

# PRAG 2021,

An overview of the changes and novelties

# List of abbreviations

<b>CINEA</b>	European Climate, Infrastructure and Environment Executive Agency
<b>DG Connect EU's</b>	Directorate-General for Communications Networks, Content and Technology
<b>DG ECHO EU's</b>	Directorate-General for Humanitarian Aid and Civil Protection
<b>DG INTPA EU's</b>	Directorate-General for International Partnerships
<b>DG NEAR EU's</b>	Directorate-General for Neighbourhood and Enlargement Negotiations Service
<b>EACEA EU's</b>	Education, Audiovisual and Culture Executive Agency
<b>EC</b>	European Commission
<b>EDF</b>	European Development Fund
<b>EMPL EU's</b>	Directorate-General for Employment, Social Affairs and Inclusion
<b>EU</b>	European Union
<b>FPI</b>	Foreign Policy Instruments
<b>MFF</b>	Multiannual Financial Framework
<b>NDICI EU's</b>	Neighbourhood, Development and International Cooperation Instrument
<b>PRAG</b>	Procurement procedures and practical guide
<b>VfM</b>	Value for Money
<b>€</b>	EURO

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# Introduction

The European Union's Multiannual Financial Framework is the primary budget document that highlights the overall Union's budget and related spending areas for a seven year period. The recently approved MFF for 2021-2027 has a total dedicated budget of €1.211 trillion, out of which €95.75 billion has been allocated to finance activities under the external actions dimension. PRAG is a non-legally binding document that governs public tendering and grants awarding procedures in the context of the EU's external action plan.

PRAG 2021 applies to all procurement and grant award procedures launched as of 15 December 2021. It marks a series of important changes and novelties that aim to improve the current procedures and complement those encompassed in the previous MFF (2014-2020). Its boundaries do not apply to contracts where the EC features as the contracting authority or those that concern the delivery of humanitarian aid and civil protection operations.

The EC applies specific sets of rules and methodologies to ensure that all activities that involve procurement and grant procedures are correct, transparent and fair. The application of these will depend on the management mode selected for the execution of the contracts, the contracting authority and the financing instrument. In this context, PRAG governs only the projects and programs funded under the EU external financing instruments.

The activities financed under the external action plan are executed through various procurement instruments and grant programs. In this context, the types of contracts and grants will depend on the value, applicable conditions and relevant procedures. Parties interested in participating in any of those award procedures are encouraged to consult the PRAG guidelines and attached annexes before preparing a proposal submission.

DevelopmentAid is the leading provider of business intelligence and recruitment tools for actors operating in the international development sector. As such, we aim to offer our members and followers the most recent and reliable information on procurement and grant procedures from the largest donor organizations. This paper was produced by Ion Ilasco (External Relations and Events at DevelopmentAid) with the purpose of providing those interested in bidding for projects financed under the EU's external financing instruments with a glimpse of the PRAG 2021 guide, its application and the relevant changes.

*\*This report should be considered as an unofficial overview. Parties are encouraged to consult official EU documents before submitting any proposals or requests.*

# What is PRAG?

PRAG, or the *Practical Guide on Contract Procedures for European Union External Action*, is a non-legally binding document prepared by the EC to provide all parties participating in public tendering and grant awarding procedures with practical assistance in preparing and implementing contracts in the field of external action.

## Framework

*PRAG 2021* was released in December 2021 and became applicable for all award procedures launched as of 15 December 2021. The current version of PRAG was developed to guide contracting authorities, tenderers, candidates, applicants and contractors on projects financed under the external financing instruments within the recently approved Multiannual Financial Framework 2021-2027. The guide also marks the co-existence of the commitments and procedures under the new MFF and those encompassed in the previous MFF (2014-2020) which will still be implemented in the coming years.

The recently approved MFF, which represents the EU budget for the next seven years, is built around seven spending areas (headings) with a total dedicated budget of €1.211 trillion. In this context, the external action dimension is included in *Heading 6 "Neighbourhood and the World"* with a proposed budget of €95.75 billion which is a 12% increase compared to the previous long-term budget. It is of note that the new MFF introduces several important changes in respect of the rules and practices established within the previous MFF. Thus, parties are encouraged to use the applicable set of rules under the appropriate MFF that is financing a specific project.

**Table 1. Budget breakdown under Heading 6: Neighbourhood and the World, (€ billion, current prices)**

External action	Budget
Neighbourhood, Development and International Cooperation Instrument (NDICI)	79.46
Humanitarian aid	11.57
Common foreign and security policy	2.68
Overseas countries and territories (including Greenland)	0.50
Other	1.54
<b>Total</b>	<b>95.75</b>

Source: European Parliament, 2021-2027 MFF Briefing Paper. Annex - Table 1b: Heading 6 – Neighbourhood and the World. (p.13)

## Application

PRAG 2021 governs the projects and programs funded under the external financing instruments initiated by the EU, DG INTPA, DG NEAR and the FPI. In addition, the FPI contracts awarded in direct management modes funded under the European Peace Facility are also subject to PRAG 2021 guidelines.

PRAG 2021, as a practical guide, has strict application boundaries and thus does not apply to the following elements: (p.13)

- Contracts where the European Commission features as the contracting authority
- Contracts that concern the delivery of humanitarian aid and civil protection operations initiated by the DG ECHO
- Projects that are governed by the rules and procedures of other contracting authorities, international organizations or national bodies
- Grants funded under the standard grant contracts
- 'Twinning' projects that represent the EU's instruments for institutional cooperation between the public administrations of EU member states and of beneficiary or partner countries
- Direct labor operations



# Award Procedures, Rules, and Principles

All activities that involve procurement and grant procedures relating to contracts initiated and managed by the EC or its affiliated entities must follow the rules and methodologies consolidated within the PRAG practical guides unless otherwise specified. These were specifically designed to ensure that the awarded parties are selected based on correct, transparent and fair procedures while at the same time guaranteeing that the best ratio between price and quality is achieved.

## Management modes

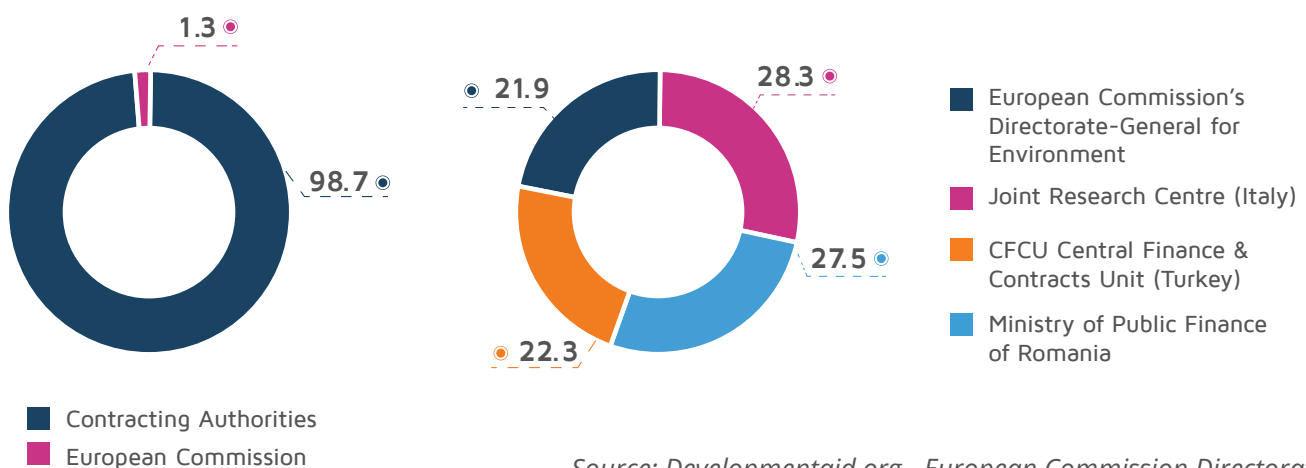
The management mechanisms that govern the execution of the contracts financed under the EU budget for external action can vary based on the different arrangements for implementing the project. Thus, in some situations the EU or its affiliated entities may act as the contracting authority that is directly responsible for the implementation of the project or it may choose to delegate these responsibilities to other bodies. In this context, three different management modes are used (p.14): (1) direct management, (2) indirect management and (3) shared management.

**Direct management** – the EC is the contracting authority responsible for the entire project cycle from issuing the calls for proposals to award and contract signature

**Indirect management** – partner bodies (e.g., international organizations, governments or state organizations, development agencies, etc.) are delegated the responsibilities for budget/project implementation

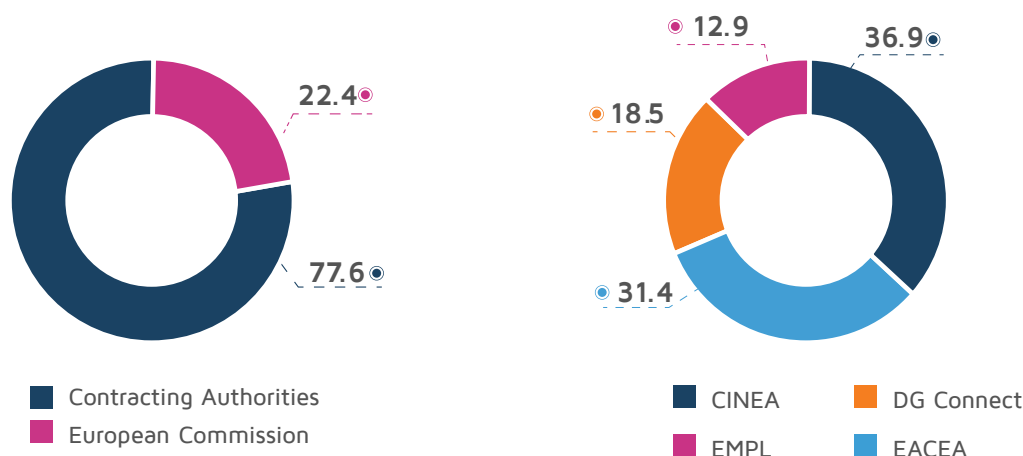
**Shared management** – the least used management mode that involves the delegation of the project implementation tasks to EU member states

## EC tender management modes (%) (direct and indirect)



Source: *Developmentaid.org - European Commission Directorate-General for International Partnerships: Management modes*

## EC grant management modes (%) (direct and indirect)



Source: *Developmentaid.org - European Commission Directorate-General for International Partnerships: Management modes*

*CINEA - European Climate, Infrastructure and Environment Executive Agency*

*EACEA - Education, Audiovisual and Culture Executive Agency*

*DG Connect - The Commission's Directorate General for Communications Networks, Content and Technology*

*EMPL - Directorate-General for Employment, Social Affairs and Inclusion*

## Rules on eligibility

The public tendering and grant awarding processes relating to contracts within the sphere of the EU's external action must adhere to a set of rules and principles developed by the EC that ensure the fairness, legality and regularity of those procedures. Some of the eligibility criteria contained within the PRAG 2021 guide refers to nationality, origin and compliance.

### The rule of nationality

All natural and legal persons who are lawfully established in an EU member state or in any other eligible country, as well as international organizations, can participate in procurement, grant or other award procedures initiated in the field of external action. It is important to mention that participation eligibility based on nationality may differ based on the external financing instrument. Individual experts who are recruited or contracted by eligible parties for projects covered under PRAG guidelines may be of any nationality.



## The rule of origin

The 2021-2027 Multiannual Financial Framework lifts all restrictions regarding the provenance of materials and goods supplied under procurement or grant contracts meaning that these can originate from any country. This is different to the previous MFF which allowed goods and materials to originate only from eligible countries as nominated by the relevant external financing instruments.

## Conflict of interest

Natural, legal persons or contracting authorities that present elements of incompatibility due to conflict of interests are not eligible to participate in tender and grant procedures funded by the EC. In this context, a conflict of interest refers to situations in which individuals and organizations responsible for tender and grant awarding procedures, as well as those involved in the preparation, opening and evaluation phases, lose impartiality and objectivity due to familial, emotional, political, economic or any other direct or indirect personal interests.

## General principles

*EU public procurement* and grant awarding procedures are organized in a way that is grounded on certain fundamental principles. These slightly differ for procurement and grants but nonetheless are rooted in the concepts of transparency, equity and non-discrimination.

In the context of EU procedures, *public procurement* refers to the provision of services, the execution of works or the supply of goods against a price obtained through a competitive process. The principles that govern public procurement in the EU are:

- **Transparency** – the contracting authority will ensure that the information on procurement policy is timely and is openly and clearly communicated to any potential tenderer that will guarantee sufficient competition and the impartiality of the procurement procedures
- **Equal treatment and non-discrimination** – all parties participating in public tendering should be treated equally and should be offered equal opportunities and conditions
- **Competition** – all procurement opportunities should be subject to adequate competition unless there are sufficient justifications to the contrary
- **Proportionality** – measures funded by the EC should show the best possible ratio between effort and results. Thus, if there is a choice between multiples measures, the relevant authority will select that which is the least onerous
- **Sound financial management** – the EC expects all parties involved in public tendering to adhere to the principles of economy, efficiency and effectiveness

*Grants*, on the other hand, represent financial contributions in the form of donations from the European Commission towards one or more beneficiaries for the purpose of carrying out an action or implementing a work program. The principles that govern grant awarding processes in the EU are:

- **Transparency** – the contracting authority will ensure that all the relevant information on a funding opportunity is timely and is openly and clearly communicated to potential beneficiaries
- **Equal treatment** – the contracting authority will ensure a level-playing field for all potential beneficiaries
- **Co-financing** – in the vast majority of cases, grant opportunities will involve costs being shared between the EC and the beneficiary
- **No-profit** – funding received through grant instruments should not be for the purpose of making, or be used to produce, profit
- **No-cumulative award** – each beneficiary may opt for only one funding opportunity per action or per a given financial year, unless otherwise specified
- **Non-retroactivity** – the EU funds cannot be used to finance measures or projects that have already been completed or were carried out in previous budgetary years

## Procurement procedures

The EU public procurement framework dictates that contracts funded under external financing instruments are awarded through competitive tendering procedures. This in turn allows the EC to ensure that all related procurement operations comply with the awarding principles and guarantee the Value for Money (VfM) premise. Some of the most widely used *procurement procedures* (p.40) applied by the EU are:

- **Open procedure** – this means that all eligible local and international economic agents may submit a tender application. In this case, negotiation is not allowed.
- **Negotiated or single tender procedure** – this refers to contracts that can be awarded directly to an economic agent providing the contract value is less than €20,000. This procedure is only applicable in specific situations that may relate to extreme urgency, crisis situations or the extension of previously agreed contracts.
- **Simplified procedure** – the contracting authority invites at least three candidates of its choice to submit tenders. The awardee is selected by the rules of the open procedure.
- **Restricted procedure** – this means that all interested economic agents can submit their proposals but only those that actually satisfy the selection criteria will be invited to participate.

## Electronic submission of tenders (eSubmission)

Parties interested in participating in procurement procedures financed under the external action instruments may submit their tender applications or requests via *Electronic Submission (eSubmission)*. Currently, the eSubmission supports these procurement procedures:

- Open;
- Negotiated;
- Restricted procedures.

It is to be noted that from the first quarter of 2022, PRAG 2021 will allow the electronic submission of requests to participate and offers in direct management. However, until then, traditional paper submissions will apply to all contract award procedures in direct management.



# Procurement and Grant Guidelines

The activities financed under the external action plan are executed via various procurement instruments and grant opportunities. Within this frame of reference, the EC's procurement framework is built around *service, supplies* and *works contracts*. The essence and the characteristics for each of these, as well as those concerning grants, are presented below.

## Service contracts

*Service contracts* relate to advisory and project-related services that may involve the provision of (feasibility) studies, technical assistance, audits or communication services. There are two types of service contracts, specifically (1) *global price contracts* and (2) *fee-based contracts*.

*Global price contracts* mean that the cost/payment for a specific project will directly depend on the delivery of the expected outputs and will be paid in a lump sum. Thus, if the contractual results do not meet the expectations stated in the terms of reference, payment may be totally or partially withheld.

*Fee-based service contracts* refer to projects that present unpredictable outputs. Therefore, contractors will be paid for the exact services provided or on the basis of the time they have actually worked.

**Table 2. Types of service contracts based on value**

Value	Characteristics	Conditions
€2,500	The contracting authority can settle the invoices without prior acceptance of a tender	The payment can only take place after the budgetary commitment is validated by the contracting authority
€2,500 ≤ €20,000	Contracts may be awarded either under framework contracts or on the basis of a negotiated/single tender	Tender procedures require the use of annexes for simplified tenders such as an administrative compliance grid, contract notice, invitation letter, etc.
€20,000 ≤ €300,000	Such contracts may be awarded either under the framework contract procedure or under a simplified procedure	There should be a minimum of three candidates participating
≥ €300,000	International restricted tender procedure	<ul style="list-style-type: none"> <li>- Proposals will be evaluated based on the <i>best value for money</i> principle that is established by weighting technical quality against price on an 80/20 basis</li> <li>- Only offers with an average technical score of at least 75 points (out of a maximum of 100 points) qualify for the financial evaluation</li> </ul>

Source: European Commission, *Contract Procedures for European Union External Action: A practical guide (PRAG 2021) - Service Contracts*.

## Supply contracts

*Supply contracts* relate to the purchase, leasing, rental or hire purchase (with or without the option to buy) of physical products that have already been produced or manufactured on request. The procurement procedures applicable to supply contracts vary based on the value and the essence of the contracts.

**Table 3. Types of supply contracts based on value**

Value	Characteristics	Conditions
€2,500	The contracting authority can settle the invoices without prior acceptance of a tender	The payment can only take place after the budgetary commitment is validated by the contracting authority
€2,500 ≤ €20,000	Contracts may be awarded on the basis of a negotiated/single tender	Tender procedures require the use of relevant annexes for supply contracts
€20,000 ≤ €100,000	Contracts may be awarded on the basis of a simplified procedure	<ul style="list-style-type: none"> <li>- The contracting authority invites at least three candidates of its choice to submit tenders</li> <li>- No contract notice needs to be published</li> </ul>
≥ €100,000 and ≤ €300,000	Contracts may be awarded under a local open procedure	<ul style="list-style-type: none"> <li>- Contract notices are published in the local media or official journals of the partner countries</li> <li>- All eligible local economic agents may submit a tender application</li> </ul>
≥ €300,000	Contracts are awarded on the basis of an international open tender procedure	<ul style="list-style-type: none"> <li>- All eligible local and international economic agents may submit a tender</li> <li>- Negotiation is not allowed</li> <li>- Timely publication of a contract notice and additional information is required</li> </ul>
No ceiling	Contracts without ceilings are awarded by negotiated procedure if certain conditions are met	<ul style="list-style-type: none"> <li>- There were no (suitable) tenders for requests to participate submitted in response to an open or restricted procedure</li> <li>- There is a single economic operator that can provide the necessary supplies</li> </ul>

Source: European Commission, *Contract Procedures for European Union External Action: A practical guide (PRAG 2021) - Supply Contracts*.

## Works contracts

*Works contracts* refer to the design and/or execution of civil engineering works such as the construction of structures of all kinds (buildings, highways, bridges, etc.), renovations, extensions and repairs. In the context of the EU procurement framework, works contracts are usually concluded via indirect management by a contracting authority in the partner country.

**Table 4. Types of works contracts based on value**

Value	Characteristics	Conditions
€2,500	The contracting authority can settle the invoices without prior acceptance of a tender	The payment can only take place after the budgetary commitment is validated by the contracting authority
€2,500 ≤ €20,000	Contracts may be awarded on the basis of a negotiated/single tender	Tender procedures are guided by the relevant annexes for works contracts
€20,000 ≤ €300,000	Contracts may be awarded on the basis of a simplified procedure	<ul style="list-style-type: none"> <li>- The contracting authority invites at least three candidates of its choice to submit tenders</li> <li>- No contract notice needs to be published</li> </ul>
€300,000 ≤ €5,000,000	Such contracts may be awarded under a local open procedure	<ul style="list-style-type: none"> <li>- Contract notices are published in the local media or official journals of the partner countries</li> <li>- All eligible local economic agents may submit a tender</li> </ul>
≥ €5,000,000	Contracts may be awarded on the basis of an international open tender or restricted procedures	<ul style="list-style-type: none"> <li>- All eligible local and international economic agents may submit a tender</li> <li>- Negotiation is not allowed</li> <li>- Timely publication of a contract notice and additional information</li> <li>- Restricted tender procedure is used for certain works</li> <li>- All interested parties can submit their proposals but only those that satisfy the selection criteria will be invited to participate</li> </ul>
No ceiling	Contracts without ceilings are awarded by negotiated procedure if certain conditions are met	<ul style="list-style-type: none"> <li>- There were no (suitable) tenders for requests to participate submitted in response to an open or restricted procedure</li> <li>- Due to reasons of extreme urgency that are not attributed to the contracting authority</li> </ul>

Source: European Commission, *Contract Procedures for European Union External Action: A practical guide (PRAG 2021) - Works Contracts*.

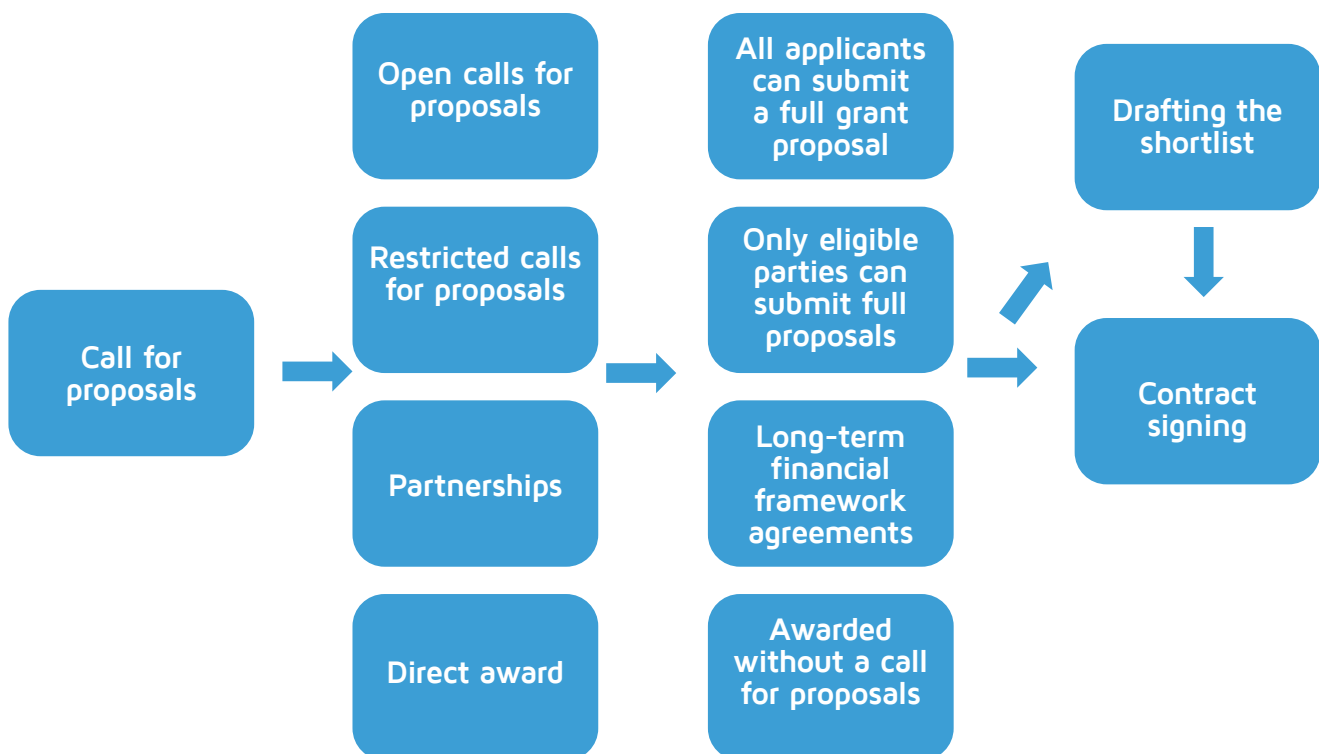
## Grants

The PRAG guidelines govern the award procedures of grants funded from the general budget of the European Union or the European Development Fund (EDF). Within this framework, the grant beneficiary(ies) is considered to be the body(ies) signing the grant contract and is also responsible for implementing the action(s) funded by it. It is important to note that the results of the action(s) funded by a grant are owned by the beneficiary.

The maximum value of a grant must not exceed the overall ceiling that is established based on the estimated eligible costs or the amount of financing that is not linked to implementing costs. In general, the call for proposals will be accompanied by certain values which represent the maximum and minimum amounts of the contribution (e.g., award floor = €3,000 and award ceiling = €30,000).

Grant award activities are required to follow specific steps such as the publication of a call for proposals, the selection of the relevant awarding procedure, shortlist drafting and contract signing. It is important to note that the calls for proposals are by default restricted, thus parties may submit their interest in participation but only those parties that have been shortlisted are invited to submit a full application.

## EU 's grant award procedures



Source: Author's elaboration based on 'European Commission, Contract Procedures for European Union External Action: A practical guide (PRAG 2021) - Grants.

## Conclusion

PRAG 2021 serves as the main framework that guides contracting authorities, tenderers, beneficiaries and other parties on projects financed under the EU's external financing instruments within the MFF 2021-2027. It introduces several important changes and novelties that aim to improve the current award procedures and complement those encompassed in the previous MFF.

This report has focused on only a small part of PRAG 2021, highlighting just a few of those changes.

The *rule of origin* has undergone certain modifications that allow the provenance of materials and goods supplied under procurement or grant contracts to be unrestricted, meaning that these can originate from any country. This differs from the previous MFF which allowed the goods and materials to originate only from the eligible countries nominated by the relevant external financing instruments.

The *rule of eligibility* states that all natural and legal persons who are lawfully established in an EU member state or in any other eligible country can participate in procurement and grant awarding procedures. Moreover, individual experts who are recruited or contracted by eligible parties for projects covered under PRAG guidelines may be of any nationality.

Another change refers to the *procurement procedures* and specifically the electronic submission of tender applications (eSubmission). Currently, eSubmission is applicable to open procedures, restricted procedures and negotiated procedures for service, supply and works contracts. Moreover, from the first quarter of 2022, PRAG 2021 will allow the electronic submission of requests to participate and offers in the direct management mode.





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# Annex

**Table 5. Novelties for PRAG 2021**

Dimension	Subject	Changes/Novelties
Basic Rules	Framework	<ul style="list-style-type: none"> <li>- PRAG 2021 is applicable for all award procedures launched as of 15 December 2021.</li> <li>- It will guide tender and grant procedures funded under the external financing instruments from the Multiannual Financial Framework 2021-2027.</li> </ul>
	Rules of origin	<ul style="list-style-type: none"> <li>- The new MFF completely lifts restrictions regarding the provenance of materials and goods supplied under procurement or grant contracts, meaning that these can originate from any country</li> <li>- This differs from the previous MFF which allowed the goods and materials to originate only from eligible countries as nominated by the relevant external financing instruments</li> </ul>
Procurement procedures	Electronic submission of tenders (eSubmission)	<p>eSubmission now supports the following procurement procedures:</p> <ul style="list-style-type: none"> <li>• Open</li> <li>• Restricted</li> <li>• Negotiated</li> </ul> <p>From the first quarter of 2022, PRAG 2021 will allow the electronic submission of requests to participate and offers in direct management</p>

Source: European Commission, *Contract Procedures for European Union External Action: A practical guide (PRAG 2021)*. Full list of changes and novelties can be found here ([PRAG 2021 Matrix of changes](#))