Policy Brief

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Lex Specialis as Modus Operandi

Analysing Public Procurement Systems in the Western Balkans

I. Introduction

Despite a shared commitment to EU integration, public procurement reform across the Western Balkans remains uneven and complex. At first glance, the region appears to be moving in the right direction – formally aligning legal frameworks, introducing e-procurement systems, and harmonising with EU standards and practice. But beneath the surface lies a troubling workaround that undermines this progress: the recurring use of the lex specialis approach, or special laws, to circumvent established procurement rules. A typical case involves governments launching multi-million-euro infrastructure projects without competitive bidding, justified by a "special national interest" law passed overnight – effectively sidestepping standard procedures and weakening the integrity of the procurement system. This paper argues that the use of special laws not only hinders EU integration by breaching core EU principles of transparency and competition but it also opens the door to unchecked public spending and erodes public trust. To grasp whether this practice is an exception or rather becoming modus operandi across the Western Balkans, the paper explores this grey zone, examining how legal exceptions are increasingly becoming the rule, and what that means for the future of democratic governance and EU accession in the region. Against this regional backdrop, the paper dedicates particular attention to

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Serbia, where the reliance on special legislation is most entrenched and offers a revealing case of how systemic this practice has become.

II. Public Procurement Requirements as Part of the EU Integration: Western Balkans Regional Overview

Managing taxpayers' money is one of the most important roles of any government, making the public procurement system a mechanism for securing transparent and effective spending of the budget by national and/or local governments. Its primary aim is to prevent misuse of public funds, stimulate competition, and prevent and suppress corruption. The Revised Enlargement Methodology, adopted in 2020, incorporates Chapter 5 on public procurement into the Fundamentals (Cluster 1). While the EU regularly monitors progress, or lack thereof, through Chapter 5 of the accession negotiations, the recently adopted Reform and Growth Facility for the Western Balkans encouraged WB countries to include multiple measures in their respective Reform Agendas, mainly targeting corruption related to public procurement procedures. Against this backdrop, it is crucial to understand how these obligations and reforms are unfolding on the ground, particularly in terms of implementation, effectiveness, and alignment with EU standards.

Having in mind that six Western Balkan countries are in different phases of the accession process, the level of alignment with the EU acquis in the area of public procurement varies among countries. The comparative analysis of the 2024 and 2025 European Commission's annual reports (see Table 1) reveals that this alignment ranges from partial to well aligned. Namely, only Montenegro is well (fully) aligned, followed by Serbia's broad alignment, while Albania and North Macedonia are largely aligned. Bosnia and Herzegovina and Kosovo[2] lag behind, being only partially aligned. The 2025 EC country reports held more or less the same assessments as in the year before. To gain a more nuanced understanding of the underlying reasons for this variability, the following section of this paper maps and analyses public procurement issues in the Western Balkans, with particular emphasis on Serbia, which faces comparatively greater challenges in this area.

Table 1. Level of alignment with the EU acquis in the public procurement – WB6 regional perspective

Country	Level of alignment 2024*	Level of Alignment 2025**
Albania	Largely aligned	Largely aligned
Bosnia and Herzegovina	Partially aligned	Partially aligned
North Macedonia	Largely aligned	Largely aligned
Montenegro	Well aligned	Aligned
Kosovo	Partially aligned	Partially aligned
Serbia	Broadly aligned	Broadly aligned

* Level of Alignment Scale (well aligned, broadly aligned, largely aligned, partially aligned, minimally aligned, no alignment) according to the European Commission 2024 Enlargement Package[3] (https://enlargement.ec.europa.eu/news/commission-adopts-2024-enlargement-package-2024-10-30_en)

**In the 2025 Enlargement Package, the only change appeared in the case of Montenegro, where the wording of the category was slightly changed, but the level of alignment remained high (https://enlargement.ec.europa.eu/news/2025-enlargement-package-shows-progress-towards-eu-membership-key-enlargement-partners-2025-11-04_en)

2 This designation is without prejudice to positions on status and is in line with UNSCR 1244 and the ICJ opinion on Kosovo Declaration of Independence.

3 The categorisation is based on the EC Annual Country reports, but the scaling is based on author's interpretation and comparative analysis of the six country reports for the Western Balkans.

Table 2. Level of preparedness for EU membership in Chapter 5 (Public Procurement) – WB6 regional perspective

Country	Level of Preparedness 2025*
Albania	Moderately prepared
Bosnia and Herzegovina	Some level of preparation
North Macedonia	Moderately prepared
Montenegro	Good level of preparation
Kosovo	Between some and moderate
Serbia	Moderately prepared

*Source: European Commission, 2025 Enlargement Package (https://enlargement.ec.europa.eu/news/2025-enlargement-package-shows-progress-towards-eu-membership-key-enlargement-partners-2025-11-04_en)

II.1. Albania – Progressing steadily, but certain challenges persist

Legislative alignment of Albania with the EU acquis (2014 Directives on public procurement and procurement of utilities)[4] in the public procurement area is good (largely aligned), with steady progress from year to year, but notable concerns about practices in this area are observed. The last amendment of the PPL in 2024 - the ninth one since its original adoption in 2006 – includes abolishing the consultancy services procurement category, among other changes.[5] However, the Law on concessions and public-private partnerships (PPPs) is partially aligned with the EU acquis, while adoption of the new draft law is still pending.[6] Albania's Reform Agenda references procurement only broadly, without introducing any concrete public procurement measures. Key challenges of public procurement in Albania include corruption, an insufficiently attractive investment environment and a lack of transparency.[7] One of the pressing issues is the international consultancy agreements in 'areas of strategic interest', exempted from the public procurement procedures and heavily used by the government.[8] Corruption remains commonplace, with the EC calling for "strengthening the functioning of the overall system to increase competition, compliance and professionalisation".[9] As of 2025, just 2.3% of total public procurements are conducted through negotiation without prior publication of a contract notice, which is a marked decrease in the use of non-competitive methods compared to the approximately 30% seen in 2021.[10] Reporting issues are also present, with Albania's Concessions Treatment Agency (ATRAKO) and the Ministry of Finance needing to strengthen their reporting on Public-Private Partnerships (PPPs).[11] Likewise, Albania experiences issues with capacity, though implementation of a new certification system for procurement staff is in the works.

Albania does have some special laws which deviate from its PPL. Specifically, Law No. 125/2013 on Concessions and Public-Private Partnerships[12] creates a separate legal framework specifically for large-scale infrastructure and public service projects. This law allows for alternative procurement procedures, such as more limited bidding and direct negotiations, due to the larger-scale projects often requiring long-term partnerships. Additionally, it creates a more flexible procurement process, owing to the Law's detailed provisions on risk allocation, performance guarantees, and revenue sharing, ultimately allowing more responsiveness to the technical and financial demands of major projects. Furthermore, another notable example is the Law No. 55/2015 on Strategic Investments. Article 22 of this law enables the Parliament, on request of a "strategic investor", to adopt individual PPP contracts through a dedicated law. Such parliamentary adoption means the contract cannot be challenged in regular courts,

4 2014 Public Sector and Utilities Directives are together referred as 2014 Directives, see: Official Journal of the European Union (OJEU), L94/1, Volume 57, 28 March 2014, and SIGMA, 2014 EU Directives: Public Sector and Utilities Procurement, Brief 30, September 2016.
5 European Commission, Commission Staff Working Document – Albania 2024 Report, SWD(2024) 690 final.
6 European Commission, Commission Staff Working Document - Albania 2025 Report, SWD(2025)750 final, p. 59.
7 European Commission, Commission Staff Working Document – Albania 2024 Report, SWD(2024) 690 final.
8 European Commission, Commission Staff Working Document - Albania 2025 Report, SWD(2025)750 final, p. 58.
9 Ibid, pp. 54-55.
10 Lealba Pelinku, Public procurement in Albania in 14 years, Academic Journal of Business, Administration, Law and Social Sciences, Vol. 7, No. 1, March 2021, IIPCCL Publishing, Graz-Austria.
11 Ibid, European Commission, p. 57.
12 Republic of Albania, The Assembly, Law No. 125/2013 on Concession and Public-Private Partnerships.

functioning as a potent lex specialis in specific investment cases. The EU has criticised this practice as not in line with the 2014 Directives and the Stabilisation and Association Agreement signed between the EU and Albania.[13] The message is clear: the EU does not welcome special laws derogating PPL, and there is a strong expectation from Albania to abandon this practice.

II.2. Bosnia and Herzegovina – Regional laggard in public procurement

The legal framework of Bosnia and Herzegovina (BiH) is partially in line with the EU acquis, however, the legal framework on concessions and public-private partnerships remains highly fragmented and not aligned with the EU acquis.[14] Key challenges of public procurement in BiH, according to EC, include the Public Procurement Agency's struggles with staffing shortages, which create difficulties in the implementation, monitoring and support of public procurement policy. Likewise, there is currently a lack of coordination between the Competition Council and the audit and judiciary institutions. Additionally, the procurement practice is very formalistic, with the exchange of information and tender submission not being done electronically until recently (and hence unaligned with EU standards).[15] While the e-procurement system exists, it was not mandatory until recently, and its lack of user-friendly features and e-communication functionalities minimises its impact, and ultimately harms its integrity, transparency and efficiency.

BiH is the last country in the region that adopted the Reform Agenda, but the document is not publicly available.[16] According to the local media, public procurement is not prominent in the document, as they reveal BiH's Reform Agenda will focus on green and digital transition, employment, technological development and efficient public enterprises.[17] However, BiH also does not have the practice of adopting lex specialis, which represents a positive example in regional terms. While BiH does not have any special laws which deviate from its PPL, it does have some narrowly defined exceptions and alternative procurement procedures outlined within its PPL. Its Article 5 outlines that procurement contracts regarding state secrets, defence, international lending, acquisition or rental of immovable property are exempt from the PPL. Articles 2 and 11 outline the alternative procedures, such as the Accelerated Procedure in situations of urgency, and the Negotiated Procedure. However, these are mostly in line with existing practices within the EU member states. Finally, the ongoing political crisis between the federal and the leadership of Republika Srpska is turning the attention of the administration away from technical advancements in public procurement. Having all that in mind, BiH risks staying behind the region, where the rest of the countries are making significant steps forward in aligning with the EU.

II.3. Montenegro – Fully aligned, provisionally closed Chapter 5

Generally, Montenegro's legal framework on public procurement is well aligned with the EU acquis. Appeal procedures are in line with the EU standards and practice.[18] Key challenges of public procurement in Montenegro include understaffing, process irregularities and occasional corrupt practices.[19] For instance, the Commission for the Protection of Rights in Public Procurement Procedures appointed a new President and members near the end of 2023, which alleviated some capacity issues, but such capacity building needs to be maintained. Regarding process irregularities, Montenegrin officials often decline possibilities to challenge outcomes of tender judgements and have been known to adjust requirements days before deadlines.[20] While anti-corruption measures are in place, the private sector has expressed dissatisfaction with their effectiveness and enforcement,[21] with notable gaps in integrity training for civil servants. The aforementioned challenges are minor compared to other countries, all the while the Montenegrin government is working actively on addressing them.

Montenegro's Reform Agenda includes a strong focus on public procurement in the wider con-

13 Ibid, European Commission, p. 54.
14 European Commission, Commission Staff Working Document – Bosnia and Herzegovina 2024 Report, SWD(2024) 691 final, p.59.
15 According to inputs from the BiH representative at the Regional Workshop organised in Belgrade in October 2025.
16 See more at: European Western Balkans, Reform Agenda of BiH finally adopted, 1 October 2025.
17 Euronews BiH, Šta piše u Reformskoj agendi: BiH usvojila 113 mjera i jedinstvene kontakt tačke za svaku reformu, 1 October 2025.
18 European Commission, Commission Staff Working Document – Montenegro 2024 Report, SWD(2024) 694 final.
19 Ibid, p. 58.
20 See more at: The World Bank, Assessment of Montenegro Public Procurement System, Methodology for Assessing Procurement Systems (MAPS), April 2024, p. 15.
21 Ibid, p. 15.

text of the fight against corruption. In June 2024, the country adopted the Strategy for the Fight Against Corruption 2024–2028 and its accompanying Action Plan 2024–2025, identifying public procurement as one of the areas most vulnerable to corruption. The Reform Agenda highlights efforts to improve the efficiency and integrity of procurement to support the development of a functioning market economy. The proposed reforms aim to ensure full compliance with EU public procurement rules and enhance transparency in intergovernmental agreements and contracts. These reforms are described as ambitious but politically challenging, with the goal of increasing efficiency, reducing favouritism and market distortions, and aligning practices with EU standards. Further anti-corruption measures include the creation of a public register of state-owned enterprises and government-owned companies, independent audits, and improved risk management to strengthen accountability. If fully implemented, all these reforms could help Montenegro in aligning with the EU and becoming a new member state.

Montenegro does not have any special laws that deviate from its PPL, as it generally adheres to its PPL, with only narrowly defined exceptions for certain areas rather than overarching alternative frameworks. Specifically, its PPL has some narrowly defined exceptions (e.g. processes such as granting concessions, and the privatisation (sale or rental) of land, buildings, or other assets) that are nonetheless still regulated within the scope of the law. Therefore, this does not constitute a major deviation from Montenegro's standard procurement framework, though recent changes to the Law on Agency for National Security (ANB), which aimed to exclude ANB from PPL, have faced criticism.[22] Additionally, several bilateral agreements signed with the United Arab Emirates have sparked harsh criticism for avoiding competitive procedures.[23] The fact that Montenegro has provisionally closed Chapter 5 on the Intergovernmental Conference held in June 2025 with the European Council[24] speaks in favour of positive developments and full alignment of Montenegro in this area. However, evidence of deficiencies in Montenegro's public procurement serves as a warning that closing the chapter does not automatically imply that public administration can relax. On the contrary, it signals that maintaining an effective and transparent system of public procurement requires constant dedication and improvements over time. But not only that, Montenegro needs to constantly monitor developments in this area at the EU level, align with it, and keep its positive track record. Otherwise, Chapter 5 could be reopened.

II.4. North Macedonia – Good alignment, lex specialis and limited competition as key issues

Generally, the legal framework on public procurement is largely aligned with the EU acquis, but the public procurement system has considerable challenges.[25] The latest Public Procurement Law in North Macedonia was adopted in 2019, following multiple amendments of the 2007 PPL. The legal framework governing concessions and public-private partnerships (PPPs) remains fragmented and misaligned with core EU principles. There has been no progress in enhancing the administrative capacity of the central institutions responsible for managing PPPs and concessions.[26] Furthermore, some discrepancies between the PPL and the EU acquis remain, including automatic exclusions in specific cases (as indicated by the negative reference list on the e-procurement portal) and the absence of the right for economic operators to demonstrate "self-cleaning" before being excluded.[27] The main weaknesses of the public procurement system stem from its implementation. Although the lowest-price criterion and e-auctions are no longer mandatory, they continue to dominate most procurements. In practice, price remains the sole evaluation criterion in over 90% of competitive procedures. At the same time, competition remains limited, with nearly 30% of procedures attracting only a single bidder.[28] Additionally, the Public Procurement Bureau (PPB) lacks sufficient staff to expand administrative controls to risk-based or randomly selected tenders, limiting its ability to curb abuse and corruption.[29] At the same time, greater efforts are needed to strengthen the human and technical capacities of the relevant department for administrative control.[30] The new State Appeals Commission (SAC) website improves access to decisions and statistical data, while training for procurement officials and active civil society monitoring

22 See more at: RTV Podgorica, Institut alternativa: Spriječiti da ANB sve nabavke sprovodi kao povjerljive, 27 July 2025, and Službeni list RCG 19/2025, Zakon o Agenciji za nacionalnu bezbjednost, 2025.

23 See more at: Stevo Muk, (Ne)sporazumi, Institute Alternativa, 13 May 2025.

24 European Council, 23rd Accession Conference with Montenegro, 27 June 2025.

25 European Commission, Commission Staff Working Document – North Macedonia 2025 Report, SWD(2025) 753 final, p. 61.

26 OECD, Public administration in the Republic of North Macedonia 2024, SIGMA Monitoring Reports, ISSN: 3078-8420, 2025, p. 113.

27 Ibid, p. 112.

28 Ibid, p. 113.

29 Center for Civil Communications, *Извештај од мониторингот ја навните набавки,* Skopje, 2024.

30 Stakeholders view the PPB positively for its transparency, guidance materials, and user-friendly e-procurement system.

further strengthen the system.[31] However, follow-ups on red flag reports regarding corruption and conflicts of interest remain weak.[32]

North Macedonia's Reform Agenda highlights public procurement as one of the reforms under PFM. Under the Fundamentals and Rule of Law pillar, the Reform Agenda emphasises the goal of increasing competition in public procurement. It also underscores alignment with the Stabilisation and Association Agreement (SAA), particularly through reinforcing procurement regulations to promote transparency, competition, and efficiency in government contracts. In line with Article 72 of the SAA, North Macedonia is expected to harmonise its public procurement system with EU standards to ensure fair competition and prevent corruption. Public Finance Management (PFM) is identified as a priority area, with a focus on strengthening the public procurement system. The current landscape is marked by limited competition and frequent irregularities, and corruption. The Reform Agenda seeks to address these challenges by moving away from auctions as the dominant method for awarding contracts, shifting toward e-market systems and the Most Economically Advantageous Tender (MEAT) criteria. These efforts aim to promote better competition, ensure best value for money, and further align procurement practices with EU standards.

Namely, the practice of special laws (lex specialis) that regulate public procurement differently from the PPL is not unfamiliar to North Macedonia. The Law on Strategic Investment (LSI)[33] acts as a separate regime for procurement (lex specialis), deviating from the Macedonian PPL. The LSI provides a more targeted mechanism intended to identify, streamline, and support major investment projects that indicate potential for significant economic transformation. Effectively, if a project is deemed 'strategic', it falls under streamlined rules that aid in bypassing some competitive bidding processes established under the PPL, to expedite its approval and implementation. Ultimately, these provisions are a deviation from the 2019 PPL's emphasis on open and competitive tendering. More precisely, the law appoints a consortium of companies to perform the contract without a competitive procedure.[34] The Corridor VIII and X-d project according to the Law on Determining Public Interest and Nominating a Strategic Partner for the Implementation of the Project for the Construction of the Infrastructure Corridor 8 (Section: Tetovo – Gostivar – Bukojchani and the Project for the Highway Trebenista – Struga – Kafasan) and the Corridor 10 E (Section of the Highway Prilep – Bitola) in the Republic of North Macedonia[35] continues to raise concerns over the use of the Law on strategic investments to bypass public procurement regulations.[36] The EC has strongly criticised this development, putting North Macedonia in a group of states with widespread lex specialis practice.[37]

II.5. Kosovo - Stagnation as public procurement alignment remains a low priority

The legal framework on public procurement remains partially aligned with the EU public procurement acquis.[38] A new draft public procurement law has been awaiting approval for over four years, with no implementing legislation prepared, while the Law on public-private partnerships and concessions is still pending adoption.[39] Kosovo's legislation on the right to legal remedy is broadly in line with the EU acquis. Key challenges of public procurement in Kosovo include frequent corruption and fraud,[40] alongside conflict of interest, unlawful cancellations, non-compliance with procurement review body decisions, mismanagement at the local level, lack of clear technical criteria and violation of fair competition principles.[41] Additionally, insufficient technical and human capacities remain com-

31 Ibid

32 Ibid, European Commission, p. 56.

33 Official Gazette of the Republic of North Macedonia, Law on Strategic Investments in the Republic of North Macedonia, No. 14/2020.

34 https://www.sigmaweb.org/content/dam/sigma/en/publications/reports/2025/01/public-administration-in-the-republic-of-north-macedonia-2024_03a4d4f2/071bad9d-en.pdf, p.112

35 Official Gazette of the Republic of North Macedonia no. 163/21, 111/23 and 255/24, available at: https://www.slvesnik.com.mk/Issues/311e083b76fa470f917530c775aa6886.pdf

36 Ibid, European Commission, p. 55.

37 Ibid, European Commission, p. 55

38 European Commission, Commission Staff Working Document – Kosovo* 2024 Report, SWD(2024) 692 final

39 European Commission, Commission Staff Working Document – Kosovo* 2025 Report, SWD(2025) 752 final, p. 59.

40 European Commission, Commission Staff Working Document – Kosovo* Commission Implementing Decision approving the Reform Agendas and the multiannual work programme under the Reform and Growth Facility for the Western Balkans, SWD(2024) 243 final

41 See more at: Ardit Dragusha & Leorentë Alija, Issues in Public Procurement: Findings from the Analysis of Eleven Tenders at Central and Local Levels, IDM, December 2024.

monplace in the Public Procurement Regulatory Commission (PPRC).[42] Moreover, issues persist with the frequent use of negotiated procurement procedures. Kosovo has been urged to enhance transparency on negotiated procurement procedures by providing robust reasoning behind its award decisions and maintaining audit trails. The interconnection between the e-procurement system and other relevant government IT systems is not operational. Finally, the Procurement Review Body (PRB) is not functionally independent nor fully staffed, and relies on short-term external expertise over long-term legal experts. All these challenges seriously endanger the integrity of Kosovo's public procurement system.

Kosovo's Reform Agenda addresses public procurement as part of broader efforts to enhance public administration. The proposed reforms focus on increasing efficiency and transparency. The agenda also emphasises the need to complete the legal and institutional framework in this area, aligning it with principles of good governance and public financial management. Strengthening internal controls and reinforcing anti-corruption and anti-fraud measures are central to these reforms, aiming to ensure greater accountability in the public sector, including procurement. While Kosovo does not have separate laws diverging from its Public Procurement Law (PPL), it does contain a few built-in exceptions – such as those related to defence, security, and diplomatic services – which remain within the scope of the existing legal framework. Overall, Kosovo's approach reflects a formally coherent procurement framework, but persistent implementation gaps and limited alignment with EU standards continue to undermine the credibility and impact of these reforms.

II. 6. Serbia – Solid alignment, but progress stalled due to low competition, corruption, and reliance on special legislation

The latest update of the Serbian Public Procurement Law (2023) brought the highest level of alignment with the EU acquis. However, although the normative framework is generally considered good, in practice, PPL evasion poses a critical challenge. Key advancements of the PPL introduced in 2023 cover green procurement, the basis for more frequent use of quality criteria over the lowest price, and new criteria of social procurement.[43] This presents a leap forward for Serbian EU accession when it comes to Chapter 5 and meeting interim benchmarks. The European Commission, in its latest report (2025), confirmed that Serbia is "broadly aligned with the EU acquis" in the area of public procurement.[44] On the negative side, the opportunity was missed for full alignment with the EU directives in the area of concessions and utilities within the wider area of public procurement.[45] Differences in scope and definitions, the absence of thresholds, a lower level of transparency, and undefined requirements for significant risk transfer mean that the Serbian Law on Public-Private Partnership and Concessions (LPPPC) is not aligned with the acquis.[46] Thus, further legislative changes are still necessary for full alignment with the EU directives, followed by robust enforcement and strengthened institutions.

In the case of Serbia, although the regulatory framework is reasonably good, some serious challenges burden the entire public procurement system. A combination of a relatively good level of alignment and challenges results in Serbia's moderate level of preparation for membership in the EU in the public procurement area.[47] Frequent changes of the Public Procurement Law (PPL), revised and changed four times in the past 15 years, have disrupted and slowed down the adjustment process of both the state administration and companies participating in public tenders. Other key challenges appear even more significant than the frequent legal changes. A decreasing number of bidders, bid-rigging practices and avoidance of public procurement procedures present critical obstacles to public procurement integrity. The decreasing number of bidders is an indication of declining competitiveness within the system, while bid-rigging practices are hard to prove, leaving the court track record

42 European Commission, Commission Staff Working Document – Kosovo* 2024 Report, SWD(2024) 692 final, p. 54.

43 See: Službeni glasnik Republike Srbije, Zakon o javnim nabavkama, br. 91/2019 i 92/2023.

44 European Commission, Commission Staff Working Document - Serbia 2025 Report, SWD(2025) 755 final, p. 65.

45 See: Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts Text with EEA relevance and Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC Text with EEA relevance.

46 Serbian LPPPC was identified early on in the negotiating process as unaligned with Directive 2014/23/EU on concessions. In the EU Common Position on Chapter 5, when it was opened in 2016, amending LPPP was set out as the interim benchmark for measuring progress and closing Chapter 5. On the other hand, the Serbian government committed to amend the law by the end of 2017. In 2025, LPPPC has not been amended yet.

47 European Commission, Commission Staff Working Document - Serbia 2025 Report, SWD(2025) 755 final, p. 9.

rather limited.[48] Finally, the practice of bypassing the PPL through international treaties or special laws, although not necessarily illegal, threatens to endanger the public procurement system due to its widespread usage. The biggest infrastructure projects, as a rule, are excluded from the PPL. Building highways, railways, bridges and other infrastructure is directly arranged through international agreements or special laws declaring particular projects of national interest. Overall, the current state of play reveals a public procurement system that remains only moderately prepared, hindered by instability, limited competition, and practices that undermine transparency and integrity.

Serbia's Reform Agenda recognised public procurement as a relevant area within the Fundamentals and Rule of Law pillar in the context of the fight against corruption. It identified special legislation and bilateral treaties as problematic and in need of reform, with Serbia standing as the region's most prominent example of using lex specialis to bypass competitive procurement procedures. In the past five years, multiple infrastructural projects have been implemented based on special legislation. Some of the most famous are certainly the Belgrade Waterfront project, the Morava Corridor, and EXPO 2027. Moreover, the Law on Line Infrastructural Projects of Particular Importance for the Republic of Serbia,[49] in effect, between 2020 and 2023, was heavily criticised by the Commission. In practice, lex specialis became commonplace in Serbia, substantially derogating the PPL.[50] Ultimately, Serbia has committed to abandoning the lex specialis in public procurement practice in its Reform Agenda by June 2027.[51] In the same document, the Serbian government committed[52] to improve transparency when it comes to procurement through international agreements and start publishing key data from such agreements by June 2025.[53] To sum up, Serbia's extensive reliance on special legislation continues to undermine transparency and competitive procurement, and while reform commitments exist, their credibility remains uncertain given the entrenched nature of these problematic practices.

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The comparative analysis shows that three out of six WB countries and entities have been, or are still actively using the special law practice in public procurement, while almost all of them have public procurement as part of their national Reform Agenda documents (see Table 3). Alongside standard issues such as competitiveness and administrative capacities, which are a common denominator for the region, half of the countries have seen either widespread or limited usage of lex specialis. This trend is not unique to the Western Balkans. Several EU member states apply special laws or procedures in public procurement, particularly in strategic sectors, during emergencies, or for large infrastructure projects. However, such practices must still conform to the overarching EU procurement directives (mainly Directive 2014/24/EU), which allow for certain exceptions under specific conditions. However, EU law requires that even these special regimes observe principles of transparency, non-discrimination, and proportionality. Derogations are allowed – but only if narrowly defined and justified. Therefore, as having special laws or procedures might not per se be completely at odds with European practice, the WB countries need to pay attention when introducing them to make sure they are in line with the EU Directive on public procurement (2014/24/EU) and relevant public procurement principles.

48 According to the interview conducted with Jelica Dragović, Lawyer and legal expert in the public procurement area, on 18. March 2025. See also: Jelena Pejić Nikić, Preugovor alarm izveštaj o napretku Srbije u Klasteru 1, Beogradski centar za bezbednosnu politiku, November 2024, pp. 55-58, and Jelena Pejić Nikić, Preugovor alarm izveštaj o napretku Srbije u Klateru 1, Beogradski centar za bezbednosnu politiku, May 2025, pp. 66-70.

49 Government of Serbia, Ministry of Construction, Transport and Infrastructure, Law on Special Procedures for the Implementation of the Project of Construction and Reconstruction of Line Infrastructure Structures of Particular Importance to the Republic of Serbia, Official Gazette of the Republic of Serbia, No. 9/2020.

50 The phenomenon of special laws will be explored and elaborated more deeply and comprehensively in the next chapter.

51 Vlada Republike Srbije, Ministartstvo za evropske integracije, Instrument za reformu i rast za Zapadni Balkan: Reformska agenda Republike Srbije, 2024, p. 59.

52 Ibid, p. 59.

53 However, the government of Serbia missed the deadline and as of July 2025 international agreements have not been published. According to Nemanja Nenadić, Transparency Serbia, at: EUcast, EP12: Nemanja Nenadić, June 2025. (accessed 17.07.2025).

Table 3. Regional Western Balkans overview of using special laws to avoid competitive procedures and public procurement related measures in a respective country Reform Agenda

Country	Lex specialis practice	Reform Agenda measures
Albania	Yes – for large scare infrastructure and public service projects	Yes – only as a general goal
Bosnia and Herzegovina	No – only exceptional cases provided within the PPL	Adopted – not available
Montenegro	No – only narrowly defined exceptions	Yes – concrete measures such as creating a public register of SOEs and government-owned companies, and transparency of intergovernmental agreements and contracts
North Macedonia	Yes – for projects deemed 'strategic'	Yes – concrete measures such as digitalisation and switching toward MEAT criteria
Kosovo	No – only built-in exceptions for defence, security and diplomatic services	Yes – general goals such as strengthening internal controls and reinforcing anti-corruption and anti-fraud measures, and enhancing public administration and concrete public procurement-related reform steps such as: adoption of new PPL and PPP, organisation and composition of PPRB, e-procurement platform, annual performance audit, etc.
Serbia	Yes – widespread for infrastructure projects of national importance	Yes – concrete measures range from abandoning practice of special laws to publishing data from international agreements

III. Zooming in on Serbia: Unravelling Systemic Evasion of Public Procurement Procedures

The previous section provided a regional overview of public procurement challenges, alignment with EU acquis, special laws practice, and Reform Agendas under the New Growth Plan for the Western Balkans. While all countries in the region have their own specificities and common denominators, Serbia can serve as a particularly relevant case study for exploring public procurement anomalies and challenges more deeply and comprehensively. Therefore, this chapter analyses the current state of play in public procurement and the ongoing wave of anti-corruption efforts across the country. Subsequently, this part of the analysis delves deeper into the issue of widespread practice of using special laws to avoid competitive procedures, with a special focus on the widely criticised EXPO 2027 project.

III.1. Fighting corruption or fighting shadows

Corruption has been recognised in strategic documents such as the National Strategy for Fighting Corruption and Public Procurement Development Program as a persistent systemic risk, all the while, public procurement has been pinpointed as especially vulnerable. However, fighting corruption starts with an adequate legislative and strategic basis. The Public Procurement Development Program sees the risk of irregularities in the public procurement system as one of three key challenges in public procurement.[54] Furthermore, the accompanying Action Plan envisaged amending LPPPC in 2024, but the government failed to deliver it, leaving the 2016 law still in force.[55][56] The additional delay in fully aligning with the EU acquis in the area of public procurement, which is at the same time one of the benchmarks[57] for closing Chapter 5 in accession negotiations, delays the overall EU integration of Serbia alongside two more benchmarks that Serbia needs to meet. Besides legislative

54 See: Vlada Republike Srbije, Kancelarija za javne nabavke, Program razvoja javnih nabavki u Republici Srbiji za period 2024-2028. godine, 404-6974/20204, 01. August 2024.

55 See: Vlada Republike Srbije, Kancelarija za javne nabavke, Akcioni plan za 2024. godinu za sprovođenje Programa razvoja javnih nabavki u Republici Srbiji za period 2024-2028. godine, 2024.

56 Instead, this objective was moved to the 2025 Action Plan Draft. See: Vlada Republike Srbije, Kancelarija za javne nabavke, NACRT – Akcioni plan za 2025. godinu za sprovođenje Programa razvoja javnih nabavki u Republici Srbiji za period 2024-2028. godine, 2024.

57 Government of the Republic of Serbia, Ministry of European Integration, European Union Common Position, Chapter 5: Public Procurement, 2014.

harmonisation, Serbia needs to put in place adequate administrative and institutional capacity at all levels and take appropriate measures to ensure the proper implementation and enforcement of national legislation in this area in good time before accession.[58] Lastly, it needs to demonstrate a track record of a fair and transparent public procurement system, which provides value for money, competition, and strong safeguards against corruption.[59] These are very complex yet ambitious goals set, but when one takes into consideration already missed goals from the Action Plan, these goals become less realistic and more distant.

While from year to year the Serbian government keeps adopting ambitious anti-corruption plans and goals, in reality, it only moves further away from achieving them. For instance, in its latest Anti-Corruption Action Plan, the government envisaged improving Serbia's rating in the Corruption Perception Index (CPI) from 36 points as it was the baseline indicator in 2023, to 38 points in 2025.[60] Although experts initially criticised the target as unambitious and far below European standards, the latest CPI report has only reinforced those concerns: rather than delivering the promised improvement, Serbia has slipped even further in the global rankings.[61] According to CPI, in 2025, Serbia recorded a negative score change, achieving 35 points.[62] Not only did Serbia backslide, but it was one of the worst-performing countries in Europe, tied with Ukraine, and below the global average.[63] The negative trend has been uninterrupted for eight years, since 2017.[64] In the public procurement area, this decline is further compounded by weak institutional control, as SIGMA's assessments highlight implementation practice as the system's weakest point.[65] Public procurement oversight remains weak, with inadequate control and enforcement failing to ensure accountability for irregularities, particularly through criminal prosecution.[66] The following conclusion emerges: multiple Serbian governments have not been able to break the negative trend in corruption, and whether the established goals will be achieved or delayed remains uncertain.

In Serbia, anti-corruption efforts have frequently been instrumentalised for populist political purposes, resulting in unfulfilled commitments and a further erosion of public trust. In the first half of 2025, the President announced the start of a wave of anti-corruption measures in Serbia.[67] The announcement came against a backdrop of two separate public opinion polls that confirmed that citizens see corruption as by far the biggest problem in the country,[68] which most likely influenced such a decision alongside the tragic accident at the Novi Sad Railway Station. Police, in cooperation with public prosecution, have arrested more than 650 persons accused of corruption, abuse of official position, influence peddling, and abuse related to public procurement.[69] Despite the fact that some active (and high-ranked) politicians and officials have been arrested, the public trust in the determination of the state to eradicate corruption remains rather low. The fact that renewed interest in dealing with corruption coincided with a deep political crisis in Serbia led citizens to think of it as another tool of government to deflect attention from unfolding civic protests. Moreover, many doubt the genuine autonomy of prosecution to deal with corruption, as it had to wait for political approval by the President.[70] Recognised experts in Serbia also remain rather sceptical about whether fighting

58 Ibid.

59 Ibid.

60 See: Vlada Republike Srbije, Ministarstvo pravde, Akcioni plan za period 2024-2025 za sprovođenje Nacionalne strategije za borbu protiv korupcije za period 2024-2028, 2024. p. 1.

61 Transparency International, Corruption Perception Index 2024, February 2025.

62 Ibid.

63 See more at: NIN, Transparentnost Srbija: Novi pad Srbije na svetskoj listi Indeksa percepcije korupcije, 11.02.2025. (accessed: 03.07.2025).

64 Transparency International, Corruption Perception Index – Serbia, accessed (30.06.2025).

65 OECD (2025), Public Administration in Serbia 2024: Assessment against the Principles of Public Administration, SIGMA Monitoring Reports, OECD Publishing, Paris, https://doi.org/10.1787/02001fe4-en.

66 Transparentnost Srbija, Rasipanje javnih resursa kroz javne nabavke, 2024, p. 10.

67 RTS, Vučić: U borbi protiv korupcije neće biti zaštićene ni stranke, 20. January 2025. (accessed 17.07.2025).

68 See: Centre for Research, Transparency and Accountability (CRTA), Stavovi građana Srbije o protestima i blokadama fakulteta, February 2025, p. 16, and Centre for Free Elections and Democracy (CeSID), Javno mnjenje i Evropska unija: Odnos u doba krize, June 2025. p. 25.

69 Insajder, MUP: U akciji borbe protiv korupcije od početka godine uhapšeno 657 osoba, pričinjena šteta 5,7 milijardi dinara, 30. June 2025. (accessed 02.07.2025).

70 Some of the prosecuted cases have been sitting in drawers for years, although investigative media revealed many corruption schemes and filed criminal complaints to the public prosecution. However, these cases were opened only after a political signal came from the President's Office. For instance, investigative media wrote about a criminal complaint filed by the Ministry of Mining and Energy against the director of the Electric Power Distribution of Serbia (EPS) public enterprise in 2022. The pubic prosecution issued an arrest warrant for Grčić in 2025. See more at: Bojana Pavlović, Ministarstvo energetike: Grčić oštetio EPS za 500 miliona evra, KRIK, 28. January 2022. (accessed: 04.07.2025).

corruption is a real priority.[71] This opens the question of political influence in the work of prosecution, eventually resulting in decreased public trust in the judiciary. In the end, the paradox is striking: the strongest proclaimed anti-corruption efforts have produced the weakest levels of trust in the judiciary among both citizens and experts.

III. 2. Lex specialis and exceptions as a common practice

The most critical challenge in Serbia lies in the widespread practice of circumventing the Public Procurement Law (PPL) to procure goods and services outside the formal public procurement framework based on three different legal instruments. There are two exceptions envisaged by the Law itself: procurement arranged through an international agreement with third countries and procurement arranged with international organisations.[72] The third exception often used in the past decade was the adoption of the lex specialis for specific procurement or projects, which derogates the PPL and avoids the public procurement system. Lex specialis derogat legi generali is the principle behind it – the special law derogates the general law, which is, in this case, the Public Procurement Law. The best example was the Law on Linear Infrastructural Projects of National Interest,[73] which was in force from 2020 to 2023. This Law enabled the implementation of several projects, including the Belgrade Metro Project, Morava Corridor, Šumadija Corridor, Obrenovac-Surčin Bridge, and Belgrade-Novi Sad High-Speed Railway, totalling approximately 8.9 billion EUR.[74] Procurement through a special law, in most cases, means direct contracting. The result is reduced transparency, given that these international agreements are generally undisclosed, but also reduced competitiveness, as subcontractors are also directly contracted outside of the public procurement system. The widespread use of international agreements and special legislation to bypass the PPL has severely undermined transparency, competition, and accountability in Serbia's procurement system.

Serbia has reached the point where using lex specialis and exceptions provided by law have become so common that the value of tenders excluded from the PPL has surpassed the value of procurement done through procedures established by the PPL. This occurred in 2022, and examining the past five years reveals that 45% of all public procurement bypassed the PPL and public procurement system.[75] Furthermore, international agreements were also heavily used for evading the PPL, however, since the majority of these are not publicly available, it is not possible to determine the value of deals realised through these agreements. This value adds up to the already mentioned 45% of all procurement done outside the PPL, most likely thus making it well over 50% of the value of all public procurement done through exceptions and special laws. The EC repeatedly criticised this practice in its reports, eventually leading to the abolishment of the Law on Linear Infrastructure Projects. These developments have led to the inclusion in the Serbian Reform Agenda of measures to fully abandon the use of special laws by 2027 and to start publishing key information on international agreements from June 2025. While these measures represent a step in the right direction, their delayed implementation allows the entrenched practice of bypassing the Public Procurement Law to persist, continuing to undermine transparency, competition, and accountability.

The exceptions and special laws that have been eagerly used by the Serbian government in the past decade carry multiple important consequences. First, they reduce competition within the country, as in most cases, the procurement and/or subcontractors are directly arranged.[76] Second, this raises concerns about the efficiency and fiscal prudence of contracted services, works, or procurements, as such arrangements create opportunities for public funds to be allocated above necessary levels.[77] While major infrastructural projects can stimulate the economy, they also create opportunities for elite capture, as one public procurement expert aptly described the practice as lex specialis lex criminalis, highlighting the corruption risks enabled by such special laws.[78] Third, this practice hinders Serbia's EU integration, as it contravenes relevant EU directives and continues to attract re-

71 See: N1, Nenadić: Borba protiv korupcije nije prioritet ni izvršne ni zakonodavne vlasti u Srbiji, 11. February 2025. (accessed 03.07.2025).

72 See: Službeni glasnik Republike Srbije, br. 91/2019 i 92/2023, Zakon o javnim nabavkama, Article 11.

73 Official Gazette of the Republic of Serbia, No. 9/2020, Law on Special Procedures for the Implementation of the Project of Construction and Reconstruction of Line Infrastructure Structures of Particular Importance to the Republic of Serbia

74 Gordana Kovačević, Green X factor in Serbia, European Investment Bank, 9. March 2023 (accessed: 19.05.2025).

75 Preugovor, Kad izuzetak postane pravilo: JAVNE NABAVKE U SRBIJI 2020-2024, Infographic (accessed 03.07.2025).

76 According to the interview conducted with Miloš Đorđević, Transparency Serbia, on 19. February 2025.

77 Ibid.

78 According to the interview conducted with Jelica Dragović, Lawyer and legal expert in public procurement area, on 18.March 2025.

peated criticism from the European Commission. Finally, and most importantly, special laws reduce the monitoring options of both the relevant state institutions and civil society watchdogs, which can result in deadly consequences. The collapse of the Novi Sad railway station canopy is a clear example of the risks of non-transparent agreements — the reconstruction was carried out under an international agreement with China and was therefore exempt from the Public Procurement Law. It is important to note that the practice of using international agreements for infrastructural and other projects is not limited to China, but is also applied with EU member states, the US, Türkiye, and other non-Western countries, underscoring how deeply entrenched these non-transparent procurement practices are and the serious governance and accountability risks they pose.

III.3. EXPO 2027 - Accelerated and shortened procedures for a project of national importance

The EXPO 2027 project in Belgrade exemplifies how the Serbian government increasingly relies on special laws to bypass the Public Procurement Law, creating a high-risk environment for corruption, mismanagement, and diminished accountability in large-scale infrastructure projects. The Government envisaged special procedures for this project as it covers constructing a fairground, a national stadium, a residential area, a highway, a railway, and other necessary infrastructure, and the costs of organising the event itself.[79] The organisation of EXPO 2027, the biggest Serbian infrastructure project in decades, is excluded from PPL, which means less transparency, less monitoring and plenty of space for mismanagement of funds and corruption. While this approach, involving the use of the special law, expedites the realisation of the project, it also raises pertinent questions regarding transparency and the principles of fair competition within the public procurement processes.[80] The Law on Public Procurement ensures transparency, legal protection, and competitiveness through regulated procedures and complaint mechanisms. In contrast, the lex specialis for EXPO introduces a system without public tenders, legal remedies, or standard oversight, while enabling accelerated permits and eased expropriation procedures. This significantly increases the risk of corruption and inflated costs, while reducing legal certainty and institutional control. Since preparation for the EXPO is in full swing, this debate on the urgency of executing international projects of national interest versus shortening and simplifying procedures, or better say, avoiding PPL altogether, is lively and still ongoing.

The potential for corruption of the EXPO 2027 organisation is worryingly high, as multiple concerns at the stage of adopting the law and during its implementation have remained unaddressed. First, the government skipped the public debate despite the fact that there was a lot of interest from the general public and experts on this matter and that it was an obligation of the government in accordance with the Law on public administration.[81] Second, the Ministry of Finance, as the official sponsor of the Law on EXPO, failed to send the draft of the Law to the Agency for Prevention of Corruption for an opinion as it is stipulated by the Law on Prevention of Corruption, since this is a particularly corruption-prone area.[82] Third, and the most problematic, is that despite the fact that the Law on EXPO aims to establish a procurement system modelled after the PPL, in fact, it creates a separate legal system where existing institutions in charge of public procurement do not have jurisdiction. Therefore, there is neither the legal possibility to dispute the procurement procedures done based on this law, nor the right of businesses participating in the tenders to be protected by the Republic Commission for the Protection of Rights.[83] Although the main stated reasons for the adoption Law on EXPO are the urgency of the project and the government's wish to accelerate the process, there are numerous potential negative consequences, the effects of which are yet to be assessed.

Although the European Commission has often criticised this practice of the Serbian govern-

79 In order to facilitate timely construction of necessary facilities for organising the event, National Assembly adopted Law on special procedures for the implementation of the international specialized exhibition EXPO BELGRADE 2027. See more at: Republika Srbija, Ministarstvo finansija, Zakon o posebnim postupcima radi realizacije međunarodne specijalizovane izložbe EXPO BELGRADE 2027, Službeni glasnik RS, br. 92/2023.

80 See more at: Ana Milinković, Belgrade's EXPO 2027 shining light and shadows, Centro Studi di Politica Internazionale (CeSPI), Brief n. 11. December 2023, p. 5.

81 Službeni glasnik Republike Srbije, Zakon o državnoj upravi, br. 79/2005-3, 101/2007-4, 95/2010-7, 99/2014-11, 30/2018-3 (dr. zakon), 47/2018-7. See more at: Transparentnost Srbija, Poseban zakon za EXPO i njegova primena, 2024, p. 6. The government (Ministry of Finance) opened the public debate only on proposed amendments to the Law on EXPO 2027 in June 2025. See more at: Euronews Serbia, Počinje rasprava o leks specijalisu za Expo 2027: I drugi domaćini imali posebe zakone, 19. June 2025. (accessed: 03.07.2025).

82 Ibid, Transparentnost Srbija, p. 7.

83 Ibid, Transparentnost Srbija, p. 8.

ment, it missed the opportunity to insist on the consistent application of PPL in the Serbian Reform Agenda. Instead, the EC approved the Serbian Reform Agenda, which promised to abandon the special legislation practice but only after 2027. The Reform Agenda essentially confirmed that the government excluded EXPO 2027 from PPL. Since the aim of the Reform and Growth Facility was to support reforms and closely tie them with financial aid, by failing to act, the EC triggered many to think the EU has turned a blind eye to Serbia when it comes to EXPO. Despite the fact that the EU did not have the strength or willingness, or both, to press Serbia to abandon the special laws practice earlier, the principle of "better late than never" underscores the continued importance of eventual compliance. The Serbian government must now ensure full implementation of this commitment, while the European Commission and civil society remain vigilant to hold authorities accountable and prevent continued circumvention of the Public Procurement Law.

IV. Conclusion

The analysis of public procurement systems across the Western Balkans reveals a complex landscape marked by uneven progress, persistent challenges, and worrying legal practices. While most countries in the region have made measurable strides toward alignment with the EU acquis, the widespread use, or misuse, of lex specialis to bypass established procurement procedures remains a major concern. This practice, although legally permissible in specific and narrowly defined cases under EU law, has in many instances become a convenient tool for avoiding transparency, competition, and oversight – principles that form the bedrock of EU procurement standards.

Serbia stands out as a case where special legislation has become systemic, especially in large infrastructure projects such as the EXPO 2027. Although the Serbian legal framework is broadly aligned with the EU Directive 2014/24/EU, its frequent deviation through special laws and international agreements undermines the credibility and effectiveness of that framework. Other countries like North Macedonia and Albania exhibit similar tendencies, though not as extensively. In contrast, Montenegro, Kosovo and Bosnia and Herzegovina have so far resisted institutionalising lex specialis practices, even though they too face other structural issues in their procurement systems. What sets successful examples apart is not just legal alignment but the consistent implementation, institutional independence, and political will to uphold procurement rules.

Looking forward, Western Balkan governments must move decisively to phase out the overreliance on lex specialis and align their practices, not just laws, with EU principles. Reform Agendas should be more than a checkbox; they should be implemented with measurable outcomes, stronger institutions, and civil society oversight. The European Commission must convey a clear and consistent message: exceptions to the PPL cannot be allowed to become standard practice. As enlargement gains new momentum through instruments like the Reform and Growth Facility, the credibility of both the EU and the candidate countries hinges on whether public procurement, an area most vulnerable to corruption, will finally become a showcase of good governance rather than its weakest link.

V. Recommendations

Recommendations for the Western Balkan governments:

1. Phase out the use of special legislation (lex specialis) and international agreements to bypass PPLs.
   Governments should adopt clear legal limits on when exceptions can be used, ensure they arenarrowly defined and justified, and commit to abolishing all special laws inconsistent with EU Directive 2014/24/EU.

2. Strengthen enforcement, oversight, and accountability mechanisms.
   Independent procurement review bodies, internal audit units, and supreme audit institutions must be fully staffed, empowered, and protected from political interference to ensure effective monitoring, sanctioning, and follow-up of irregularities.

3. Improve competitiveness and reduce single-bid procedures.
   Governments should mandate MEAT criteria across sectors, reduce reliance on lowest-priceawards and negotiated procedures without publication, and introduce incentives for SME participation to improve market openness.

4. Professionalise procurement administration.
   Introduce or expand certification systems, continuous training, and merit-based recruitment of procurement officers to address chronic capacity gaps across procurement institutions.
5. Ensure full transparency of all procurement-related data.
   Publish contracts, amendments, subcontractors, and key information from all international agreements. E-procurement systems must be interoperable with tax, business registry, and budget platforms to enable automatic red-flagging.

6. Align PPP and concessions legislation with the EU acquis.
   Countries with misaligned concession/PPP laws (Serbia, Albania, North Macedonia) should harmonise definitions, thresholds, risk-transfer rules, and transparency obligations with EU standards.

7. Embed anti-corruption safeguards in all large infrastructure projects.
   Mandatory risk assessments, anti-corruption impact analyses, open contracting standards, and civil society monitoring

Recommendations for the EU:

1. Apply clear and consistent conditionality on special legislation practices.
   The Commission should set explicit, time-bound benchmarks requiring WB governments to limit exceptions, publish international agreements, and ensure that special laws do not circumvent EU procurement principles. Most importantly, EC should not recommend closing Chapter 5 for any country which has not met this condition previously.

2. Strengthen monitoring of implementation, not just legal alignment.
   Scoreboards and annual reports should incorporate measurable indicators on competition levels, share of procurement conducted outside PPL, number of single-bid tenders, and performance of review bodies.

3. Link RGF financial disbursements to measurable progress in procurement reforms.
   the EU should condition each tranche of RGF funding on verified implementation of procurement-related commitments, including reducing the use of exceptions, publishing data on international agreements, and strengthening oversight bodies. This ensures that commitments do not remain declarative and that financial incentives drive practice-level change.

4. Support capacity building of procurement and oversight institutions.
   Provide targeted assistance to procurement offices, anti-corruption bodies, audit institutions, and review commissions, especially in countries and entities with severe staffing gaps (BiH, Kosovo, North Macedonia).

5. Promote regional peer-review and joint monitoring mechanisms.
   Introduce EU-facilitated expert missions to review large-scale infrastructure projects, high-risk procurements, and the use of negotiated or exceptional procedures across the Western Balkans.

6. Increase transparency demands for infrastructure funded or endorsed by the EU.
   Require beneficiary governments to disclose contract-level data, subcontractor lists, and performance reports for any project linked to EU financial instruments.

7. Establish early–warning system for serious breaches of competitive procedures in PPL in candidate countries. As part of its monitoring and reporting framework, the European Commission should systematically integrate early-warning signals into both the RGF Scoreboard and the Enlargement Package when serious breaches of public procurement legislation and relevant EU Directives are identified. Such warnings should be formally communicated to the concerned government and transparently disclosed to the public, enabling timely corrective action, strengthening accountability, and preventing the normalisation of non-compliant practices.

8. Deliver clearer guidance on permissible procurement exceptions.
   Publish Western Balkans–specific guidance interpreting Directive 2014/24/EU on derogations, clarifying when exceptions are justified and when they constitute procurement evasion.

Annex

Table 1. Comparison of Serbian Law on Public Procurement and EU Directive 2014/24/EU

Key Area	EU Directive 2014/24/EU	Serbian Law on Public Procurement (2020)	PPL Amendments (2023)	Alignment
Scope and Thresholds	Applies to contracts above EU thresholds.	Similar thresholds adapted to local market; aligned in spirit.	No major change.	Partially aligned
Principles	Transparency, equal treatment, non-discrimination, competition, proportionality.	Same principles explicitly stated in LPP.	Reaffirmed.	Fully aligned
Types of Procedures	Open, restricted, competitive procedure with negotiation, etc.	LPP includes the same types of procedures.	No changes.	Fully aligned
e-Procurement	Mandatory use of electronic communication.	e-Procurement is mandatory via the Public Procurement Portal.	Reinforced mandatory use.	Fully aligned
Contracting Authorities	Broad definition including state and public bodies.	Similar broad definition.	No change.	Fully aligned
Technical Specifications	Must not distort competition.	Same requirement under LPP.	More emphasis on environmental aspects.	Fully aligned
Award Criteria	Most economically advantageous tender (MEAT).	MEAT principle applied; price is not the only criterion.	Mandatory MEAT for certain services (e.g. IT, engineering).	Fully aligned
Social and Environmental Aspects	Encouraged use in procurement criteria.	Included but optional.	Environmental considerations made mandatory.	Fully aligned
Subcontracting Rules	Disclosure required; member states may add rules.	Similar disclosure rules.	No change.	Fully aligned
Review Procedures	Effective and rapid remedies required.	Independent review body established.	Legal protections and oversight strengthened.	Fully aligned
Conflicts of Interest	Must be managed/prevented.	Detailed provisions on conflict of interest.	No major change.	Fully aligned
Modification of Contracts	Permitted under defined conditions.	Similar provisions.	No change.	Fully aligned
Concessions and Utilities	Covered under separate directives.	Regulated by separate Serbian laws.	No change.	Substantially aligned
Procurement Commission Composition	No requirement.	Standard composition rules.	Certified officers required for procurements > 3,000,000 RSD.	National enhancement
Transparency and Publication	Data must be publicly available.	Contracts and amendments published on the portal.	Obligation reinforced.	Fully aligned
Registration Requirements	Not specified.	Basic registration required.	Stricter registration rules implemented.	National enhancement

Table 2. Comparison of Macedonian Law on Public Procurement and EU Directive 2014/24/EU

Key Area	EU Directive 2014/24/EU	Montenegrin Law on Public Procurement	Alignment
Scope and Thresholds	Applies to contracts above EU thresholds.	**Articles 1, 2, 3, 20** – Define procurement scope, subject matter, thresholds and exemptions.	Substantially aligned
Principles	Transparency, equal treatment, non-discrimination, competition, proportionality.	**Articles 5–8** – Set out transparency, cost-effectiveness, equal treatment, and competition.	Fully aligned
Types of Procedures	Open, restricted, competitive procedure with negotiation, competitive dialogue, innovation partnership, negotiated procedure without prior publication.	**Articles 20–27, 31** – Define open, restricted, negotiated procedures and framework agreements.	Substantially aligned
e-Procurement	Mandatory use of electronic communication in procurement.	**Articles 62** – Procedures conducted via e-portal; publication and electronic communication.	Partially aligned
Contracting Authorities	Broad definition including state, regional and local authorities, bodies governed by public law.	**Articles 4, 19** – Define contracting authorities and their responsibilities.	Fully aligned
Technical Specifications	Must not distort competition or favor specific operators.	**Articles 50–53** – Must refer to EU/international standards, allow equivalents.	Fully aligned
Award Criteria	Most economically advantageous tender (MEAT).	**Articles 92-96, 106** – Mentions MEAT and criteria, but practice favors lowest price.	Partially aligned
Social and Environmental Aspects	Encouraged in technical specifications, award criteria, and contract performance clauses.	**Article 50** – Allow inclusion of social/environmental performance criteria.	Substantially aligned
Subcontracting Rules	Subcontractors must be disclosed; member states can regulate further.	**Articles 95–98** – Subcontracting permitted with conditions, oversight by authority.	Substantially aligned
Review Procedures	Effective and rapid remedies required.	**Articles 124, 144–149** – Complaints reviewed by State Commission and courts.	Substantially aligned
Conflicts of Interest	Must be prevented and managed.	**Articles 16, 18** – Require identification and prevention of conflicts.	Fully aligned
Modification of Contracts	Permitted under specific conditions (e.g., value thresholds, unforeseen circumstances).	**Article 64** – Modifications allowed under certain conditions, must be justified.	Substantially aligned
Concessions and Utilities	Covered under separate directives (2014/23/EU and 2014/25/EU).	**Limited reference in Articles 1 and 2**; no detailed framework for concessions/utilities.	Minimally aligned

Table 3. Comparison of Montenegrin Law on Public Procurement and EU Directive 2014/24/EU

Key Area	EU Directive 2014/24/EU	Montenegrin Law on Public Procurement	Alignment
Scope and Thresholds	Applies to contracts above EU thresholds.	**Articles 1, 2, 3, 20** – Define procurement scope, subject matter, thresholds and exemptions.	Substantially aligned
Principles	Transparency, equal treatment, non-discrimination, competition, proportionality.	**Articles 5–8** – Set out transparency, cost-effectiveness, equal treatment, and competition.	Fully aligned
Types of Procedures	Open, restricted, competitive procedure with negotiation, competitive dialogue, innovation partnership, negotiated procedure without prior publication.	**Articles 20–27, 31** – Define open, restricted, negotiated procedures and framework agreements.	Substantially aligned
e-Procurement	Mandatory use of electronic communication in procurement.	**Articles 62** – Procedures conducted via e-portal; publication and electronic communication.	Partially aligned
Contracting Authorities	Broad definition including state, regional and local authorities, bodies governed by public law.	**Articles 4, 19** – Define contracting authorities and their responsibilities.	Fully aligned
Technical Specifications	Must not distort competition or favor specific operators.	**Articles 50–53** – Must refer to EU/international standards, allow equivalents.	Fully aligned
Award Criteria	Most economically advantageous tender (MEAT).	**Articles 92-96, 106** – Mentions MEAT and criteria, but practice favors lowest price.	Partially aligned
Social and Environmental Aspects	Encouraged in technical specifications, award criteria, and contract performance clauses.	**Article 50** – Allow inclusion of social/environmental performance criteria.	Substantially aligned
Subcontracting Rules	Subcontractors must be disclosed; member states can regulate further.	**Articles 95–98** – Subcontracting permitted with conditions, oversight by authority.	Substantially aligned
Review Procedures	Effective and rapid remedies required.	**Articles 124, 144–149** – Complaints reviewed by State Commission and courts.	Substantially aligned
Conflicts of Interest	Must be prevented and managed.	**Articles 16, 18** – Require identification and prevention of conflicts.	Fully aligned
Modification of Contracts	Permitted under specific conditions (e.g., value thresholds, unforeseen circumstances).	**Article 64** – Modifications allowed under certain conditions, must be justified.	Substantially aligned
Concessions and Utilities	Covered under separate directives (2014/23/EU and 2014/25/EU).	**Limited reference in Articles 1 and 2**; no detailed framework for concessions/utilities.	Minimally aligned

Table 4. Comparison of Albanian Law on Public Procurement and EU Directive 2014/24/EU

Key Area	EU Directive 2014/24/EU	Albanian Law on Public Procurement + Amendments to 2024 version	Alignment
Scope and Thresholds	Applies to contracts above EU thresholds.	**Articles 2, 4, 10, 33**– Scope and thresholds defined; thresholds set by Council of Ministers.	Substantially aligned
Principles	Transparency, equal treatment, non-discrimination, competition, proportionality.	**Articles 3, 18, 21** – Emphasize equality, integrity, transparency, and fair competition.	Fully aligned
Types of Procedures	Open, restricted, competitive procedure with negotiation, competitive dialogue, innovation partnership, negotiated procedure without prior publication.	**Articles 41-51** – Include open, restricted, negotiated procedures; dynamic systems and e-catalogues.	Substantially aligned
e-Procurement	Mandatory use of electronic communication in procurement.	**Articles 4, 23, 56, 57, 71, 97, 116** – Central EPS platform for all procurement stages.	Substantially aligned
Contracting Authorities	Broad definition including state, regional and local authorities, bodies governed by public law.	**Articles 4, 21,** – Definitions, functions, and central purchasing roles elaborated.	Fully aligned
Technical Specifications	Must not distort competition or favor specific operators.	**Articles 36–37** – Require compliance with standards; verification via EPS and AI tools.	Fully aligned
Award Criteria	Most economically advantageous tender (MEAT).	**Articles 74, 87, 92–93**– MEAT acknowledged, but lowest price still often applied.	Substantially aligned
Social and Environmental Aspects	Encouraged in technical specifications, award criteria, and contract performance clauses.	**Articles 3, 36, 76(a)** – Includes social inclusion clauses and environmental compliance.	Substantially aligned
Subcontracting Rules	Subcontractors must be disclosed; member states can regulate further.	**Article 126** – Requires prior declaration and approval through EPS.	Fully aligned
Review Procedures	Effective and rapid remedies required.	**Articles 109–121** – e-Complaint System, PPC, and court appeal defined.	Fully aligned
Conflicts of Interest	Must be prevented and managed.	**Article 19, 35, 119** – Comprehensive measures including EPS-based detection.	Fully aligned
Modification of Contracts	Permitted under specific conditions (e.g., value thresholds, unforeseen circumstances).	**Article 127** – Detailed grounds for modification; EPS-managed documentation.	Substantially aligned
Concessions and Utilities	Covered under separate directives (2014/23/EU and 2014/25/EU).	**Limited references; concessions governed by separate laws**; no detailed treatment in this law.	Minimally aligned

Table 5. Comparison of Bosnian Law on Public Procurement and EU Directive 2014/24/EU

Key Area	EU Directive 2014/24/EU	Bosnian Law on Public Procurement	Alignment
Scope and Thresholds	Applies to contracts above EU thresholds.	**Articles 4 and 6** define thresholds (KM 30,000 for goods/services, KM 60,000 for works; international thresholds also specified).	Substantially aligned
Principles	Transparency, equal treatment, non-discrimination, competition, proportionality.	**Article 1** outlines transparency, equal treatment, nondiscrimination, and competition.	Fully aligned
Types of Procedures	Open, restricted, competitive procedure with negotiation, competitive dialogue, innovation partnership, negotiated procedure without prior publication.	**Articles 10–11** establish open, restricted, negotiated (with/without publication), and design contest procedures. Lacks innovation partnerships and competitive dialogue.	Substantially aligned
e-Procurement	Mandatory use of electronic communication in procurement.	**Article 18** mentions use of procurement website and electronic means, but not mandatory nor comprehensive.	Partially aligned
Contracting Authorities	Broad definition including state, regional and local authorities, bodies governed by public law.	**Article 3** defines public authorities and enterprises extensively.	Fully aligned
Technical Specifications	Must not distort competition or favor specific operators.	**Article 14** provides detailed, non-discriminatory standards and equivalency clauses.	Fully aligned
Award Criteria	Most economically advantageous tender (MEAT).	**Article 34** allows MEAT and lowest price, consistent with the Directive.	Fully aligned
Social and Environmental Aspects	Encouraged in technical specifications, award criteria, and contract performance clauses.	**Article 14(2)(c)** allows environmental requirements in technical specifications, but no mention in award criteria or performance clauses.	Partially aligned
Subcontracting Rules	Subcontractors must be disclosed; member states can regulate further.	**Article 39(4)** requires notification and approval for substantial subcontracting.	Substantially aligned
Review Procedures	Effective and rapid remedies required.	Not included in the main law; presumably governed by a separate review mechanism not in this document.	Minimally aligned
Conflicts of Interest	Must be prevented and managed.	**Article 27** prohibits participation where conflict of interest or bribery exists; addresses disqualification.	Fully aligned
Modification of Contracts	Permitted under specific conditions (e.g., value thresholds, unforeseen circumstances).	Not explicitly regulated in the core articles; changes may not be formally governed.	Minimally aligned
Concessions and Utilities	Covered under separate directives (2014/23/EU and 2014/25/EU).	**Article 5** exempts concessions, stating they are regulated under separate laws. Utilities covered under **Article 3.**	Substantially aligned

Table 6. Comparison of Kosovo Law on Public Procurement and EU Directive 2014/24/EU

Key Area	EU Directive 2014/24/EU	Kosovo Law on Public Procurement	Alignment
Scope and Thresholds	Applies to contracts above EU thresholds.	**Article 2 and 9** outline planning and threshold requirements; also, public service operators are covered under **Title V.**	Substantially aligned
Principles	Transparency, equal treatment, non-discrimination, competition, proportionality.	**Chapter 2 (Articles 6-7), Article 10** : Emphasize equality, non-discrimination, transparency, cost-effectiveness, and competition.	Fully aligned
Types of Procedures	Open, restricted, competitive procedure with negotiation, competitive dialogue, innovation partnership, negotiated procedure without prior publication.	**Articles 32–37** cover open, restricted, negotiated (with and without notice), and design contests.	Substantially aligned
e-Procurement	Mandatory use of electronic communication in procurement.	**Article 87(2.9):** Establishes electronic Public Procurement Register; PPRC oversees digital processes.	Substantially aligned
Contracting Authorities	Broad definition including state, regional and local authorities, bodies governed by public law.	**Article 4.1.49 and 9:** Covers public authorities, undertakings, and subsidized entities.	Fully aligned
Technical Specifications	Must not distort competition or favor specific operators.	**Article 27-29:** Detailed rules prohibiting discriminatory specifications, allowing "or equivalent".	Fully aligned
Award Criteria	Most economically advantageous tender (MEAT).	**Article 29, 52, 60**: MEAT is recognized; emphasis on transparency and fairness in award criteria.	Fully aligned
Social and Environmental Aspects	Encouraged in technical specifications, award criteria, and contract performance clauses.	**Article 31**: Permits social/environmental obligations, including labor and gender equality.	Fully aligned
Subcontracting Rules	Subcontractors must be disclosed; member states can regulate further.	**Article 30**: Requires disclosure of subcontracting plans; allows direct payments to subcontractors.	Fully aligned
Review Procedures	Effective and rapid remedies required.	**Articles 103–111**: Detailed review framework through PRB with broad powers and expedited processes.	Fully aligned
Conflicts of Interest	Must be prevented and managed.	**Articles 5 (1.75), 65**: Stress impartiality, transparency, and non-discriminatory conduct.	Fully aligned
Modification of Contracts	Permitted under specific conditions (e.g., value thresholds, unforeseen circumstances).	**Article 81.1.2 and 13**: Allows variations/ changes through contract management procedures.	Substantially aligned
Concessions and Utilities	Covered under separate directives (2014/23/EU and 2014/25/EU).	**Title V (Articles 82–85)**: Covers public service operators and their procedures.	Substantially aligned

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