is shaped not only by the scope of the positive legal framework, but also by the administrative, institutional, and doctrinal conditions under which procurement is carried out.

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71 *Ibid.*, p. 47.

72 *Ibid.*, p. 206.

73 Decarolis, Srhoj, *op. cit.* (fn. 9), p. 2.

74 *Ibid.*, pp. 17 – 18.

7.1. Measuring Social Impact and Variations Across Member States

One of the central challenges of SRPP lies in the difficulty of measuring its effects, which renders the actual state of implementation uncertain. An analysis of existing approaches to measuring SRPP reveals that, despite differing methodological foundations, there are important points of convergence between contemporary policy frameworks and the theoretically grounded approach developed by Hartlapp. While the analytical framework developed for the Commission operationalizes social impact through a set of concrete indicators, such as employment and social inclusion, working conditions, accessibility, and sustainability, complemented by sub-indicators and scoring systems[75], Hartlapp adopts a broader perspective rooted in welfare state regimes. She develops a three-dimensional index encompassing the substance of regulation, its potential impact, and mechanisms of enforcement.[76] In her analysis, including the case of public procurement, Hartlapp demonstrates an increase in the strength of social objectives within regulatory frameworks and highlights differences in national priorities. In particular, she identifies a distinction between the emphasis on individual social rights and the prioritisation of collective solidarity. This suggests that public procurement evolves in some states in a manner complementary to existing welfare state regimes, while in others it assumes a compensatory function.

At first glance, the distinction between these two approaches lies in their level of analysis. The Commission's framework is highly operational and focused on evaluating individual procurement procedures, whereas Hartlapp's model is conceptually more ambitious and aims to enable comparisons across national regulatory regimes over time. Despite this difference, both approaches share a fundamental assumption: that social objectives in public procurement can be systematically identified, quantified, and compared. Indicators such as the employment of vulnerable groups, fair working conditions, or compliance with labour standards correspond closely to the dimension of regulatory substance in Hartlapp's model. Similarly, scoring systems and impact classifications developed in policy frameworks reflect attempts to capture potential effects. Furthermore, the emphasis on monitoring and reporting aligns with the dimension of enforcement, which is central to Hartlapp's understanding of the actual strength of regulation. However, the key added value of Hartlapp's approach lies in its capacity to situate these elements within a broader institutional and political

[75] European Commission, PwC EU Services, ICLEI Europe, *op. cit.* (fn. 68), p. 6.

[76] Hartlapp, M., *Measuring and Comparing the Regulatory Welfare State: Social Objectives in Public Procurement,* The Annals of the American Academy of Political and Social Science, *vol.* 691, no. 1, 2020, p. 74.

context. This is consistent with the underlying logic of administrative doctrines, which seek to analyse administrative law institutes in light of the wider social, economic, and institutional conditions within which they operate. In contrast to more technical frameworks, which implicitly assume that indicators are universally applicable and comparable, Hartlapp explicitly demonstrates that social objectives in regulation, including in public procurement as a historically economic domain, are deeply embedded in different welfare state models. These models reflect a specific combination of ideas, interests, and institutions that shape national regulatory regimes. This perspective is supported by empirical differences observed across Member States, including between France and Germany as representatives of conservative – corporatist welfare regimes. While regulation in Germany places particular emphasis on individual social rights, the French approach is more strongly oriented towards collective objectives of social solidarity and equality in the market. Empirical findings suggest that public procurement regulation reflects existing welfare state standards.[77] This implies that France is more likely to use public procurement as a direct instrument for achieving inclusive policy objectives, whereas Germany tends to integrate such objectives more cautiously, with socially oriented criteria being less prominently embedded in procurement practices. Consequently, although both countries formally operate within the same European legal framework, the actual scope and intensity of social objectives in public procurement differ. This supports the broader argument that regulatory outcomes reflect deeper institutional and normative differences between national welfare state models. This analytical approach can be extended to other welfare state regimes. In liberal systems, SRPP is often legitimised as an "added social value" alongside the preservation of market competition. For instance, in the United Kingdom, Procurement Policy Note 06/20 introduced the mandatory evaluation of social value in central government contracts.[78] In contrast, social-democratic regimes offer examples of more robust post-award governance. In Norway, for example, requirements relating to wages and working conditions must be incorporated as binding obligations in procurement documentation and are subject to verification during contract performance.[79]

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[77] *Ibid.*, pp. 80 – 81.

[78] Cabinet Office, Procurement Policy Note 06/20 – Taking account of social value in the award of central government contracts, 2020; Cabinet Office, Procurement Policy Note 02/25 – Taking account of social value in the award of central government contracts, 2025.

[79] See: Direktoratet for forvaltning og økonomistyring (DFØ), *What do the regulations say?*, Anskaffelser.no, https://www.anskaffelser.no/en/what-do-regulations-say (01 March 2026).

8. CONCLUSION

The socially responsible dimension of public procurement demonstrates that procurement can no longer be understood solely as a technical mechanism for acquiring goods, works, and services at the lowest price. Rather, it has evolved into an instrument through which the state and public authorities can steer market processes towards the achievement of broader societal objectives. The historical analysis confirms that the use of public procurement for social purposes is not a recent innovation, but a recurring feature whose intensity and legal form have varied across different political, economic and institutional contexts. Accordingly, the intensity and models of integrating social criteria cannot be explained solely by positive law. Instead, they require a broader analytical perspective that takes into account administrative doctrines, welfare state models, and the institutional capacities of individual states.

The analysis has shown that the limited and uneven use of SRPP within the EU does not stem exclusively from normative shortcomings of Directive 2014/24/EU, but also from tensions between competing values that shape the institution of public procurement. The formal permissibility, and even the legal obligation, to incorporate social criteria is in itself insufficient to ensure their effective and systematic integration into procurement procedures. A comparative perspective further demonstrates that SRPP develops in alignment with existing welfare state regimes. In systems characterised by higher level of universalism and decommodification, the social dimension of procurement is more readily institutionalised and legitimised as part of public policy. In more liberal regimes, by contrast, it tends to emerge in more selective and discretionary forms. This implies that a formally uniform and ostensibly neutral European framework inevitably produces differentiated outcomes across Member States, as it operates within diverse institutional, political, and social contexts.

While welfare state regimes provide a valuable explanatory framework for understanding these variations, they should not be regarded as monolithic. Significant differences persist within regime categories, particularly in sectoral policies, internal state structures, administrative capacities, and legal traditions. Moreover, developments in SRPP are primarily driven by European law and judicial practice, whereas national welfare state models function more as mediating frameworks that shape how these legal impulses are received, adapted, or constrained within domestic legal systems. In this sense, welfare state theory serves as an important explanatory factor in understanding why SRPP practices are implemented differently across Member States. At the same time, a crucial distinction must be drawn between formal possibility and actual implementation. Even where national frameworks permit or encourage the use of social

clauses, their practical impact may remain limited in the absence of effective oversight, adequate financial and administrative resources, and sufficient institutional capacity.[80] In such cases, implementation risks remaining at the level of symbolic compliance.

It follows that the further development of SRPP should not be oriented solely towards expanding the normative space for the inclusion of social criteria, but rather towards strengthening the institutional conditions necessary for their effective application. A shift from a model of minimal legal compatibility to one of institutionally supported implementation requires clearer guidance, more precise mechanisms of monitoring and enforcement, the development of reliable indicators for measuring social impact, and the systematic strengthening of administrative capacities among contracting authorities. The central argument advanced in this paper is therefore that SRPP should be understood as a comprehensive institutional framework situated at the intersection of law, administrative doctrines, and the political economy of the welfare state. Its effectiveness depends not only on the formal permissibility of social criteria, but also on the broader institutional context within which they are implemented and on the conditions that enable their integration into everyday procurement practice.

BIBLIOGRAPHY

Addink, H., *Good Governance: Concept and Context,* Oxford University Press, Oxford, 2019. DOI: 10.1093/oso/9780198841159.001.0001

Andhov, M. *et al., Sustainability Through Public Procurement: The Way Forward – Reform Proposals*, University of Oslo, Faculty of Law, Legal Studies Research Paper Series, No. 2020-09, 2020. DOI: 10.2139/ssrn.3589168

Arrowsmith, S., *The Law of Public and Utilities Procurement*, 2nd ed., Sweet and Maxwell, London, 2005.

Arrowsmith, S.; Anderson, R. D. (eds.), *The WTO Regime on Government Procurement: Challenge and Reform*, Cambridge University Press, Cambridge, 2011. DOI: 10.1017/CBO9780511977015

Aucoin, P., *Administrative Reform in Public Management: Paradigms, Principles, Paradoxes and Pendulums*, Governance: An International Journal of Policy and Administration, *vol.* 3, no. 2, 1990, pp. 115 – 137. DOI: 10.1111/j.1468-0491.1990.tb00111.x

[80] Uyarra, E. *et al., Public procurement, innovation and industrial policy: Rationales, roles, capabilities and implementation*, Research Policy, *vol.* 49, no. 1, 2020, art. 103844, p. 3.

Bambra, C., *Research Note: Decommodification and the worlds of welfare revisited*, Journal of European Social Policy, *vol.* 16, no. 1, 2006, pp. 73 – 80. DOI: 10.1177/0958928706059835

Blau, J., *Theories of the welfare state*, Social Service Review, *vol.* 63, no. 1, 1989, pp. 26 – 38. DOI: 10.1086/603676

Blažević, R., *Upravna znanost*, Sveučilište u Rijeci, Pravni fakultet, Rijeka, 2021.

Bouckaert, G.; Im, T., *Neo Weberian State: From Theory to Practice*?, Journal of Policy Studies, *vol.* 39, no. 2, 2024, pp. 1 – 3. DOI: 10.52372/jps39201

Bovaird, T.; Löffler, E., *Evaluating the Quality of Public Governance: Indicators, Models and Methodologies*, International Review of Administrative Sciences, *vol.* 69, no. 3, 2003, pp. 313 – 328. DOI: 10.1177/0020852303693002

Caimi, V.; Sansonetti, S., *The social impact of public procurement, Can the EU do more?,* European Parliament, Policy Department for Economic, Scientific and Quality of Life Policies, Directorate-General for Internal Policies, Luxembourg, 2023. DOI: 10.2861/437576

Caranta, R., *Towards Socially Responsible Public Procurement*, ERA Forum, *vol.* 23, 2022, pp. 149 – 164. DOI: 10.1007/s12027-022-00718-5

Carril, R.; Guo, A., *The Impact of Preference Programs in Public Procurement: Evidence from Veteran Set-Asides*, BSE Working Paper no. 1417, Barcelona, 2023, https://bse.eu/sites/default/files/working_paper_pdfs/1417.pdf

Decarolis, F.; Srhoj, S., *The Economics of Public Procurement*, CEPR Discussion Paper No. 21110, CEPR Press, Paris, London, 2026, https://cepr.org/publications/dp21110

Esping-Andersen, G., *The Three Worlds of Welfare Capitalism,* Princeton University Press, Princeton, 1990.

Hartlapp, M., *Measuring and Comparing the Regulatory Welfare State: Social Objectives in Public Procurement,* The Annals of the American Academy of Political and Social Science, *vol.* 691, no. 1, 2020, pp. 68 – 83. DOI: 10.1177/0002716220952060

Hepple, B. A. (ed.), *The making of labour law in Europe: A comparative study of nine countries up to 1945*, Mansell, London, 1986.

Hood, C., *A Public Management for all Seasons?*, Public Administration, *vol.* 69, no. 1, 1991, pp. 3 – 19. DOI: 10.1111/j.1467-9299.1991.tb00779.x

Janssen, W. A., *The coherence of public procurement legislation in the European Union. A Study for the EU Commission into the external coherence between the public procurement directives and other legislative instruments regulating public procurement*, Utrecht University & University of Groningen, 2025, https://data.europa.eu/doi/10.2873/7419429

Koprić, I.; Marčetić, G.; Musa, A.; Đulabić, V.; Lalić Novak, G., *Upravna znanost – javna uprava u suvremenom europskom kontekstu*, Pravni fakultet Sveučilišta u Zagrebu – Studijski centar za javnu upravu i javne financije, Zagreb, 2021.

Krasnokutskaya, E.; Seim, K., *Bid Preference Programs and Participation in Highway Procurement Auctions*, American Economic Review, *vol.* 101, no. 6, 2011, pp. 2653 – 2686. DOI: 10.1257/aer.101.6.2653

Kunzlik, P., *Neoliberalism and the European Public Procurement Regime*, Cambridge Yearbook of European Legal Studies, *vol.* 15, 2013, pp. 283 – 356. DOI: 10.5235/152888713809813666

Malacina, I. *et al.*, *Capturing the Value Creation in Public Procurement: A Practice-based View*, Journal of Purchasing and Supply Management, *vol.* 28, no. 2, 2022, art. 100745. DOI: 10.1016/j.pursup.2021.100745

Marion, J., *Are bid preferences benign? The effect of small business subsidies in highway procurement auctions*, Journal of Public Economics, *vol.* 91, no. 7-8, 2007, pp. 1591 – 1624. DOI: 10.1016/j.jpubeco.2006.12.005

Marshall, T. H., *Citizenship and Social Class and Other Essays*, Cambridge University Press, Cambridge, 1950.

Marshall, T. H.; Bottomore, T. B., *Citizenship and Social Class*, Pluto Press, London, 1992. DOI: 10.2307/j.ctt18mvns1

McCrudden, C., *Buying Social Justice: Equality, Government Procurement & Legal Change*, Oxford University Press, Oxford, 2007. DOI: 10.1093/acprof:oso/9780199232420.001.0001

McCrudden, C., *Using public procurement to achieve social outcomes*, Natural Resources Forum, *vol.* 28, no. 4, 2004, pp. 257 – 267. DOI: 10.1111/j.1477-8947.2004.00099.x

McCue, C. P.; Prier, E.; Swanson, D., *Five dilemmas in public procurement*, Journal of Public Procurement, *vol.* 15, no. 2, 2015, pp. 177 – 207. DOI: 10.1108/JOPP-15-02-2015-B003

Moynihan, D. P., *Managing for Results in State Government: Evaluating a Decade of Reform*, Public Administration Review, *vol.* 66, no. 1, 2006, pp. 77 – 89. DOI: 10.1111/j.1540-6210.2006.00557.x

Mummalaneni, S., *Affirmative action as a cost cutting tool in procurement markets*, Quantitative Marketing and Economics, *vol.* 24, 2026, art. 3. DOI: 10.1007/s11129-026-09305-1

Nohlen, D. (ed.), *Politološki rječnik, Država i politika*, Pan Liber, Osijek, Zagreb, Split, 2001.

Ogus, A., *Regulation: Legal Form and Economic Theory*, Bloomsbury Academic, Oxford, 2004.

Pierson, P., *Dismantling the Welfare State? Reagan, Thatcher and the Politics of Retrenchment*, Cambridge University Press, Cambridge, 1994. DOI: 10.1017/CBO9780511805288

Polanyi, K., *The Great Transformation: The political and economic origins of our time*, Farrar & Rinehart, New York, 1944.

Powell, M.; Barrientos, A., *Welfare regimes and the welfare mix*, European Journal of Political Research, *vol.* 43, no. 1, 2004, pp. 83 – 105. DOI: 10.1111/j.1475-6765.2004.00146.x

Quigley, W. P., *The Right to Work and Earn a Living Wage: A Proposed Constitutional Amendment*, New York City Law Review, *vol.* 2, no. 2, 1998, pp. 139 – 182. DOI: 10.31641/clr020202

Schotanus, F.; Grandia, J., *Public Procurement Policy and Purchasing Strategy*, in: Grandia, J.; Volker, L. (eds.), *Public Procurement: Theory, Practices and Tools*, Palgrave Macmillan, Cham, 2023, pp. 73 – 95. DOI: 10.1007/978-3-031-18490-1_5

Semple, A., *Socially Responsible Public Procurement (SRPP) under EU Law and International Agreements: the GPA, CETA and the EU-Ukraine Deep and Comprehensive Free Trade Area,* European Procurement and Public Private Partnership Law Review, *vol.* 12, no. 3, 2017, pp. 293 – 309. DOI: 10.21552/epppl/2017/3/11

Titmuss, R. M., *Commitment to Welfare*, Allen and Unwin, London, 1968.

Titmuss, R. M., *Social Policy: An Introduction*, Pantheon Books, New York, 1975.

Uyarra, E. *et al.*, *Public procurement, innovation and industrial policy: Rationales, roles, capabilities and implementation*, Research Policy, *vol.* 49, no. 1, 2020, art. 103844. DOI: 10.1016/j.respol.2019.103844

SOURCES

Altaee, *Evaluation Study on Relevance and EU added value of the Public Procurement legislation. Evaluation of the EU public procurement Directives*, 2025, https://data.europa.eu/doi/10.2873/3480868

Cabinet Office, Procurement Policy Note 02/25 – Taking account of social value in the award of central government contracts, 2025.

Cabinet Office, Procurement Policy Note 06/20 – Taking account of social value in the award of central government contracts, 2020.

Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014, pp. 65 – 242.

Direktoratet for forvaltning og økonomistyring (DFØ), *What do the regulations say?*, Anskaffelser.no, https://www.anskaffelser.no/en/what-do-regulations-say

European Commission, *Commission Staff Working Document: Evaluation of Directive 2014/23/EU on Concessions, Directive 2014/24/EU on Public Procurement and Directive 2014/25/EU on Utilities*, SWD(2025) 332 final, 2025.

European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, *Buying Social – A guide to taking account of social considerations in public procurement – Second edition*, 2021/C 237/01, Official Journal of the European Union, C 237, Publications Office of the European Union, Luxembourg, 2021, pp. 1 – 69.

European Commission, *Public procurement*, https://single-market-economy.ec.europa.eu/single-market/public-procurement_en

European Commission; PwC EU Services; ICLEI Europe, *How to apply socially responsible public procurement, An impact-driven framework with indicators and practical examples*, Publications Office of the European Union, Luxembourg, 2025.

OECD, *Modernising Government: The Way Forward*, OECD Publishing, Paris, 2005. DOI: 10.1787/9789264010505-en

World Commission on Environment and Development, *Our Common Future: Report of the World Commission on Environment and Development*, Annex to document A/42/427, United Nations, New York, 1987.

Sažetak

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JAVNA NABAVA SA SVRHOM: RAZUMIJEVANJE ZAOKRETA PREMA DRUŠTVENOJ ODGOVORNOSTI

Društveno odgovorna javna nabava (DOJN) posljednjih se desetljeća prepoznaje kao važan instrument ostvarivanja širih društvenih ciljeva putem sustava javne potrošnje. Iako je pravni okvir Europske unije postupno omogućio uključivanje društvenih kriterija u postupke javne nabave, njihova je praktična primjena i dalje neujednačena među državama članicama. U radu se zastupa stajalište da se ograničeni doseg DOJN-a ne može pripisati isključivo nedostatcima pozitivnog prava, nego da odražava dublje strukturne napetosti između upravnih doktrina i modela socijalne države koji su povijesno oblikovali javnu nabavu.

Rad kombinira normativnu pravnu analizu s teorijskim i doktrinarnim pristupom kako bi objasnio položaj DOJN-a unutar suvremenoga europskog okvira. Prati povijesni razvoj javne nabave kao instrumenta javnih politika te njezin odnos s razvojem socijalne i regulacijske države. Nadalje, istražuje teorije socijalne države i upravne doktrine kao okvir za objašnjenje različitih nacionalnih pristupa DOJN-u. Pozornost je posvećena pravnom okviru Europske unije, osobito dosegu horizontalne socijalne klauzule te ulozi instrumenata mekog prava u operacionalizaciji društvenih razmatranja.

Naposljetku, rad predlaže konceptualni okvir za razumijevanje DOJN-a kao instrumenta stvaranja javne vrijednosti. Zaključuje se da formalna dopuštenost društvenih kriterija nije dovoljna za njihovu djelotvornu integraciju te da daljnji razvoj DOJN-a zahtijeva pomak od modela minimalne pravne usklađenosti prema modelu institucionalno podupirane provedbe.

Ključne riječi: društveno odgovorna javna nabava; upravne doktrine; socijalna država; režimi socijalne države; javna vrijednost

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