

Brussels, XXX
[...] (2026) XXX draft

SENSITIVE*
UNTIL ADOPTION

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on public contracts and concessions, repealing Directive 2014/23/EU, Directive 2014/24/EU and Directive 2014/25/EU, and amending Regulation (EU) 2023/1115, Regulation (EU) 2024/1157, Regulation (EU) 2024/1781, Regulation (EU) 2024/3110, Regulation (EU) 2023/1542, Regulation (EU) 2025/40, Directive (EU) 2023/1791, Directive (EU) 2024/1760, Directive 2008/98/EC, Regulation (EU) 2024/1252, Directive (EU) 2019/882, Directive (EU) 2022/2381, Regulation (EU) 2024/1735, and Regulation (EU) 2024/2847

(Text with EEA relevance)

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

This explanatory memorandum accompanies the proposal for a Regulation on Public Procurement, revising the Directive 2014/23/EU on the award of concession contracts, Directive 2014/24/EU on public procurement and Directive 2014/25/EU on procurement by entities operating in the water, energy, transport, and postal services sectors.

Every day, across the European Union, public authorities award contracts for goods, services and works that offer business opportunities to companies, create the right conditions for investment and shape the daily lives of citizens, whether it be the roads they travel on, the energy that powers their businesses and homes, or the school buildings that shape their children's futures. With public procurement accounting for around 15% of the EU's GDP, these choices are among the most important economic decisions taken in Europe.

Public procurement is not only an administrative function but also a powerful economic policy lever at the Union's disposal. For public buyers, it is maximising value for taxpayers by ensuring that public funds are spent efficiently and effectively, by promoting fair competition and by encouraging a dynamic market environment. For businesses, a well-designed procurement framework can open markets, including across borders. For all, public procurement should be transparent, fair and open, to build and reinforce public trust, prevent corruption or bid-rigging. The central role of public procurement has been forcefully underlined by Mario Draghi and Enrico Letta in their reports on the future of European competitiveness¹⁽¹⁾ and on the Single Market²⁽²⁾. Both highlight procurement not only as a mechanism for public spending, but also as a strategic investment tool to strengthen the Union's industrial base, support innovation, advance the clean and digital transitions, and reinforce economic security and strategic autonomy. The Clean Industrial Deal³⁽³⁾ and the Competitiveness Compass⁴⁽⁴⁾ have similarly emphasised the responsibility of public buyers in translating strategic orientations into concrete purchasing decisions. In a geopolitical context marked by intensifying competition, supply-chain vulnerabilities and the weaponisation of economic dependencies, the way public buyers spend money has become a matter of strategic relevance.

The European Court of Auditors⁵⁽⁵⁾ highlighted some shortcomings of the European procurement practice. It found that competition for public contracts had decreased over the past decade, that the participation of SMEs and cross-border bidders remained limited, and that single-bid procedures had become increasingly common. It is against this background that the Council, in its Conclusions of May 2024⁶⁽⁶⁾, invited the Commission to bring forward a comprehensive action plan to address the shortcomings in public procurement legislation and practice and to simplify the regulatory framework. The European Parliament adopted a

¹⁽¹⁾ https://commission.europa.eu/topics/competitiveness/draghi-report_en

²⁽²⁾ consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf

³⁽³⁾ https://commission.europa.eu/topics/competitiveness/clean-industrial-deal_en

⁴⁽⁴⁾ https://commission.europa.eu/topics/competitiveness/competitiveness-compass_en

⁵⁽⁵⁾ 2023 Special Report on public procurement in the EU
<https://www.eca.europa.eu/en/publications?ref=SR-2023-28>

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consilium.europa.eu/en/press/press-releases/2024/05/24/council-adopts-conclusions-on-the-court-of-auditors-report-on-public-procurement/pdf/

resolution on public procurement⁷⁽⁷⁾ calling for a more strategic, simplified and competitive framework. The Committee of the Regions⁸⁽⁸⁾ and the European Economic and Social Committee⁹⁽⁹⁾ also adopted opinions underlining the importance of public procurement as a driver of local development, social progress and industrial resilience.

And indeed, public procurement rules today know significant shortcomings. The European Commission's in-depth evaluation of the 2014 Directives found that their complexity creates significant legal uncertainty for both public buyers and economic operators. Procurement procedures remain complex and inflexible. Price-only awards remain prevalent and the uptake of social, environmental and innovation requirements continue to be hindered. Rules on market access for non-EU companies lack clarity and no longer respond effectively to today's geopolitical realities. Fragmented eProcurement systems prevent proper transparency and efficient monitoring and oversight and despite improvements in transparency, data gaps and quality issues at both EU and national level hamper effective governance, strategic decision-making and the prevention of corruption.

In light of the evaluation conclusions, the Public Procurement Regulation responds jointly to the request of the European Court of Auditors and the Council.

Simplifying and increasing the flexibility and coherence of procurement rules

The proposal replaces the three 2014 Directives with a single, directly applicable Regulation. Consolidating the rules applicable to public contracts, utilities procurement and concessions into a single legal instrument removes the complexity and inconsistency resulting from the coexistence of separate legislative acts and divergent national transposition choices.

- The default procedure becomes an **open-negotiated procedure**, complemented by a dynamic simplified procedure for recurrent purchases of off-the-shelf solutions, and an innovation challenge procedure for the development and acquisition of innovative solutions not yet available on the market.
- Public buyers will be required to publish a **Needs Plan** at the start of each budgetary period, improving predictability and enabling strategic considerations to be embedded earlier in the procurement cycle. **Market consultations** are clarified and encouraged as a standard preparatory tool, with safeguards to prevent distortion of competition.
- Selection criteria are limited to what is **necessary and proportionate**, excessive turnover requirements are curtailed, and unjustified demands for prior public-sector experience are restricted.

Procurement rules **continue to apply** to entities in water, energy, transport and postal services. In addition to specific exemptions, **utilities** may also be **exempt** where the relevant activity is directly exposed to competition on markets with unrestricted access. To further simplify the framework, the **concessions** are incorporated in the Regulation. The revised procedural rules will apply both to public contracts and concessions. Some specific rules continue to apply to concessions to take account of the characteristics of concessions.

Increasing the uptake of strategic procurement

⁷⁽⁷⁾ https://www.europarl.europa.eu/doceo/document/TA-10-2025-0174_EN.pdf

⁸⁽⁸⁾ <https://data.europa.eu/doi/10.2863/0379789>

⁹⁽⁹⁾

<https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/review-european-public-procurement-legal-framework>

The evaluation found that the 2014 framework permitted strategic procurement but did not structure it sufficiently to drive consistent uptake. The Regulation moves beyond a **permissive approach** and establishes a **coherent architecture for integrating strategic objectives** into procurement design, award and contract performance. The proposal reinforces the quality dimension of award decisions. Contracts will as a rule be awarded on the basis of the best price-quality ratio, with minimum quality weighting requirements, including higher weighting for labour-intensive contracts.

- On **environmental procurement**, the proposal provides clearer legal bases for the use of environmental requirements throughout the procurement cycle. It strengthens the contribution of procurement to circularity, recycled and refurbished content, waste recovery and energy efficiency, and creates a framework for mandatory green procurement requirements

for certain product categories where uniform approaches are needed to avoid market fragmentation.

- On **socially responsible procurement**, the proposal clarifies the social outcomes that may be pursued, including social inclusion, labour market integration, accessibility, improved working conditions, equality and human rights in supply chains. It reinforces accessibility obligations and preserves targeted instruments such as reserved contracts and tailored rules for social, health and educational services.
- On **innovation procurement**, the new innovation challenge procedure allows public buyers to formulate societal challenges rather than fixed technical specifications, assess proposals through a value assessment framework, test and validate approaches, and then procure the resulting solutions.

Improving EU economic security and strategic autonomy

The proposal responds to the growing geopolitical significance of public procurement.

- Public buyers are enabled, and in certain contexts required, to address risks related **security and public safety interests of the Union or Member States**, linked to critical infrastructure, sensitive information, cybersecurity, harmful strategic dependencies, supply disruption, and undue third-country influence.
- Without prejudice to acts covering specific products or services, new provisions on **resilience and security of supply** apply in particular to contracts involving essential or important entities and critical infrastructures.
- The proposal also modernises and clarifies the treatment of third-country participation:
 - It clarifies the **distinction** between operators, products **covered** by the Union's international procurement commitments and **those that are not** and establishes a common framework, supported by a Commission online tool, to determine coverage. The Commission may **restrict such coverage** where a market access analysis establishes that a third country has failed to provide national treatment to Union operators contrary to its commitments, or where restriction is necessary to protect essential Union interests.
 - Public buyers may apply **European preference requirements**, including by restricting participation, requiring minimum Union or covered origin, or granting evaluation preferences. Where the Union's strategic interests so require, the Commission may close specific procedures to non-covered operators, products or services.

- This Regulation serves as a **horizontal framework**: where sector-specific Union legislation requires participation restrictions or preferences, the general rules of this Regulation apply unless the sector-specific act provides otherwise.

Facilitating access to procurement information, data and digital tools

The evaluation found that the digital ecosystem for procurement remains fragmented, non-interoperable and insufficiently data driven. The proposal addresses this through a substantially more **integrated approach**.

- It establishes a **common digital ecosystem** based on an interoperability network, harmonised semantic standards and common specifications, enabling public buyers and economic operators using different eProcurement systems to communicate through interoperable digital services. A key innovation is the creation of an electronic eligibility service built around digital business credentials and digital company profiles, implementing the once-only principle.
- The proposal establishes **National Public Procurement Data Spaces** and a Union-level **Public Procurement Data Space**, designed to support structured access to procurement and contract lifecycle data. Publication obligations are expanded and rationalised across the full procurement lifecycle.

Finally, the proposal strengthens governance, monitoring and professionalisation. Integrity governance is reinforced through measures addressing fraud, collusion, favouritism and conflicts of interest, ensuring that the simplification and strategic ambitions of the Regulation are matched by stronger implementation capacity on the ground.

- **Consistency with existing policy provisions in the policy area**

The Commission's evaluation highlights the concerns regarding the fragmentation of public procurement rules within the EU legal framework. Contracting authorities and economic operators must currently comply with a multitude of overlapping and, in some cases, incoherent provisions across more than fifty sector-specific legal instruments. This a source of legal uncertainty, disproportionate administrative burdens, and procedural inefficiencies in the conduct of public procurement for both.

The Regulatory Scrutiny Board, in its opinion on the draft Impact Assessment for the revision of the EU public procurement rules, has likewise called for a stronger analysis of how to ensure coherence between the public procurement rules and sectoral legislation. This aligns with the Commission's Communication 'A Simpler, Clearer and Better Enforced EU Rulebook'¹⁰⁽¹⁰⁾ which mandates a 'regulatory deep cleaning' of public procurement rules to eliminate redundancies, streamline procedures, and enhance legal clarity. The proposed Public Procurement Regulation is therefore a comprehensive coherence exercise, focusing on procedural rules, horizontal requirements, and empowerment provisions, thereby preserving the policy objectives of sectoral acts.

Exclusion grounds

Currently, **exclusion grounds** for economic operators are fragmented across 11 sectoral acts, creating legal uncertainty and unequal treatment. This fragmentation creates legal uncertainty and risks unequal treatment of economic operators across the EU. The proposal consolidates these rules into a single, coherent framework by rationalising existing exclusion grounds as follows:

¹⁰⁽¹⁰⁾ https://commission.europa.eu/publications/simpler-clearer-and-better-enforced-eu-rulebook_en

- **7 mandatory exclusion grounds** are retained and centralised as mandatory exclusion criteria within the Regulation. These grounds are linked to serious criminal offences, including human trafficking, corruption, and terrorism. They cannot be deleted given their criminal-law nature but are now consolidated in one place to ensure consistency across the EU procurement framework.
- **4 exclusion grounds** originating from other legal bases are removed as standalone grounds, with the following adjustments.
 - The exclusion ground derived from the Deforestation Regulation (Regulation (EU) 2023/1115) is explicitly added as a new mandatory exclusion ground within the Regulation, covering final criminal judgments for deforestation-linked illegal activities.
 - The exclusion grounds derived from the Shipments of Waste Regulation (Regulation (EU) 2024/1157), the Eco-Design Regulation (Regulation (EU) 2024/1781), and the Pay Transparency Directive (Directive (EU) 2023/970) are deleted as standalone grounds. Rather than disappearing entirely, however, breaches of these instruments are absorbed into an optional exclusion ground already included in the Regulation.

Horizontal requirements

In addition to procedural rules, the current public procurement framework is further complicated by the **multiplication of horizontal requirements in legislation** on procurement decisions. To address this, the present proposal transfers all horizontal ‘what to buy’ provisions¹¹⁽¹¹⁾ into dedicated chapters of the Act, structured around the Union’s strategic procurement priorities (green, social, security, and resilience) and harmonises definitions, thresholds, and assessment methodologies to ensure consistency in the application of these requirements.

Empowerments

Finally, five sectoral instruments contain separate and uncoordinated empowerments. To remedy these inefficiencies, the present proposal repeals all sectoral empowerments for the adoption of procurement-related delegated or implementing acts¹²⁽¹²⁾, and replaces them with a single, horizontal empowerment. It:

- establishes a unified and transparent process for the adoption of technical specifications, award criteria, and contract performance clauses;
- maintains flexibility for sector-specific adjustments, where duly justified by objective market particularities, through targeted implementing acts adopted under the horizontal empowerment.

This proposal includes **targeted amendments** to the sectoral instruments which are strictly necessary to achieve the proposal's objective of legal coherence. Further possible modifications of those sectoral instruments are **entirely outside the scope of the present proposal**. The need for any such modifications may be assessed, as appropriate, in the context of the review of each of the sectoral instruments concerned, in accordance with their

¹¹⁽¹¹⁾ E.g., Articles 7 of Directive (EU) 2023/1791 on energy efficiency, 31 of Directive (EU) 2024/1760 on Corporate Sustainability Due Diligence, and 24 of Directive (EU) 2019/882 on Accessibility Requirements.

¹²⁽¹²⁾ In particular those contained in Regulation (EU) 2023/1542 on batteries, Regulation (EU) 2025/40 on packaging and packaging waste, Regulation (EU) 2024/1781 on Ecodesign for sustainable products, Regulation (EU) 2024/3110 on construction products, and Regulation (EU) 2024/1735 (Net-Zero Industry Act).

respective review clauses and policy cycles. The Commission will **constructively engage** with the co-legislators to ensure that the legislative process on the present proposal fully preserves its essential object.

Beyond the existing acquis, several legislative initiatives currently under negotiation or pending publication also contain, or are expected to contain, public procurement-related provisions¹³⁽¹³⁾. The coherence exercise carried out by the present proposal can only deliver its full added value if these ongoing initiatives are themselves aligned with the horizontal framework established by the Public Procurement Regulation. The Commission has worked to ensure such coherence internally when preparing these texts. However, it is essential that the co-legislators also take into consideration the **need for coherence and consistency** with the Public Procurement Regulation. Particular attention should be paid to provisions relating to European preference requirements as divergent sectoral approaches would be especially detrimental to legal certainty, equal treatment of economic operators and proper functioning of the internal market. The Commission will engage constructively with the European Parliament and the Council throughout the negotiations of these parallel files.

- **Consistency with other Union policies**

The proposed Regulation also interacts with a distinct category of Union policies, which use **public procurement as a tool** to pursue specific objectives without, however, relying on or modifying the horizontal procurement framework. They establish autonomous regimes that operate alongside the general rules and respond to their own policy rationale.

The proposal does not interfere with the procurement regimes established in the **defence and security sectors**, which fall outside its scope and under Directive 2009/81/EC. It is without prejudice to Regulation (EU) 2025/1106 (SAFE) and Regulation (EU) 2023/2418 (EDIRPA) on cooperative defence procurement and leaves unaffected the joint procurement mechanisms under Regulation (EU) 2022/2371 and Council Regulation (EU) 2022/2372 on health crises. It is similarly consistent with the resilience-oriented obligations of Regulation (EU) 2024/2747 (IMERA).

Public procurement is increasingly used as a lever to **defend the Union's strategic interests** in its external economic relations and to ensure a level playing field for European economic operators. The proposal operates without prejudice to Union trade policy instruments containing procurement-specific provisions, notably Regulation (EU) 2022/2560 on foreign subsidies and Regulation (EU) 2022/1031 on the International Procurement Instrument, as well as measures under the Union's trade defence and restrictive measures toolbox, such as Regulation (EU) 2023/2675 (Anti-Coercion Instrument) and Council Regulation (EU) No 833/2014 concerning Russia.

The European preference measures are fully compatible with the international framework to which the Union is a party, in particular the WTO Agreement on Government Procurement (GPA) and the procurement chapters of relevant Free Trade Agreements (FTAs).

¹³⁽¹³⁾ This is the case, in particular, of the proposal for a Cyber Security Act 2.0 (COM 2026/001), the proposal for a Cloud and AI Development Act (COM 2026/0138), the proposal for an Industrial Accelerator Act (2026/0068) and the proposal for a Chips Act 2.0 (COM 2026/0139). This is also the case for the proposal for a Critical Medicines Act (COM 2025/102), on which interinstitutional negotiations have been concluded but which has not yet been published.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 114 Treaty on the Functioning of the European Union (“the Treaty”) is the appropriate legal basis for this initiative, as its primary objective is to establish a simpler and more efficient harmonised public procurement framework across the Member States, thereby improving the functioning of the internal market in line with Article 26 of the Treaty. While the initiative contributes to objectives pursued under Articles 173 and 207 TFEU, these aspects are ancillary to its primary aim of harmonising public procurement rules and therefore do not justify reliance on those provisions as legal bases.

- **Subsidiarity (for non-exclusive competence)**

Under **Article 5 TEU**, the principle of subsidiarity is respected as it balances contracting authorities’ discretion with harmonisation measures and elements necessary to achieve the objectives of this initiative, which cannot be sufficiently achieved by Member States alone.

Public procurement is a key component of the EU single market, enabling cross-border competition and broader access to markets for contracting authorities. However, fragmentation in implementation undermines its effectiveness as an internal market instrument. This calls for further EU-level action to ensure coherence and simplification and to fully unlock the potential of an EU-wide procurement market for businesses and contracting authorities alike.

In line with recent CJEU rulings¹⁴⁽¹⁴⁾, the treatment of third-country economic operators in public procurement falls **within the common commercial policy**, an exclusive competence of the Union, and can therefore be regulated only at EU level. Only the Union, and not the Member States acting individually, is competent to establish a coherent and uniform framework governing the participation of third-country bidders. Action at EU level is therefore both justified and necessary to ensure legal certainty and a level playing field across the internal market.

- **Proportionality**

The proposed revision respects the principle of proportionality, as set out in Article 5 TEU and follows what is adapted and necessary to achieve the objectives of **ensuring a more efficient, transparent and coherent EU public procurement framework**, completing the Union’s strategic objectives.

The establishment of the EU eProcurement system is necessary to **reduce fragmentation**, administrative burden and costs by mandating the interconnection of Member States’ eProcurement systems into a single integrated EU public procurement marketplace reduce compliance costs and facilitating cross-border participation and enhance overall market efficiency.

The European preference provisions in sector-specific acts are necessary to **respond to the new geopolitical imperatives**, while fully respecting the Union’s international commitments. They are designed in a proportionate manner so as not to impose disproportionate financial burdens on contracting authorities’ budgets. They aim to limit administrative burden for public buyers, notably through implementation support and the use of digital tools within the procurement marketplace.

¹⁴⁽¹⁴⁾ Case C-652/22, Kolin İnşaat Turizm Sanayi ve Ticaret AŞ v State Commission for the Supervision of Public Procurement Procedures; Case C-266/22, CRRC Qingdao Sifang Co. Ltd and Astra Vagoane Călători SA v Autoritatea pentru Reformă Feroviară and Alstom Ferroviaria SpA.

The establishment Best Price-Quality Ratio as the standard award method with a “comply or explain” mechanism is necessary to achieve social, environmental and innovation objectives. While the impact on fraud and irregularity risks depends on administrative capacity, several safeguards reduce such risks, notably the requirement that all quality criteria remain **linked to the subject matter of the contract**, limiting potential distortions of competition.

- **Choice of the instrument**

The proposed regulatory changes address the **shortcomings identified in the evaluation** of the 2014 Directives by enhancing coherence and legal clarity through the merger of the three Directives into a single Regulation and the streamlining of the procedural architecture. This responds to persistent fragmentation and insufficient harmonisation across several EU instruments, which has increased complexity, legal uncertainty and compliance costs. By establishing a **directly applicable Regulation**, the framework creates a single set of rules at Union level, improving consistency of application, reducing fragmentation and avoiding divergent national implementation (“gold-plating”), while preserving necessary flexibility. In line with the European Council’s “One Europe, One Market” mandate and the Letta Report’s recommendation, this ensures greater legal certainty and a more level playing field across all Member States

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The evaluation aimed to assess the effects between 2016 and 2024 of the 2014 Directives on public procurement. The evaluation provided an evidence-based assessment of the effectiveness, efficiency, coherence and relevance of those Directives, and its findings informed both the drafting process and the accompanying Impact Assessment.

The evaluation established that the objective of creating greater legal clarity and certainty with respect to scope and coverage has not been achieved, and that the remaining objectives have been only partially achieved: namely the simplification, streamlining and increased flexibility of procurement procedures; the use of public procurement to support other policy objectives such as social, environmental and innovation policy; the opening of markets to greater cross-border competition and the facilitation of SME participation; and the strengthening of the governance framework to prevent irregularities. While confirming that all these objectives remain highly relevant today, the evaluation also found that the Directives are not fit for purpose to ensure economic security and to respond to supply chain disruptions and dependencies.

- **Stakeholder consultations**

In line with the Better Regulation Guidelines, the Commission conducted an ambitious and inclusive consultation process designed to gather reliable evidence from the full range of public procurement actors.

A combined call for evidence and open public consultation ran from 3 November 2025 to 26 January 2026, generating 745 and 1 037 responses respectively, from business associations, companies, public authorities, trade unions, NGOs and citizens, overwhelmingly from EU and EEA countries. The open public consultation was structured around three thematic sections: efficiency and transparency, the balance between green, social, innovation and other objectives, and economic security and strategic autonomy.

These public consultations were complemented by dedicated engagement with Member States and experts through the Expert Group on Public Procurement (EXPP), the Expert Group on Electronic Public Procurement (EXEP) and the Stakeholder Expert Group on Public Procurement (SEGPP), as well as targeted hearings with social partners and NGOs. Particular attention was paid to the participation of SMEs, who were consulted specifically through the Network of SME Envoys and a dedicated SME panel gathering 108 responses.

- **Collection and use of expertise**

The results of these consultations, and in particular of the open public consultation, were carefully taken into consideration in the preparation of the proposal. Respondents broadly agreed on the need to move beyond the lowest-cost paradigm, increase procedural flexibility and reduce administrative burden through full digitalisation, while strong support (exceeding 80% across all EU and EEA respondent groups) was expressed for prioritising European goods and services in strategic sectors, notably through the expansion of non-price criteria and the introduction of "European preference" selection criteria. SMEs identified simplification, digitalisation and improved data availability as key priorities and pointed to the difficulties caused by divergent national implementation. Their input directly informed measures aimed at facilitating SME access.

- **Impact assessment**

In line with the Better Regulation Guidelines, this proposal is based on an impact assessment that analyses the problem and sub-problems related to revision of the Public Procurement Directives, in a global context of competitiveness challenges. The impact assessment identifies possible policy options to address problem-drivers and assesses their likely impacts. The impact assessment was structured to reflect the open public consultation, the call for evidence, and the various consultations.

The impact assessment initially received a negative opinion from the Regulatory Scrutiny Board on 17 April 2026. The Board recommended to:

- Improve the analysis of internal and external coherence, including on the interaction with sector-specific public procurement provisions.
- Regarding the strategic green and social dimension, provide evidence on the limited use of green and social criteria, assess how quality can be defined and balanced against trade-offs, and analyse the impact of subcontracting limits and default intellectual property rules.
- Substantiate the measure "Buy European", including the identification of sectors and actors subject to mandatory provisions, the impact of the non-voluntary policy options, and assess the macro-economic impact.
- Improve the costs and benefits analysis, including the impact of policy options on competition, prices, effects on market outcomes and SMEs, and administrative costs and savings across all options.
- Assess the combined impact and unintended consequences of the preferred option, including on the introduction of more negotiations and BPQR principles.

The above-mentioned points were addressed in a revised impact assessment submitted to the Board, which issued a positive opinion with reservations on 8 June 2026. The Board requested to provide further detail on the new open procedure with negotiations and on BPQR and its "comply or explain" approach, and more clarity on the cost-benefit analysis.

The impact assessment is built around a set of 4 specific objectives that tackle the problem drivers identified. It sets out two or three policy options for each specific objective (Flexibility [FLX]; Environmental, Social and Innovation [ESI]; Buy European [BEU], and digital marketplace [MPL]).

- FLX – [FLX.1] Maintains the existing procurement architecture while introducing targeted flexibility, allowing the choice of procedure, permitting material corrections in tenders where they do not alter the procurement's substance, improving guidance on preliminary market consultations, and clarifying concepts such as "crisis" and concession risk. It also aligns rules across directives and cross-references exclusion grounds with sectoral legislation. [FLX.2] is merging the three existing directives into a single act and restructuring procedures into an open procedure with negotiation, a dynamic simplified procedure, an innovation challenge procedure, and an emergency procedure. It introduces mandatory pre-procurement consultations, standardises negotiation phases with stronger transparency safeguards, and strengthens anti-fraud and traceability requirements while removing sectoral duplication.
- ESI – [ESI.1] incentivises quality-based procurement by making the Best Price-Quality Ratio the default award method under a "comply or explain" logic, with minimum quality weightings. It promotes ecolabels, life cycle costing and performance standards, frames innovation procurement through challenge-based approaches, limits full subcontracting, and clarifies the link between working conditions and the contract subject matter. [ESI.2] builds on this by moving all horizontal provisions into a single unified act, harmonising definitions and centralising enabling provisions for delegated and implementing acts. [ESI.3] makes the BPQR with minimum quality weights compulsory with no opt-out, introduces binding Member State targets and reporting obligations, makes EU Ecolabel use mandatory where applicable, further restricts subcontracting chains, and integrates sector-specific requirements into the general framework.
- BEU – [BEU.1] would introduce a voluntary European preference by codifying existing CJEU case law and allowing contracting authorities to restrict participation to EU/EEA and other internationally covered suppliers (GPA and relevant FTAs). It provides practical tools for verifying eligible countries and guidance on rules of origin. [BEU.2] offers a framework for coherent European preference in selected sectors in future acts, through a toolbox of mechanisms to public buyers, while standardising definitions, origin rules and documentation and integrating these tools into the EU digital procurement infrastructure. [BEU.3] makes European preference mandatory by requiring the exclusion of non-EU/EEA or non-covered third-country suppliers, subject only to limited safeguards such as lack of competition or excessive cost. It removes discretion from contracting authorities and embeds preference rules and sectoral provisions directly into the core framework.
- MPL – [MPL.1] establishes a decentralised network of interconnected national e-procurement platforms linked through an EU interoperability layer. It introduces the European Business Wallet for verified company identity and eligibility data, a common procurement qualification service, and a unified data management framework, strengthening transparency and anti-fraud capabilities through systematic data exchange, risk analysis tools and mandatory reporting. [MPL.2] instead replaces national systems with a single EU-level procurement platform for all procedures under the act, fully centralising procurement processes, data management, monitoring and compliance tools at Union level.

- **Regulatory fitness and simplification**

The proposal simplifies the legal framework by replacing the three existing Directives with a single directly applicable Regulation. This reduces fragmentation, removes divergences resulting from national transposition, and provides a more coherent and accessible set of rules for public buyers and economic operators. It also streamlines the procedural framework by reducing the number of procedures and establishing more flexible and operational tools adapted to different purchasing needs.

The proposal is also the product of a comprehensive regulatory deep cleaning exercise, in line with the Regulatory Scrutiny Board's call for greater coherence between public procurement rules and sectoral legislation. Sectoral acts currently contain separate exclusion grounds, horizontal 'what to buy' requirements scattered across sectoral legislation are transferred into dedicated chapters of the Regulation and sectoral instruments contain separate and uncoordinated empowerments for the adoption of procurement-related delegated or implementing acts.

Further simplification is achieved through greater use of digital solutions and structured data, including interoperable digital tools, an electronic eligibility service based on the once-only principle, and harmonised publication and data requirements, reducing repetitive administrative formalities and improving efficiency. The proposal also reduces burdens for economic operators, in particular SMEs, by limiting disproportionate selection requirements and facilitating cross-border participation. At the same time, the proposal preserves the core guarantees of transparency, equal treatment, competition and accountability required by Union public procurement law.

- **Fundamental rights**

The proposal does not impact the Charter of Fundamental Rights

4. BUDGETARY IMPLICATIONS

The proposal delivers significant net administrative savings, primarily through the creation of the public procurement digital Marketplace. For economic operators, the new requirements entail one-off costs of EUR 1.6 million (linked to EU Ecolabels) and recurrent costs of EUR 251.3 million (EUR 233 million stemming from the Best-Price-Quality Ratio and EUR 18.3 million from the EU Ecolabel), which are more than offset by recurrent savings of EUR 420.72 million from the Digital Marketplace, equivalent to EUR 2 714 per economic operator. For public authorities, the new Best-Price-Quality Ratio rules generate recurrent costs of EUR 92 million per year, while the Digital Marketplace yields recurrent savings of EUR 207.4 million, or EUR 4 714 per contracting authority. Overall, the proposal therefore results in substantial net savings for both economic operators and contracting authorities.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

To ensure effective implementation, the Regulation provides for a phased approach for those elements that require technical development or institutional adaptation, notably the digital ecosystem, the electronic eligibility service, and the National Public Procurement Data Spaces and Public Procurement Data Space. The Commission will support implementation through delegated and implementing acts, guidance, technical specifications, standardisation work, and, where appropriate, operational tools and digital services.

Member States will be required to designate a national coordinating authority and to put in place the governance arrangements necessary to ensure effective coordination between the authorities and bodies involved in the application of the Regulation. They will also be required to support the professionalisation of procurement, including through at least one competence centre, and to ensure that the relevant actors have the capacity to apply the new framework effectively.

The Regulation establishes a reinforced monitoring framework based on structured procurement data. Each Member State will be required to establish or designate a National Public Procurement Data Space as the central national access point for procurement and contract lifecycle data. Those national data spaces will feed into a Union-level Public Procurement Data Space managed by the Commission. This will enable more systematic monitoring of procurement markets, strategic procurement outcomes, competition, cross-border participation, SME access, and risks affecting integrity, resilience and security of supply.

Member States will be required to establish an evidence-based framework to monitor the functioning of their public procurement systems and markets and to make the results of that monitoring publicly available at least once a year. Member States will report to the Commission on the results of those analyses and on measures taken or envisaged to address structural shortcomings where identified.

The Commission will continuously monitor the functioning of public procurement in the Union on the basis of the data available in the Public Procurement Data Space. It will provide, every three years, an analysis of the public procurement system across the Union.

In addition, the Regulation requires the Commission to carry out an evaluation seven years after its entry into force and every seven years thereafter. That evaluation will assess, inter alia, the contribution of the Regulation to the resilience, coherence and effectiveness of the Union public procurement framework, its administrative burden, and its impact on SMEs. Where appropriate, the evaluation may be accompanied by legislative proposals.

- **Detailed explanation of the specific provisions of the proposal**

Part I sets out the general provisions on subject matter, scope and principles. It requires public buyers to treat qualified suppliers equally and without discrimination, act transparently and proportionately, and respect good administration and the public interest. Public contracts must ensure best value for money, avoid undue restrictions on competition, and comply with the strategic obligations in Article 5. It also updates the thresholds for public contracts and concessions and empowers the Commission to amend them by delegated acts under Article 4, in accordance with Article 137 or, in urgent cases, Article 138.

Part II defines relevant actors who participate in public procurement. Title I starts by defining the public buyers covered by the rules, then covers utilities, listing the sectors concerned and allowing exemptions where activities are directly exposed to competition and setting out the procedure for requesting an exemption from the Commission.

Title II concerns economic operators, including groups, the use of third-party capacities, and subcontracting, while prohibiting full subcontracting. It also establishes exclusion grounds: mandatory exclusions for serious offences such as corruption, fraud, terrorism, trafficking, environmental crime, child exploitation and deforestation-related violations, and optional exclusions for insolvency-related situations or grave professional misconduct, for example.

Part III lays down procedures for public contracts. Title I deals with public procurement procedures and integrates provisions on planning, market consultations, choice of procedures, estimation of the contract value, and the conduct of negotiations. The procedures include the

open-negotiated procedure, the dynamic simplified procedure, the innovation challenge procedure, and special procedures, including procedures for contracts requiring publication of results and information, as well as procedures for emergencies and crises.

Title II deals with the strategic design and execution of public procurement, streamlining the relevant definitions and provisions:

- Chapter 1 concerns green public procurement. It includes a definition of green public procurement and addresses circular economy, resource efficiency, energy efficiency, and requirements for certain products.
- Chapter 2 covers socially responsible public procurement, including accessibility, reserved contracts for organisations whose main aim is the social and professional integration of persons with disabilities or disadvantaged persons, and contracts for social, health and educational services.
- Chapter 3 concerns public procurement for innovation. It clarifies innovation objectives in public procurement, procurement of innovation, and intellectual property rights.
- Chapter 4 deals with security and resilience and clarifies how security considerations are to be considered in public procurement. It provides a non-exhaustive list of the security and public safety interests to be considered, and it regulates the termination of contracts and the exclusion of operators during contract implementation for security reasons. It also seeks to ensure compliance with cybersecurity requirements, in accordance with the scope of Regulation (EU) 2024/2847, and defines resilience and security of supply for critical entities and infrastructures.
- Chapter 5 clarifies the concept of European preference by defining covered economic operators, goods, services and works: where they originate from a third country party to the WTO Government Procurement Agreement or from a third country that has concluded a bilateral or multilateral trade agreement with the Union. It sets out European preference requirements, including the possibility to restrict or reject certain economic operators and tenders. It also provides a framework for mandatory European preference in sector-specific EU legal acts, while laying down exceptions where public buyers may decide not to apply European preference.

Title III lays down horizontal provisions covering key aspects of the procurement process, including excluded and mixed contracts, such as defence and security contracts, arbitration and conciliation services, and employment contracts. It also clarifies rules on the subject matter of contracts and means of proof, including requirements related to links with the subject matter and the use of labels for solutions with specific environmental, social or other characteristics. The Title further regulates the conduct of procedures, including confidentiality, conflicts of interest, prior involvement of operators, deadlines, procurement documents, award criteria, life-cycle costing, division into lots, abnormally low tenders, corrections and cancellations, and framework agreements. Finally, it addresses contract execution, including modification and termination of contracts, adjustment mechanisms, payments, and publication and documentation requirements.

Part IV regulates concessions, specifies exclusions, and lays down rules on preparation, design, and award procedures, including structured risk assessment. It also covers concession duration, contract management (such as modifications and termination), and monitoring/evaluation of performance.

Part V defines the framework for the Digital Ecosystem sustaining the implementation of the regulation. It creates interoperability rules for a secure public procurement data-exchange

network. This enables electronic communication between public buyers and economic operators through eProcurement providers. It also sets obligations for the Commission to help providers with the eligibility check (exclusion grounds, selection criteria, requirements of origin).

Part VI covers transparency and governance would require each Member State to set up a national public procurement data space to centralise and improve access to procurement data; regular monitoring of the procurement system to assess performance and support improvements; a national coordinating authority to oversee and coordinate implementation; and appropriate measures to strengthen the professionalisation of public procurement as long term and strategic elements of public governance.

Part VII sets final provisions, determining the exercise of delegation and giving power to the Commission to adopt delegated acts. The Regulation repeals Directives 2014/23/EU, Directive 2014/24/EU, Directive 2014/25/EU, and amends the horizontal public procurement provisions included in Regulation (EU) 2014/1781, Regulation (EU) 2024/1735, Regulation (EU) 2023/1542, Regulation (EU) 2024/3110, Regulation (EU) 2025/40, Directive 2023/1791, Directive 2008/98/EC, Regulation (EU) 2024/1252, Directive 2019/882, Directive 2022/2381, Regulation (EU) 2024/2847, Directive (EU) 2024/1760, Regulation (EU) 2023/1115, Regulation (EU) 2024/1157, Regulation (EU) 2023/970 . Finally, it sets review target 7 years after adoption.

Agence EUROPE

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on public contracts and concessions, repealing Directive 2014/23/EU, Directive 2014/24/EU and Directive 2014/25/EU, and amending Regulation (EU) 2023/1115, Regulation (EU) 2024/1157, Regulation (EU) 2024/1781, Regulation (EU) 2024/3110, Regulation (EU) 2023/1542, Regulation (EU) 2025/40, Directive (EU) 2023/1791, Directive (EU) 2024/1760, Directive 2008/98/EC, Regulation (EU) 2024/1252, Directive (EU) 2019/882, Directive (EU) 2022/2381, Regulation (EU) 2024/1735, and Regulation (EU) 2024/2847

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee¹⁵⁽¹⁾,

Having regard to the opinion of the Committee of the Regions¹⁶⁽²⁾,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The award of public contracts and concessions by or on behalf of Member States' authorities has to comply with the principles of the Treaty on the Functioning of the European Union (TFEU), and in particular the free movement of goods, freedom of establishment and the freedom to provide services, as well as the principles deriving therefrom, such as equal treatment, non-discrimination, mutual recognition, proportionality and transparency. For public contracts and concessions above a certain value, provisions should be drawn up harmonising rules for procurement procedures so as to eliminate obstacles to the functioning of the internal market and prevent the emergence of new obstacles in the form of regulatory divergences between Member States, including as regards the pursuit of strategic objectives. This regulation is therefore expected to ensure that public procurement is further opened up to competition and will at the same time serve as a strategic tool for attaining the EU's broader policy objectives.
- (2) The subject-matter of this Regulation is to lay down rules for procurement procedures for public contracts and concessions above certain thresholds. For this purpose, this Regulation establishes procedural rules for awarding those contracts and concessions, as well as the procurement related aspects of the planning and the execution of those contracts, defines strategic objectives to be taken into account and establishes a

¹⁵⁽¹⁾ OJ C [...], [...], p. [...]

¹⁶⁽²⁾ OJ C [...], [...], p. [...]

framework for a common electronic marketplace to be used in their planning, award and implementation of as well as [mechanisms / requirements] to ensure efficiency and accountability of public purchasing. By contrast, this Regulation does not regulate the overall administrative environment in which those public procurement procedures take place. Hence, national rules on the functioning and organisation of public administration in general, in particular those relating to budgetary and financial controls, and to decision-making structures inside public administration, should remain unaffected. National civil law and general rules on contractual relationships, which also form part of the broader national legal framework in which the rules of this Regulation will operate, should also remain unaffected.

- (3) It should be recalled that nothing in this Regulation obliges Member States to contract out or externalise the provision of services that they wish to provide themselves or to organise by means other than public contracts within the meaning of this Regulation. The provision of services based on laws, regulations or employment contracts should not be covered. In some Member States, this might for example be the case for certain administrative and government services such as executive and legislative services or the provision of certain services to the community, such as foreign affairs services or justice services or compulsory social security services.
- (4) This Regulation should not affect the social security legislation of the Member States. Nor should it deal with the liberalisation of services of general economic interest, reserved to public or private entities, or with the privatisation of public entities providing services. Member States are free to organise the provision of compulsory social services or of other services either as services of general economic interest or as non-economic services of general interest or as a mixture thereof. It is appropriate to clarify that non-economic services of general interest should not fall within the scope of this Regulation.
- (5) The award of public contracts and concessions by or on behalf of Member States' authorities has to comply with the principles of the Treaty on the Functioning of the European Union (TFEU), and in particular the free movement of goods, freedom of establishment and the freedom to provide services, as well as the principles deriving therefrom, such as equal treatment, non-discrimination, mutual recognition, proportionality and transparency. For public contracts and concessions above a certain value, provisions should be drawn up harmonising rules for procurement procedures so as to eliminate obstacles to the functioning of the internal market and prevent the emergence of new obstacles in the form of regulatory divergences between Member States, including as regards the pursuit of strategic objectives. This regulation is therefore expected to ensure that public procurement is further opened up to competition throughout the Union, and will at the same time serve as a strategic tool for attaining the EU's broader policy objectives.
- (6) The subject-matter of this Regulation is to lay down rules for procurement procedures for public contracts and concessions above certain thresholds. For this purpose, this Regulation establishes procedural rules for awarding those contracts and concessions, as well as the procurement related aspects of planning and execution of those contracts, defines strategic objectives to be taken into account and establishes a framework for interoperable digital tools [a common electronic marketplace] to be used in their planning, award and implementation of as well as mechanisms to ensure efficiency and accountability of public purchasing. By contrast, this Regulation does not regulate the overall administrative environment in which those public procurement procedures take place. Hence, national rules on the functioning and organisation of

public administration in general, in particular those relating to budgetary and financial controls, and to decision-making structures inside public administration, remain unaffected. National civil law and general rules on contractual relationships, which form part of the broader national legal framework in which the rules of this Regulation will operate, also remain unaffected.

- (7) In order to ensure the proper functioning of the Union's internal market in public procurement, it is necessary to reaffirm that public buyers must treat all qualified suppliers equally and without discrimination. Such qualification should be understood as encompassing economic operators originating from Member States as well as those from third countries with which the Union has concluded international agreements granting access to public procurement for the contract or concession in question. Respect for these principles is essential to guarantee effective competition, and lift and prevent barriers to market access.
- (8) Council Decision 94/800/EC approved in particular the World Trade Organisation Agreement on Government Procurement (the 'GPA'). The aim of the GPA is to establish a multilateral framework of balanced rights and obligations relating to public contracts with a view to achieving the liberalisation and expansion of world trade. For contracts covered by Annexes 1, 2, 4 and 5 and the General Notes to the European Union's Appendix I to the GPA, as well as by other relevant international agreements by which the Union is bound, public buyers should fulfil the obligations under those agreements by applying this Directive to economic operators of third countries that are signatories to the agreements. All new elements introduced in this Regulation have been designed in view of ensuring full alignment with the Union's obligations under the GPA.
- (9) The thresholds set out in this Regulation should determine the contracts and concessions for which the full set of Union procurement rules applies. Those thresholds should continue to reflect the Union's international commitments, in particular under the World Trade Organisation Agreement on Government Procurement (GPA), while ensuring legal certainty, administrative practicability. In order to ensure consistency with the Union's international obligations under the GPA, the thresholds applicable to public procurement should be aligned with those expressed in Special Drawing Rights (as defined by the International Monetary Fund, and therefore periodically revised, based on the average value of the euro against SDR. Apart from those periodic mathematical adjustments, an increase in the thresholds set in the GPA should be explored during the next round of negotiations thereof.
- (10) Public procurement constitutes a key instrument for advancing the Union's strategic priorities. It is necessary to regulate the strategic use of public procurement to avoid that diverging practices by public buyers throughout the Union create obstacles to the internal market. Public buyers should therefore design and implement procurement procedures in a manner that contributes to overarching Union policy objectives, including strengthening the competitiveness of the internal market, supporting innovation and the industrial base, achieving climate and environmental targets, fostering a fair and inclusive society, and enhancing the Union's economic security and strategic independence.
- (11) Public buyers should remain free to organise procurement jointly, whether through central purchasing bodies or through joint procurement, including across borders. Those forms of aggregation of demand can generate efficiency gains, reinforce

professionalisation, improve purchasing power, and facilitate access to strategic expertise.

- (12) This Regulation should preserve the possibility for public buyers to award contracts to controlled legal persons or within public-public cooperation arrangements without applying the competitive procedures laid down herein, and, under certain conditions, the possibility for contracting entities to rely on established structural links with affiliated undertakings or joint ventures to perform specific activities. The award of such contracts exempted from the Regulation should be made transparent so as to allow for public scrutiny of the reliance on those exemptions.
- (13) It is appropriate to maintain rules on procurement by entities operating in the utility sectors of water, energy, transport and postal services, since national authorities continue to be able to steer the behaviour of those entities and/or the the existence of special or exclusive rights. Contracting entities should be exempted from this Regulation when the activities they carry out are directly exposed to competition on markets to which access is not restricted. Assessing whether a given sector, or parts thereof, is directly exposed to competition should be examined in respect of the specific area in which the activity, or the parts thereof concerned, are carried out. This so-called 'relevant geographical market' is either the territory of a Member State or parts of it. The notion of 'relevant geographical market' should be based on similar criteria set out in other parts of Union law. Access to a given market should be considered to be unrestricted if the activity in the market in question, or the parts thereof concerned, has been liberalized in law and in fact on the basis of Union legislation.
- (14) Direct exposure to competition should be assessed by the Commission upon request of a Member State or a contracting entity. In order to render easily accessible the procedure for establishing that the Regulation does not apply to a certain activity, it should be clarified that an exemption decision can already be taken in the preparatory phase before the actual submission of a formal request, in situations where the information already available to the Commission allows to conclude that the conditions for exempting the activity are met. Furthermore, to facilitate the Commission's assessment in the formal phase, it is preferable that requests for exemption are accompanied by, or incorporate, a reasoned and substantiated recent position on the competitive situation in the sector concerned, adopted by an independent national authority that is competent in relation to the activity concerned or for the application of competition rules, or both. For the sake of legal certainty, it should be clarified that all Decisions adopted prior to the entry into force of this Regulation exempting the award of contracts by entities carrying out utility activities from the procurement rules remain applicable.
- (15) To enhance access to business opportunities in public procurement and increase competition for the award of contracts, the participation of groups of economic operators should be further facilitated. This is of particular importance for small and medium-sized enterprises, which often face difficulties in accessing larger procurement opportunities. Therefore, the rules governing the participation of groups of economic operators and the use of combined capacities should be clarified and simplified, while ensuring that only requirements necessary for the proper performance of the contract are imposed.
- (16) Subcontracting parts of a contract remains a practical and powerful tool of collaboration between economic operators. The rules for subcontracting in this

Regulation should preserve contractual freedom and facilitate access for SMEs, enabling them to participate effectively in public procurement and related supply chains. Subcontracting the entirety of a contract should however not be allowed under this Regulation, in particular in order to avoid that subcontracting is misused especially in sectors which may be more vulnerable to labour exploitation owing to cost pressures and complex subcontracting chains.

- (17) Economic operators should be excluded from participation in procedures where they have been convicted by final judgment for serious offences defined in Union legislation. Self-cleaning measures should not be permitted for mandatory exclusions, while for optional exclusions, which are related to the reliability of the economic operators, they should be able to demonstrate their reliability by means of self-cleaning measures. In that context, due account should be taken of any cooperation with the investigating authorities aimed at clarifying the relevant facts and circumstances. For example, in cases involving violations of competition rules, such cooperation may take the form of participation in a leniency programme or settlement procedure before the Commission or a national competition authority. Member States should not add other grounds for exclusion based on criteria relating to professional situation of the tenderer but this does not prevent Member States from adding other legitimate grounds for exclusion, such as those aiming at preventing or addressing threats to national security.
- (18) In order to simplify and modernise the verification of the suitability of economic operators in public procurement procedures, the electronic eligibility service should constitute the principal means of proof for the absence of exclusion grounds, compliance with selection criteria and, where relevant, fulfilment of origin-related requirements. The digital business credential tool should enable the retrieval of structured evidence from relevant national and Union databases, which should be interconnected to the electronic eligibility service to allow for the use of automated assessments.
- (19) In order to inform the market about planned procurement and allow economic operators, including small and medium-sized enterprises, to prepare their participation in a timely manner, public buyers should publish indicative planning information at the beginning of each budgetary period. Public buyers should be encouraged to carry out market consultations before launching procurement procedures in order to improve their understanding of available market solutions, of the maturity and structure of supply markets, and of potential strategic or operational constraints.
- (20) Negotiations can enable public buyers to improve the quality, efficiency and overall value of the procured solution, especially where the subject matter requires adaptation to operational needs or the balancing of strategic considerations. At the same time, the conduct of negotiations should remain subject to safeguards ensuring equal treatment, proportionality and the protection of confidential business information.
- (21) The open-negotiated procedure allows any interested economic operator to express interest and submit an offer, with the use of negotiations and of selection criteria remaining optional for the public buyer. This new flexible and simple procedure ensures that public buyers can not apply selection criteria where not needed to ensure good procurement outcomes, thereby lifting one of the major burdens for SME participation in public procurement. The possibility to negotiate solutions with a successive reduction of the number of economic operators in the procedure aims at achieving broad access to competition with the possibility for the public buyer to

refine solutions and contractual terms through negotiation where that is conducive to achieving best quality for money.

- (22) Selection criteria should remain limited to what is necessary to ensure that the economic operator has the technical, professional, legal and financial capacity to perform the contract, ensure the widest possible access to public procurement, in particular for SMEs. Public buyers should not require prior experience in public contracts as such, unless this is strictly justified by the nature of the services concerned, and should also avoid excessive financial requirements which can unnecessarily exclude SMEs and newer market entrants from procurement opportunities.
- (23) The new dynamic simplified procedure equips public buyers with an easy-to use, quick and agile tool to procure off-the-shelf products from a potentially larger supplier base, through reaching out to all interested economic operators available to perform the contract throughout Economic operators should be able to express their interest in a non-bureaucratic way, simply by sharing their eligibility profile with the public buyer through the eligibility system. In view of the potentially large number of economic operators interested in dynamic simplified procedures, and in order to ensure administrative efficiency and guarantee fairness, public buyers should be able, where the number of interested suppliers exceeds a certain level, to invite only a limited number of suppliers selected by means of a random indiscriminate algorithmic determination.
- (24) Public authorities are increasingly confronted with complex societal challenges that require innovative and collaborative approaches extending beyond traditional procurement practices. Public buyers should be enabled to co-create innovative solutions that address public needs more effectively, through a competitive procedure in which economic operators are invited to develop solutions to societal challenges identified by the public buyer. The development of those solutions should take place in different phases, market consultation, selection of solution proposals, testing and validation of the solution proposals, assessment of the solution proposals, and commercial purchase of the solution which public buyers should be allowed to purchase directly from the same economic operator.
- (25) Award of public contracts without prior competition should remain strictly exceptional and may be justified only where competition is objectively impossible, manifestly inappropriate and where additional flexibility is not used to circumvent the general principles of transparency, equal treatment and sound competition. In situations of emergency, crisis or serious cross-border threats, public buyers may need to procure rapidly in order to ensure continuity of essential services, respond to urgent public needs, or safeguard public health and safety. This Regulation should therefore allow recourse to a simplified direct procurement mechanism, without prejudice to other Union instruments governing joint procurement or crisis response.
- (26) Article 11 TFEU requires that environmental protection requirements be integrated into the definition and implementation of the Union policies and activities, in particular with a view to promoting the objectives of climate change mitigation and adaptation including emission reduction, the sustainable use and protection of water and marine resources, quality and environmentally friendly production of food, the transition to a circular economy, pollution prevention and control, or the protection and restoration of biodiversity and ecosystems This Regulation clarifies how public buyers can contribute to the protection of the environment and the promotion of

sustainable development, whilst ensuring that they obtain the best value for money and any conditions remain linked to the subject-matter of the contract. Requirements on green public procurement that were previously enshrined in sectoral legislation, in particular on energy efficiency and the transition to a more circular economy, should be part of green public procurement requirements set out in this Regulation.

- (27) For certain products or product families that represent a significant share of public procurement and are subject to Union legislation establishing environmental requirements for their placing on the market, more specific common approaches to green procurement may be necessary to ensure uniform application and avoid fragmentation of the internal market. This Regulation should therefore provide for a framework enabling the Commission, where appropriate, to specify mandatory environmental requirements by means of common specifications or quality criteria.
- (28) Public procurement should also contribute to the Union's social objectives, including social inclusion, high-quality jobs, decent working conditions, accessibility, gender equality, training, the promotion of the social economy, and effective human rights protection in relevant supply chains. Public buyers should therefore be able to take social considerations into account, where relevant to the subject matter of the contract and in compliance with the principles governing procurement. Accessibility requirements, continue to be of a mandatory nature for the public procurement of goods, services and works intended for use by natural persons.
- (29) By using public purchasing power for the fast market uptake and expansion of innovative solutions, public authorities can help bridge the innovation gap and facilitate the transition from a limited first production for testing and validation to widespread adoption. Such an approach can contribute to increased productivity, improve market access for SMEs such as innovative startups and scaleups.
- (30) In construction, which accounts for roughly 30 % of the value of public contracts awarded, innovation is supported through the use of Building Information Modelling (BIM) as a standard approach in public procurement and project delivery. Using open BIM digital technologies reduces project risks and enables more efficient design and construction processes, while continuously increasing impact on sustainability objectives. Accordingly, public buyers should use it for the implementation of high-value contracts.
- (31) Security and public safety considerations may arise in a wide range of procurement procedures, including outside defence and sensitive security sectors in the strict sense. Public buyers should be aware of and assess and address such risks in the design and conduct of procurement procedures and in contract performance.
- (32) Public procurement in sectors critical to the functioning of society and the economy including energy, transport, health, digital infrastructure, water, and financial market infrastructure, can create or compound strategic vulnerabilities where supply chains are concentrated, opaque, or excessively dependent on a limited number of operators or third-country sources. For these sectors, public buyers are encouraged to include in their contracts measures that relates to security of supply and resilience, without prejudice to applicable sectorial Union legislation.
- (33) The Union has concluded international agreements opening its public procurement markets to third-country economic operators and goods, services or works, in particular the GPA and a number of bilateral and multilateral free trade agreements. The degree of market access granted depends on the type of procurement procedure,

the nature of the public buyer, the subject matter of the contract, applicable thresholds, and specific carve-outs or horizontal exemptions negotiated in each agreement. To give effect to this graduated and procedure-specific coverage, this Regulation introduces the concepts of 'covered economic operator' and 'covered goods, services or works', which are determined separately for each procurement procedure on the basis of the Union's international commitments applicable to each individual procurement. Where necessary to preserve the Union's essential interests, including ensuring reciprocal market access and avoiding dependencies, the Commission should have the power to modify the determination of covered economic operators and good, services or works by delegated act. Such restrictions reflect the reciprocal nature of the Union's international engagement and ensure that the openness of Union procurement markets is not maintained unilaterally where the conditions that justified it no longer hold.

- (34) In line with the case law of the Court of Justice of the European Union, in particular its judgments in Case C-652/22 (Kolin) and Case C-266/22 (Qingdao), the rights and principles derived from Union public procurement law do not extend to economic operators, goods, services or works originating in third countries that are not covered by such international commitments. Building on this principle, this Regulation enables public buyers to apply European preference requirements.
- (35) The Union's broader economic and strategic interests may in certain circumstances justify a more systematic response at Union level. The Commission should therefore have the power, by means of delegated acts, to close specific procurements to non-covered economic operators or non-covered goods, services or works. Sectors such as rail rolling stock and shipbuilding illustrate the relevance of this approach: both are manufacturing sectors of dual-use nature, critical to military mobility, security, and the Union's strategic autonomy objectives, and their strategic importance has been underlined by recent Union initiatives including the EU Economic Security Strategy, the EU High-Speed Rail Plan, and the EU Maritime Industrial Strategy.
- (36) Clear and uniform rules on the determination of origin are necessary to ensure the effective and consistent application of international coverage and European preference provisions across all procurement procedures. This Regulation should therefore establish rules of origin for the application of the European Preference requirements set out herein. The horizontal framework that it establishes should be relied on wherever Union legislation applicable to specific sectors enshrines European preference requirement the modalities of which are not laid down in that legislation.
- (37) Horizontal rules applicable to all procurement procedures under this Regulation should build on well-known concepts from Directives 2014/23/EU, 2014/24/EU and 2014/25/EU, their predecessors and the jurisprudence by the Court of Justice of the European Union, modernising and clarifying them where needed, to better achieve the objectives enshrined in this Regulation, including in particular the integrity and non-discriminatory competitiveness of the procurement procedure. Documentation of the individual procurement procedure remains key to validate the proper application of this Regulation. It should be automated to the extent possible in the electronic procurement systems.
- (38) Excessively detailed specifications often contribute to unnecessarily reducing the participation of economic operators and hamper innovation. In order to facilitate competitive procurement markets, the specifications defining the characteristics of the works, supplies or services that are subject of the procurement should, as a general rule be drafted in terms of functional requirements. The use of variants in public

procurement procedures can contribute to enhancing competition and fostering innovative and cost-effective solutions. By allowing economic operators to propose alternative approaches, public buyers may benefit from a wider range of offers better tailored to their needs. This possibility can also help for SMEs, as it enables them to put forward flexible, innovative or more specialised solutions that may differ from standard specifications and better reflect their specific expertise or business models.

- (39) In order to ensure non-discriminatory access to procurement it is of crucial importance that any criteria and conditions applied in procurement procedures remain directly or indirectly linked to the subject-matter of the contract, relating to the material substance of the goods, services and works procured, or, without relating to the material substance, directly impacting those goods, services and works. As the notion of subject-matter link has been subject to prejudicial diverging interpretations, the notion should be clarified in the present Regulation. Examples of considerations that are linked to the subject-matter of a given contract could include that the manufacturing of the purchased products did not involve toxic chemicals, the purchased services are provided using energy-efficient machines or energy-efficient production methods, the product concerned is of fair-trade origin, including the requirement to pay a minimum price and price premium to producers, fair wages are ensured for workers involved in the execution of the contract in question. The condition of a link to the subject matter of the contract excludes criteria and conditions relating to general corporate policy.
- (40) Contracts should, as a general rule, be awarded on the basis of the best price-quality ratio, allowing public buyers to compare tenders not only on price or cost, but also on quality criteria linked to the subject matter of the contract, including environmental, social, innovation, security and resilience aspects where relevant, as well as life-cycle costing. The increased importance of quality in public procurement, especially in contracts with significant strategic, social or operational implications, requires minimum safeguards against an excessive focus on price alone. This Regulation should therefore provide for a minimum weighting of 30% (50% for by their nature labour-intensive contracts) for quality criteria in the award phase, while allowing public buyers to use price or cost only where the quality of the procured works, supplies or services can be sufficiently ensured through specifications, contract performance clauses, or a combination of any of those instruments with award criteria.
- (41) SMEs play a crucial role in the Union's economy. Under this Regulation, public buyers should design procurement procedures to facilitate their access to public procurement, including as single direct contractors or as members of groups of economic operators, and should not create unnecessary barriers to their market access. Conducting procurements through a digital marketplace is expected to significantly reduce administrative barriers for SMEs, including documentation and registration requirements. The division of contracts into meaningful lots remains one of the main tools to facilitate SME participation in public procurement and diversify the supplier base. Public buyers should actively consider division into lots as part of the procurement design process, while retaining discretion as to whether such division is appropriate. Prompt payment, including through the supply chain, and the timely reduction or release of financial guarantees once they are no longer justified, further contribute to securing and strengthening the financial standing of SMEs.
- (42) To ensure sound procurement procedures which yield best value for money, public buyers should exclude tenderers where particularly low prices cannot be properly explained, and prohibitions under Regulation pursuant to Article 31 paragraph 2 of Regulation (EU) 2022/2560 against the economic operator in question should establish

a presumption of prices being abnormally low, where subsequent tenders by the economic operator concerned relate to the same field of activity or sector concerned.

- (43) This Regulation should also clarify certain aspects related to the contract execution phase, including payments due to its close link with the procurement procedure itself. It should be clarified how public buyers can apply adjustment mechanisms in the conditions for the performance of contracts on the one hand, and how contracts can be modified in unforeseen conditions on the other hand. The latter provisions should be streamlined to allow for better application in situations justifying a modification without new competitive procedure. The value of the modifications compared to the original contract should however be considered only as threshold for ex ante publication and potential review to combat potential misuse.
- (44) Rules should be laid down to ensure traceability of decisions taken throughout the procurement procedures. Transparency of procurement opportunities is the cornerstone of ensuring equal access of all economic operators throughout the Union to procurement Union-wide. Proper publication of such opportunities should therefore be guaranteed through rules on the information to be published. To allow for a data-focused approach, general categories of information should be provided in the Regulation. Categories of information are grouped, allowing the establishment of a comprehensive view from procurement planning to contract completion, yielding collections of relevant data points, instead of a more static paper-based focus on forms, supporting the lowering of administrative burdens. Publication deadlines, and modalities, including at national level, should also be laid down in this Regulation.
- (45) Concessions and public contracts share the same core objective of enabling public buyers to fulfil public needs through works or services. They differ primarily in their remuneration structures rather than their essential purpose. Given their similarities, including reliance on competitive selection, the pursuit of horizontal policy objectives and the potential use of public assets, it is justified to harmonize their legal frameworks to the extent possible, to enhance clarity, reduce complexity, and ensure consistent implementation of Union priorities. This approach, supported by flexible procedural rules, provides clearer guidance for public buyers while maintaining necessary distinctions. Within this harmonised regime, concessions, given their long-term, complex nature and reliance on the concessionaire, should not be awarded through the dynamic simplified procedure.
- (46) In order to address the conceptual uncertainties arising from the current definition of concessions under Directive 2014/23/EU, it is necessary to clarify the concept of operating risk, which constitutes the determining criterion for the qualification of a contract as a concession. The definitional elements provided in this Regulation should be understood as remaining limited to defining the scope of this regulation, without impacting definitions of operating risks for purposes of other policy areas. The new definition should focus directly on the concessionaire's exposure to uncertain economic outcomes that may affect the recovery of investments and operating costs under normal market conditions, rather than relying on rigid overly prescriptive risk categories. This approach ensures that factors such as demand, supply, availability, lifecycle, or performance risks are not treated as standalone legal criteria but are instead regarded as illustration of the underlying economic exposure that characterises the transfer of operating risk.
- (47) To ensure effective management of concessions from preparation to implementation, this Regulation introduces structured contract management elements, including prior

risk assessment to verify the transfer of real and economically meaningful operating risk to the concessionaire. The duration of concessions should be proportionate not only to the time required for the concessionaire to recoup investments and achieve a reasonable return but also to foreseeable sectoral developments, such as technological, environmental, climatic, or societal changes, that could affect performance. Excessively long durations may increase the need for substantial modifications, thereby undermining the initial risk allocation and competitive conditions. Contracts should enable adaptation to evolving requirements in sustainability, technological advancement, security, innovation, and resilience, ensuring concessions remain fit for purpose throughout their lifecycle.

- (48) The rules on modifications of concessions were difficult to apply in practice. This Regulation, while retaining the existing framework's exceptions to modification prohibitions, therefore introduces clearer limits better reflecting concessions' economic realities, namely requiring the economic balance to be preserved and forbidding changes to essential competitive elements. For enhanced transparency on contract modification this Regulation introduces an ex-ante publication obligation for major modifications (exceeding 50%) that should act as a safeguard against abuses.
- (49) eProcurement service providers, both public and private, play an important role in facilitating secure electronic communication. This makes it necessary to place certain requirements on them, to ensure the functioning of the interoperable exchange of information as well as the resilience of the interoperability network. To provide easy access to cross-border procurement procedures for economic operators, the Commission should establish an eProcurement service that contains the basic functions necessary for the access to and the conduct of procurement procedures.
- (50) To improve cross-border access to procurement procedures, a European standard for procurement procedures should be established which allows economic operators to submit electronic communication such as tenders to public buyers that are using other services. Additionally, a European standard for procurement documents should also be requested to be developed by a European standardization organisation. It should also be clarified that the electronic communication directly within the eProcurement service chosen by the public buyer remains permitted where it complies with the rules for electronic communication.
- (51) An important element of the simplification of procurement procedures is to lower the administrative burden contained in the check of the eligibility of the economic operator. To this end, the Commission should set up an electronic eligibility service, which provides information from the up-to-date digital business credential tool of the economic operator as well as any consortium member or subcontractor participating in the individual procurement procedure. Through the connection from the tool to national databases, public buyers may receive current information on the eligibility of the economic operator.
- (52) Procurement-related data, including contract data, has many important uses and purposes: it can provide indications on the functioning of the internal market and help with the detection of fraud, corruption and misconduct. Where there is more flexibility provided for public buyers in the conduct of procurement procedures, it is important to have better quality of data overall to improve monitoring. Member States should therefore set up national public procurement data spaces. While the access to procurement data is highly relevant, it is not necessary to require the duplication of data in different sources, as that comes with increased costs without discernible

benefit. That is why the national data spaces should provide access to data, including data which may be stored in other databases, only storing or retrieving information when necessary.

- (53) eProcurement platforms and services constitute critical infrastructure underpinning public procurement across the Union. The information processed through such systems is of a highly sensitive nature. The concentration of such data within platforms that are subject to third-country ownership, control, or undue influence poses significant risks to the security and public safety interests of the Union or one or several of its Member States. Such risks include unauthorised access to sensitive procurement data, interference with the integrity or availability of procurement systems, exposure to cyberattacks or espionage facilitated by foreign state actors, and the potential exploitation of procurement information for economic or strategic purposes adverse to the Union. Ensuring that eProcurement service providers remain free from ownership structures or control arrangements that bear risks of undue interference is therefore essential to safeguarding the security and resilience of public procurement infrastructure.
- (54) The effectiveness of this Regulation depends not only on clear rules but also on strong governance arrangements at national level. Member States should therefore ensure structured and evidence-based monitoring frameworks for the functioning of their procurement systems, based on the data available in their National Public Procurement Data Spaces, in order to identify shortcomings, assess performance and competition, detect systemic risks and evaluate progress towards the objectives of this Regulation. Such monitoring should support the continuous improvement of national procurement systems and should cover, inter alia, barriers to competition and market access, including for SMEs, vulnerabilities to corruption and fraud, supply-chain dependencies, and the uptake of sustainability, innovation and digitalisation. The results of that monitoring should be made public on a regular basis and should feed into periodic reporting to the Commission.
- (55) Member States should also designate a national coordinating authority to ensure effective coordination among relevant the national authorities, facilitate cooperation and the exchange of information between those authorities and act as the single contact point for the Commission, competent authorities of other Member States and relevant stakeholders. Professionalisation is a decisive factor for achieving effective, efficient and integrity-based public procurement. Member States should therefore support the professionalisation of procurement as a strategic element of public governance, including through competence centres providing guidance, advice and support to public buyers and economic operators support economic operators.
- (56) Fraud, favouritism, collusion, corruption and conflicts of interest continue to pose significant risks to the integrity and effectiveness of public procurement. Public buyers should therefore be required to take appropriate, proportionate and effective measures to prevent, identify and remedy such risks throughout the preparation, award and execution of contracts. Member States should support those efforts through appropriate tools, including data-based risk analysis instruments such as ARACHNE.
- (57) In order to ensure legal continuity and avoid disruption in areas where exemption decisions or other implementing measures have already been adopted under the legal acts replaced by this Regulation, transitional provisions should be laid down clarifying the continued validity of such decisions for the period specified in this Regulation. In view of the scale and novelty of the reforms introduced by this Regulation, including

the establishment of a common digital ecosystem and data spaces, the strengthening of strategic procurement rules, and the new governance and monitoring requirements, entry into application should be deferred by 2 years.

- (58) In order to adapt to rapid technical, economic and regulatory developments, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of a number of non-essential elements of this Directive. Due to the need to comply with international agreements, the Commission should be empowered to amend the public procurement thresholds every two years to account for variations in SDR equivalences. Due to the need to ensure the coherence of public procurement with other Union legislation, the Commission should be empowered to amend Annex VII laying down the list of Union legislation introducing product or technology sustainability requirements. Due to the expected uptake of BIM technologies, the Commission should be empowered to amend the threshold for the use of BIM in public procurement. Due to the need to strengthen the Union's security and to avoid disparities in the functioning of the internal market, the Commission should be empowered to adopt mandatory specifications and other public procurement criteria where those elements address identified security and public safety interests of the Union, or where strategic dependencies or risks are identified. Similarly, to ensure reciprocity in market access, as well as the prevention of dependencies and the protection of public morals, the Commission should be empowered to amend the definition of covered economic operators, goods, services or works, or to supplement this Regulation by requiring public buyers to apply any of the voluntary restrictive measures set out in this Regulation. Due to the need to ensure technical adaptability, the Commission should be empowered to amend the list of information required under each information category and data categories, to designate the interoperability network, and to set up the electronic eligibility system.
- (59) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission for the adoption of decisions regarding the competition levels in certain markets and the feasibility of exempting certain types of public buyers from public procurement rules; to establish uniform public criteria specifying how for a given product or technology sustainability requirements apply in the context of public procurement; to specify what type of specific information should be contained in each information category; the implementation arrangements for the interoperability network and the data network; to establish common specifications covering requirements for the semantic data model; and, to determine the data elements that should be made available to the NPPDS and PPDS . Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.
- (60) Since the objective of this Directive, namely the harmonisation of rules for public procurement procedures, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (61) Directive 2014/23/EU; Directive 2014/24/EU and Directive 2014/25/EU should be repealed.

- (62) Directive 2023/1791, Directive 2008/98/EC, Directive 2019/882, Directive 2022/2381, Directive (EU) 2024/1760, Regulation (EU) 2024/1781, Regulation (EU) 2024/1735, Regulation (EU) 2023/1542, Regulation (EU) 2024/3110, Regulation (EU) 2025/40, Regulation (EU) 2024/1252, Regulation (EU) 2024/2847, Regulation (EU) 2023/1115 and Regulation (EU) 2024/1157 should be amended, in order to delete and integrate into this Regulation relevant rules on public procurement which apply regardless of the type of product concerned.

Agence Europe

HAVE ADOPTED THIS REGULATION:

Agence Europe

Part I

General provisions

Title I

Scope and principles

Article 1

Subject-matter and scope

1. This Regulation establishes rules on public contracts and concessions for work, supplies or services by one or more public buyers from one or more economic operators, the value of which is equal to or greater than the thresholds established in Article 3
2. [For the procurement subject to this Regulation], it lays down the procedural rules to follow for the award of public contracts and concessions as well as the procurement-related aspects of the planning and the execution of those contracts, defines strategic objectives to be taken into account and establishes a framework for interoperable digital tools [a common electronic marketplace] to be used in their planning, award and implementation as well as mechanisms to ensure efficiency and accountability of public purchasing.
3. This Regulation does not regulate matters pertaining to general administrative or contract law in the Member States beyond the matters referred to in paragraph 1. It does not affect the way in which the Member States organise their public administration, including financial and budgetary control of public spending, or the organization of their social security systems.
4. The application of this Regulation is subject to Article 346 TFEU. This Regulation does not preclude the adoption or enforcement of national measures necessary for the protection of Member States' national security, which are in line with the Treaty.
5. This Regulation does not affect the freedom of Member States to define, in conformity with Union law, services of general economic interest, how those services should be organised and financed provided that in compliance with State aid rules, and the specific obligations to which they should be subject. Equally, this Regulation does not affect any decision of public authorities on whether, how and to what extent they wish to perform public functions themselves pursuant to Article 14 TFEU and Protocol No. 26.
6. Agreements, decisions or other legal instruments that organise the transfer of powers and responsibilities for the performance of public tasks between public buyers and do not provide for remuneration to be given for contractual performance are considered to be a matter of internal organisation of the Member State concerned and, as such, are not affected in any way by this Regulation.

Article 2

Guiding Principles

1. Public buyers shall treat qualified suppliers equally and without discrimination, giving fullest effect to freedom of movement and establishment in the Union's

internal market. They shall act in a transparent and proportionate manner in accordance with the principle of good administration and in the interest of the citizens whom they serve.

2. Public buyers shall be guided by the objective to ensure that public contracts provide the best quality for money.
3. Public buyers shall not design their procurement with the intention of excluding it from the scope of this Regulation or of unduly narrowing down competition.
4. Public buyers shall take appropriate measures to ensure that, in the performance of public contracts, economic operators comply with applicable obligations relating to the strategic goals set out in Article 5, as established by Union law, national law, or collective agreements and by the international environmental, social and labour law provisions listed in Annex II.

Article 3

Thresholds

1. This Regulation shall apply to public contracts and concessions with a value net of value-added tax (VAT) estimated to be equal to or greater than the following thresholds:
 - (a) EUR 5 404 000 for public works contracts and for concessions;
 - (b) EUR 140 000 for public supply and service contracts awarded by central government authorities organised by such authorities;
 - (c) EUR 216 000 for public supply and service contracts awarded by sub-central contracting authorities organised by such authorities;
 - (d) EUR 750 000 for contracts awarded pursuant Article 59;
 - (e) EUR 432 000 for supply and service contracts by contracting entities operating in the sectors covered by Part II, Title I, Chapter 2.
2. The Commission shall be empowered to adopt a delegated act amending this Article in accordance with the conditions set out in Article 4 and in accordance with Article 137, or, in cases of urgency, with Article 138.

Article 4

Revision of thresholds

1. Every two years from [last day of the month of August after the entry into force of this Regulation], the Commission shall verify that the thresholds set out in Article 3 of this Regulation correspond to the thresholds established in the World Trade Organisation Agreement on Government Procurement (GPA) and shall, where necessary, revise them in accordance with this Article.
2. The Commission shall revise the thresholds in Article 12 in accordance with the calculation method set out in the GPA. The Commission shall calculate the value of these thresholds on the basis of the average daily value of the euro in terms of the special drawing rights (SDRs), over a period of 24 months terminating on 31 August preceding the revision with effect from 1 January. The value of the thresholds thus revised shall, where necessary, be rounded down to the nearest thousand euros so as

to ensure that the thresholds in force provided for by the GPA, expressed in SDRs, are observed.

3. Every two years from [1 January after the entry into force of this Regulation], the Commission shall determine the values, in the national currencies of the Member States, whose currency is not the euro, of the thresholds referred in Article 3 of this Regulation.
4. In accordance with the method set out in the GPA, the determination of the values referred to in paragraph 3 of this Article shall be based on the average daily values of those currencies corresponding to the applicable threshold expressed in euros over the 24 months terminating on 31 August preceding the revision with effect from 1 January.
5. The Commission shall publish the revised thresholds referred to in Article 3, and their corresponding values in national currencies in the Official Journal of the European Union at the beginning of the month of November following their revision.
6. Where it is necessary to revise the thresholds referred to in Article 3 and time constraints prevent the use of the procedure set out in Article 137 and therefore imperative grounds of urgency so require, the procedure provided for in Article 138 shall apply to delegated acts adopted pursuant Article 3(2).

Title II

Objectives and definitions

Article 5

Strategic goals

Public buyers shall design and execute their procurement in a manner that takes into account the strategic priorities of the Union, in particular:

- (a) Boosting the Union's competitiveness through a thriving internal market, closing the innovation gap and reinforcing the Union's manufacturing and industrial base;
- (b) the achievement of climate and environmental objectives of the Union;
- (c) the pursuit of a fair and inclusive society;
- (d) the Union's economic security, including through strategic independence.

Article 6

Definitions

1. For the purposes of this Regulation, the following definitions apply:
 - (a) 'classified information' means any information or material, regardless of the form, nature or mode of transmission thereof, to which a certain level of security classification or protection has been attributed, and which, in the interests of national security and in accordance with the laws, regulations or administrative provisions in force in the Member State concerned, requires protection against any misappropriation, destruction, removal, disclosure, loss or access by any unauthorised individual, or any other type of compromise;

- (b) ‘common specifications’ means a document, other than a standard, containing technical solutions providing a means to comply with certain requirements and obligations established under this Regulation;
- (c) ‘concession’ means a concession [for the execution of works or a concession for the provision of services] as defined in Article 110, first paragraph, point (a);
- (d) ‘digital business credential tool’ means an electronic tool allowing for the verification, exchange and storage of evidence related to the exclusion grounds, selection criteria, rules of origin and other requirements set out in the procurement procedure and available through the tool;
- (e) ‘economic operator’ means any natural or legal person, or public entity or group of such persons and/or entities, including any temporary association of undertakings, which offers the execution of works and/or a work, the supply of products or the provision of services on the market;
- (f) ‘eProcurement service provider’ means any natural or legal person or public entity or group of such persons and/or entities that provides digital tools for the data exchange between the tools, including the electronic communication between public buyers and economic operators through the interoperability network;
- (g) ‘framework agreement’ means an agreement between one or more public buyers and one or more economic operators to conclude contracts during a given period;
- (h) ‘functional requirement’ means a requirement that describes the performance, desired function, capability, outcome or result that a work, product or service must achieve, without referring to specific technical means, design, or methods by which functions or outcomes are to be achieved;
- (i) ‘harmonised standard’ means a harmonised standard as defined in Article 2, point (1)(c), of Regulation (EU) No 1025/2012;
- (j) ‘interoperability’ means the ability of two or more data spaces or communication networks, systems, connected products, applications, data processing services or components to exchange and use data in order to perform their functions;
- (k) ‘labour-intensive contracts’ means contracts with a subject-matter where the cost of labour is normally at least equal to 50% of the total contract value;
- (l) ‘life cycle’ means all consecutive and/or interlinked stages, including research and development to be carried out, production, trading and its conditions, transport, use and maintenance, throughout the existence of the product or the works or the provision of the service, from raw material acquisition or generation of resources to disposal, clearance and end of service or utilisation;
- (m) ‘pre-commercial procurement’ means the procurement of research and development services that involves risk-benefit sharing under market conditions, and competitive development in phases, not including the commercial deployment of end-products, services or works;

- (n) ‘price criteria’ refers to the tender price alone, whereas ‘cost criteria’ refers to costs determined using a cost-effectiveness approach, which can be identified following life cycle costing in accordance Article 94;
- (o) ‘public buyer’ means a contracting authority in accordance with Article 7 or a contracting entity in accordance with Article 8;
- (p) ‘public contract’ means contracts, for pecuniary interest, concluded in writing between one or more economic operators and one or more contracting authorities and having as their object the execution of works, the supply of products or the provision of services;
- (q) ‘public procurement data space’ means a network that provides public and non-public procurement and contract related data as well as data services for the purposes of this Regulation;
- (r) ‘public service contracts’ means public contracts having as their object the provision of services other than those referred to in point (t);
- (s) ‘public supply contracts’ means public contracts having as their object the purchase, lease, rental or hire-purchase, with or without an option to buy, of products. Products may be new, used, refurbished, remanufactured and product-as-service. A public supply contract may include, as an incidental matter, siting and installation operations;
- (t) ‘public work contract’ means public contracts having as their object one of the following:
 - (i) the execution, or both the design and execution, of works related to one of the activities within the meaning of Annex V;
 - (ii) the execution, or both the design and execution, of a work;
 - (iii) the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority exercising a decisive influence on the type or design of the work;
- (b) ‘qualified suppliers’ are economic operators originating from the European Union and covered economic operators in accordance with Article 69(1).
- (c) ‘semantic data model’ means a structured and logically interrelated set of concepts used in a given domain, representing their relationships and providing their definitions;
- (d) ‘societal challenge’ means an issue that disrupts the effectiveness and efficiency of the performance of public services and needs a solution, directly impacting the functioning of the public buyer or buyers concerned, or those who rely on their services;
- (e) ‘solution’ means the intended outcome of a public contract in the form of a work, service or supply;
- (f) ‘solution proposal’ means a strategic high-level proposal from an economic operator outlining the core of their innovative approach to addressing a societal challenge, including the risks involved, the potential impact and benefits, and their vision for developing, testing and implementing the innovative solution in cooperation with the public buyer;

- (g) ‘subcontractor’ means a natural or legal person that acquires through contractual means the responsibility to perform a part of the public contract – excluding the mere provision of goods or parts that are necessary for the provision of a service, from an economic operator that has been awarded such public contract;
 - (aa) ‘subject matter of the contract’ means the works, services or supplies that the public buyer intends to acquire through the procurement in view of meeting its needs;
 - (bb) ‘syntax’ means a machine-readable language including rules or dialect used to represent data elements;
 - (cc) ‘syntax bindings’ means guidelines on how a semantic data model could be represented in the various syntaxes;
 - (dd) ‘variant’ means a tender that partially deviates from specifications set out in the procurement documents offering an alternative solution to meet the public buyer’s needs and achieve the same intended outcomes;
 - (ee) ‘work’ means the outcome of building or civil engineering works taken as a whole which is sufficient in itself to fulfil an economic or technical function.
2. For the purpose of this Article ‘regional authorities’ includes authorities listed non-exhaustively in NUTS 1 and 2, as referred to in Regulation (EC) No 1059/2003 of the European Parliament and of the Council (1), while ‘local authorities’ includes all authorities of the administrative units falling under NUTS 3 and smaller administrative units, as referred to in Regulation (EC) No 1059/2003.

Part II

Relevant Actors

Title I

Public Buyers

Chapter 1

Identification of Public Buyers

Article 7

Contracting authorities

1. Contracting authorities are the central government authorities, sub-central government authorities, bodies governed by public law or associations formed by one or more such contracting authorities or one or more such bodies governed by public law, irrespective of whether the procurement procedure is conducted by one or more specific administrative units within them.
2. For the purpose of this Regulation, central government authorities are the authorities listed in Annex I and, in so far as corrections or amendments have been made at national level, their successor entities.

Where corrections or amendments are made at national level, Member States shall inform the Commission thereof within three months.
3. Sub-central government authorities means:
 - (a) State, regional or local authorities other than those listed in Annex I;
 - (b) central purchasing bodies; and
 - (c) bodies governed by public law as defined in paragraph 4.
4. Bodies governed by public law are bodies that have all of the following characteristics:
 - (a) They have the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;
 - (b) They have legal personality, and;
 - (c) They are financed, for more than 60% of their income, by the State, regional or local authorities, or by other bodies governed by public law; or are subject to the management and supervision by those authorities or bodies; or have an administrative, managerial or supervisory board where more than half of their members are appointed by the State, regional or local authorities or by other bodies governed by public law.
5. The Commission shall be empowered to amend Annex I in accordance with Article 137 to update the list of central government authorities based on the notifications received from Member States pursuant paragraph 2.

Article 8

Contracting entities

1. Contracting entities are contracting authorities, public undertakings, and entities that operate on the basis of special or exclusive rights, and which are operating in the water, energy, transport and postal services sectors and are carrying out one or more of the activities referred to in Article 14 to Article 20 or any combination thereof, unless the activity is directly exposed to competition on markets to which access is not restricted within the meaning of Article 22
2. A public undertaking is any undertaking over which one or more contracting authorities may exercise, directly or indirectly, a dominant influence by virtue of their ownership of it, their financial participation therein, or the rules which govern it.

Without prejudice to other possible situations of dominant influence, contracting authorities shall be presumed to exercise a dominant influence in any of the following cases in which they, directly or indirectly:

- (a) hold the majority of the undertaking's subscribed capital;
 - (b) control the majority of the votes attaching to shares issued by the undertaking;
 - (c) can appoint more than half of the undertaking's administrative, management or supervisory body.
3. Special or exclusive rights are rights granted by a competent authority of a Member State by way of any legislative, regulatory or administrative provision the effect of which is to limit the exercise of the activities referred to in Article 14 to Article 20 to one or more entities, and which substantially affects the ability of other entities to carry out such activity.

Rights which have been granted by means of a procedure in which adequate publicity has been ensured and where the granting of those rights was based on objective criteria shall not constitute special or exclusive rights within the meaning of the first subparagraph.

Such procedures include:

- (a) procurement procedures with a prior notice in conformity with [Article X] of [Directive 2009/81/EC] or this Regulation;
- (b) procedures pursuant to other legal acts of the Union that ensure adequate prior transparency for granting authorisations on the basis of objective criteria, including but not limited to those listed in Annex III.

Article 9

Central purchasing bodies

1. Public buyers may organise their procurement activities through the creation of central purchasing bodies in accordance with the rules set out in this article.
2. Central purchasing bodies, which may be a Member State entity or a Union institution, body or agency, may carry out the following activities, where they indicate that they act as a central purchasing body:

- (a) Acting as a wholesaler by buying and re-selling solutions purchased on the market;
 - (b) Acting as an intermediary – by publishing notices and awarding contracts for other public buyers;
 - (c) Carrying out or taking part in joint procurement activities conducted under this Regulation or Regulation (EU, Euratom) 2024/2509 where such joint procurement is provided by this Regulation or other Union acts;
 - (d) Providing ancillary purchasing support services to public buyers, including technical assistance, infrastructure or advice.
3. When carrying out procurement activities pursuant to paragraph 1, central purchasing bodies that are not themselves a public buyer shall apply the procedures set out in Part III.
 4. Any public buyer may acquire solutions from or through any central purchasing body established in the Union offering centralised purchasing activities.
 5. A public buyer fulfils its obligations pursuant to this Regulation when it acquires solutions from or through a central purchasing body.

Article 10

Joint procurement

1. Two or more public buyers, including those from different Member States, may act jointly in the award of public contracts.
2. The necessary elements of the procedure should be regulated by an agreement between the concerned parties, determining among other:
 - (a) The respective responsibilities of the concerned parties, the management of the procedure, the distribution of the works, supplies or services to be procured or rights to be transferred; and,
 - (b) where the two or more public buyers are from different Member States, the applicable legislation concerning disputes, the applicable review body, and the law governing the public contracts.
3. A participating public buyer fulfils its obligations pursuant to this Regulation when it purchases solutions from a public buyer which is responsible for a procurement procedure pursuant to point (a) paragraph 2. When determining responsibilities and the applicable national law as referred to in point (a), the participating public buyers may allocate specific responsibilities among them and determine the applicable provisions of the national laws of any of their respective Member States. The allocation of responsibilities and the applicable national law shall be referred to in the procurement documents for the jointly awarded public contracts.

Article 11

Contracts awarded to controlled entities or between entities within the public sector

1. Public buyers may award a public contract to a legal person governed by private or public law in the same Member State without using the competitive procedures in this Regulation, provided all of the following conditions are fulfilled:

- (a) the public buyer exercises over the legal person concerned a control which is similar to that which it exercises over its own departments;
- (b) more than 80 % of the activities of the controlled legal person are carried out in the performance of tasks entrusted to it by the controlling public buyer or by other legal persons controlled by that public buyer; and,
- (c) there is no direct private capital participation in the controlled legal person with the exception of strictly necessary non-controlling and non-blocking forms of private capital participation objectively required and clearly identifiable by national legislative provisions in conformity with the Treaties, which do not exert a decisive influence on the controlled legal person.

A public buyer shall be deemed to exercise over a legal person a control similar to that which it exercises over its own departments within the meaning of point (a) of the first subparagraph where it exercises a decisive influence over both strategic objectives and significant decisions of the controlled legal person. Such control may also be exercised by another legal person, which is itself controlled in the same way by the public buyer.

2. Paragraph 1 also applies where a controlled person which is a public buyer awards a contract to its controlling public buyer, or to another legal person controlled by the same public buyer, provided that there is no direct private capital participation in the legal person being awarded the public contract with the exception of non-controlling and non-blocking forms of private capital participation required by national legislative provisions, in conformity with the Treaties, which do not exert a decisive influence on the controlled legal person.
3. A public buyer, which does not exercise over a legal person governed by private or public law control within the meaning of paragraph 1, may nevertheless award a public contract to that legal person without applying the competitive procedures in this Regulation where all of the following conditions are fulfilled:
 - (a) the public buyer exercises jointly with other public buyers a control over that legal person which is similar to that which they exercise over their own departments;
 - (b) more than 80 % of the activities of that legal person are carried out in the performance of tasks entrusted to it by the controlling public buyers or by other legal persons controlled by the same public buyers; and,
 - (c) there is no direct private capital participation in the controlled legal person with the exception of non-controlling and non-blocking forms of private capital participation required by national legislative provisions, in conformity with the Treaties, which do not exert a decisive influence on the controlled legal person.

For the purposes of point (a) of the first subparagraph, public buyers exercise joint control over a legal person where all of the following conditions are fulfilled:

- (i) the decision-making bodies of the controlled legal person are composed of representatives of all participating public buyers. Individual representatives may represent several or all of the participating public buyers;

- (ii) those public buyers are able to jointly exert decisive influence over the strategic objectives and significant decisions of the controlled legal person; and
 - (iii) the controlled legal person does not pursue any interests which are contrary to those of the controlling public buyers.
4. Public buyers are not obliged to use the competitive procedures in this Regulation to award a [public] contract to another public buyer in the same Member State, provided that:
- (a) the resulting contract establishes or implements a cooperative relationship between the participating public buyers with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common;
 - (b) the implementation of that cooperation is governed solely by considerations relating to the public interest; and
 - (c) the participating public buyers perform on the open market less than 20 % of the activities concerned by the cooperation.
5. The percentage of activities referred to in point (b) of the first subparagraph of paragraph 1, point (b) of the first subparagraph of paragraph 3 and point (c) of paragraph 4, shall be calculated on the basis of the average total turnover, or an appropriate alternative activity-based measure such as costs incurred by the relevant legal person or public buyer with respect to services, supplies and works for the three years preceding the contract award.
- Where the legal person or public buyer belongs to a group that consolidates its accounts in accordance with the requirements of the Directive 2013/34, the relevant turnover or alternative activity-based measure shall be based on that of the group.
- Where, because of the date on which the relevant legal person or public buyer was created or commenced activities or because of a reorganisation of its activities, the turnover, or alternative activity based measures such as costs, are either not available for the preceding three years or no longer relevant, it shall be sufficient to show that the measurement of activity is credible, particularly by means of business projections.
6. Where a public buyer awards a contract on the basis of this Article, it shall within 30 days publish result information in accordance with Article 105.

Article 12

Contracts awarded to affiliated undertakings or in a joint venture

1. Contracting entities are not obliged to use the competitive procedures set out in this Regulation to award a [public] contract
- (a) by a contracting entity to an affiliated undertaking; or,
 - (b) by a joint venture, formed exclusively by a number of contracting entities for the purpose of carrying out activities described in This title Chapter 2, to an undertaking which is affiliated with one of those contracting entities,
- provided that at least 80 % of the average total turnover of the affiliated undertaking over the preceding three years derives from the provision of services, supplies or

works to the contracting entity or other undertakings with which it is affiliated. Where, because of the date on which an affiliated undertaking was created or commenced activities, the turnover is not available for the preceding three years, it shall be sufficient for that undertaking to show that the turnover is credible, in particular by means of business projections.

Where more than one undertaking affiliated with the contracting entity with which they form an economic group provides the same or similar services, supplies or works, the percentages shall be calculated taking into account the total turnover deriving respectively from the provision of services, supplies or works by those affiliated undertakings.

2. For the purposes of this Article, ‘affiliated undertaking’ means any undertaking
 - (a) the annual accounts of which are consolidated with those of the contracting entity in accordance with the requirements of the Directive 2013/34/EU;
 - (b) in the case of entities, which are not subject to Directive 2013/34/EU, any undertakings that
 - (i) are directly or indirectly, subject to a dominant influence by the contracting entity;
 - (ii) exercise a dominant influence over the contracting entity; or
 - (iii) in common with the contracting entity, are subject to the dominant influence of another undertaking by virtue of ownership, financial participation, or the rules which govern it.

For the purposes of this paragraph, ‘dominant influence’ shall have the same meaning as in Article 8(2)

3. Contracting entities are not obliged to use the competitive procedures set out in this Regulation to award a [public] contract
 - (a) by a joint venture, formed exclusively by a number of contracting entities for the purpose of carrying out activities described in Chapter 2, to one of those contracting entities, or
 - (b) by a contracting entity to such a joint venture of which it forms part;provided that the joint venture has been set up in order to carry out the activity concerned over a period of at least three years and that the instrument setting up the joint venture stipulates that the contracting entities, which form it, will be part thereof for at least the same period.

4. Where a contracting entity awards a contract on the basis of this Article, it shall within 30 days publish result information in accordance with Article 105.

The Commission can request evidence which demonstrates that the relationship between the undertaking or joint venture to which the contracts are awarded and the contracting entity complies with the requirements of paragraphs 1 to 3.

Chapter 2

Activities in the field of Utilities

SECTION 1

COVERED ACTIVITIES

Article 13

Common provisions

1. For the purposes of Article 14, Article 15 and Article 16, "supply" shall include generation/ production, wholesale and retail sale.
2. The production of gas in the form of extraction shall fall within the scope of Article 20.

Article 14

Gas and heat

1. In relation to gas and heat, this Regulation shall apply to the following activities:
 - (a) the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of gas or heat;
 - (b) the supply of gas or heat to such networks.
2. The supply by a contracting entity other than a contracting authority of gas or heat to fixed networks which provide a service to the public shall not constitute a relevant activity within the meaning of paragraph 1 where both of the following conditions are met:
 - (a) the production of gas or heat by that contracting entity is the unavoidable consequence of carrying out activities other than those referred to in paragraph 1 of this Article or in Article 15, Article 16 or Article 17;
 - (b) and the supply to the public network is aimed only at the economic exploitation of such production and amounts to not more than 20 % of the contracting entity's turnover on the basis of the average for the preceding three years, including the year in which the supply is made.

Article 15

Electricity

1. In relation to electricity, this Regulation shall apply to the following activities:
 - (a) the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of electricity;
 - (b) the supply of electricity to such networks.
2. The supply by a contracting entity other than a contracting authority of electricity to fixed networks which provide a service to the public shall not be considered to be a

relevant activity within the meaning of paragraph 1 where both of the following conditions are met:

- (a) the production of electricity by that contracting entity takes place because its own consumption is necessary for carrying out activities other than those referred to in paragraph 1 of this Article or in Article 14, Article 16 and Article 17;
- (b) the supply to the public network depends only on that contracting entity's own consumption and has not exceeded 30 % of that contracting entity's total production of energy, on the basis of the average for the preceding three years, including the year in which the supply is made.

Article 16

Water

1. In relation to water, this Regulation shall apply to the following activities:
 - (a) the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of drinking water;
 - (b) the supply of drinking water to such networks.
2. This Regulation shall also apply to contracts awarded by contracting entities which pursue an activity referred to in paragraph 1 and which are connected with one of the following:
 - (a) hydraulic engineering projects, irrigation or land drainage, provided that the volume of water to be used for the supply of drinking water represents more than 20 % of the total volume of water made available by such projects or irrigation or drainage installations;
 - (b) the disposal or treatment of sewage.
3. The supply by a contracting entity other than a contracting authority of drinking water to fixed networks which provide a service to the public shall not be considered to be a relevant activity within the meaning of paragraph 1 where both of the following conditions are met:
 - (a) the production of drinking water by that contracting entity takes place because its consumption by that contracting entity is necessary for carrying out an activity other than those referred to in Article 14 to Article 17;
 - (b) the supply to the public network depends only on that contracting entity's own consumption and has not exceeded 30 % of that contracting entity's total production of drinking water, on the basis of the average for the preceding three years, including the year in which the supply is made.

Article 17

Transport Services

1. This Regulation shall apply to the provision or operation of networks providing a service to the public in the field of transport by railway, automated systems, tramway, trolley bus, bus or cable.

2. As regards transport services, a network shall be considered to exist where the service is provided under operating conditions laid down by a competent authority of a Member State, such as conditions on the routes to be served, the capacity to be made available or the frequency of the service.

Article 18

Ports and airports

This Regulation shall apply to the exploitation of a geographical area for the purpose of the provision of airports and maritime or inland ports or other terminal facilities to carriers by air, sea or inland waterway.

Article 19

Postal services

1. This Regulation shall apply to activities relating to the provision of:
 - (a) postal services;
 - (b) services other than postal services, on condition that such services are provided by an entity which also provides postal services as defined in paragraph 2, point (b), of this Article and provided that the conditions set out in Article 21 are not satisfied in respect of the services falling within paragraph 2, point (b), of this Article.
2. For the purpose of this Article and without prejudice to Directive 97/67/EC of the European Parliament and of the Council:
 - (a) ‘postal item’ means an item addressed in the final form in which it is to be carried, irrespective of weight. In addition to items of correspondence, such items also include for instance, books, catalogues, newspapers, periodicals and postal packages containing merchandise with or without commercial value, irrespective of weight;
 - (b) ‘postal services’ means services consisting of the clearance, sorting, routing and delivery of postal items, including services falling both within and outside the scope of the universal service obligation provided for in Article 3 of Directive 97/67/EC;
 - (c) ‘services other than postal services’ means services provided in the following areas:
 - (i) mail service management services both preceding and subsequent to despatch, including mailroom management services;
 - (ii) services concerning postal items not included in point (a), such as direct mail bearing no address.

Article 20

Energy sources extraction and exploration

This Regulation shall apply to the exploitation of a geographical area for the purpose of:

- (a) extracting oil or gas;
- (b) exploring for, or extracting, coal or other solid fuels.

SECTION 2 EXEMPTING PARTICULAR UTILITY ACTIVITIES

Article 21

Activities directly exposed to competition

1. This Regulation shall not apply to contracts for the pursuit of activities listed in Article 13 to Article 20, with regard to a given geographical area if the activity is directly exposed to competition on markets to which access is not restricted in that geographical area, where this is established by an implementing act pursuant to Article 22(5).
2. For the purposes of paragraph 1, the question of whether an activity is directly exposed to competition shall be decided on the basis of criteria that are in conformity with the provisions on competition of the TFEU, without prejudice to the application of competition law to the situation subject to the decision. Those criteria may include:
 - (a) the characteristics of the products or services concerned;
 - (b) the existence of alternative products or services considered to be substitutable on the supply side or demand side;
 - (c) the prices;
 - (d) and the actual or potential presence of more than one supplier of the products or provider of the services in question on the relevant market.

The activity concerned may form a part of a larger sector or be exercised only in certain parts of the territory of the Union, including certain parts of Member States.

3. The geographical area on the basis of which direct exposure to competition is assessed shall consist of an area in which the undertakings concerned are involved in the supply of and demand for products or services, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring areas because, in particular, the conditions of competition are appreciably different in those areas. That assessment shall primarily take into account appreciable differences in the undertakings' market shares and the existence of market entry barriers or consumer preferences. It shall also take into account factors such as the nature and characteristics of the products or services concerned and substantial price differences between the area concerned and neighbouring areas. The territorial scope of the area on the basis of which exposed to competition is assessed is limited to the territory of the Member State.
4. For the purposes of paragraph 1, access to a market is deemed not to be restricted if the Member State has implemented and applied the Union legislation listed in Annex III. Otherwise, it must be established that access to the market in question is free in law and in fact.

Article 22

Exemption procedure

1. Where a Member State or a contracting entity considers that a given activity is directly exposed to competition on markets to which access is not restricted, it may

submit to the Commission, as a preparatory step to a possible formal exemption request, a preliminary question pursuant to paragraph 2, or, directly, a formal exemption request pursuant to paragraph 3, to establish that the activity in question is not covered by this Regulation.

2. During the optional preparatory phase following the submission of a preliminary question, the Commission, in a spirit of loyal cooperation, shall carry out an initial assessment of the conditions set out in Article 21. Such assessment shall be based on all information relevant to that activity already in the possession of or available to the Commission. To complement the information already in its possession, the Commission may request additional information from the contracting entity or Member State concerned or any other party competent in relation to the activity and market concerned. The Commission may invite the applicant, contracting entity, Member State and other concerned parties to further written or oral exchanges to explore whether the conditions for granting an exemption are met, including as regards clarification of missing facts, data or reasoning.

The Commission shall provide a reply to the preliminary assessment question within 180 calendar days after the submission. If the information collected in assessing the preliminary question is sufficient to conclude that the conditions set out in Article 21 are met, the Commission shall end the preparatory phase, waive the submission of a formal exemption request and adopt an implementing act declaring the relevant activity was exempted pursuant to paragraph 4.

The applicant may submit a formal request at any time before the end of the period referred to in subparagraph 2.

If the information collected in assessing the preliminary question is not sufficient to conclude that the conditions set out in Article 21 are met, the Commission shall inform the Member State or the contracting entity concerned, after which the Member State or the contracting entity may decide to submit a formal exemption request pursuant to paragraph 3.

3. Following the submission of a formal exemption request, either directly or following an unconvincing preparatory phase, the Commission shall carry out a full assessment of the conditions set out in Article 21. The formal exemption request shall include all relevant facts, and in particular information on any law, regulation, administrative provision or agreement concerning compliance with these conditions. It may include a position adopted by an independent national authority that is competent in relation to the activity concerned. Form, content and other details of the exemption request must follow the requirements in the implementing act based on paragraph 8 of this Article.
4. Following its assessment of the information submitted, the Commission shall, by means of implementing acts adopted within the periods set out below, establish whether an activity is directly exposed to competition on the basis of the criteria set out in Article 21. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 139(2).

The activity shall cease to be subject to this Regulation when:

- (a) the Commission has adopted the implementing act within the period provided for in point (b);
- (b) the Commission has not adopted the implementing act within the following periods:

- (i) in case the exemption request is not accompanied by a position adopted by an independent national authority:
 - (1) 90 days;
 - (2) 120 days where the Commission exceptionally informs the contracting entity and Member State concerned that the degree of complexity of the request for exemption requires more time to analyse the competitive situation on the relevant market or activity;
- (ii) in case the exemption request is accompanied by a position adopted by an independent national authority:
 - (1) 60 days;
 - (2) Exceptionally 80 days where the Commission informs the contracting entity and Member State concerned that the degree of complexity of the request for exemption requires more time to analyse the competitive situation on the relevant market or activity.

Those deadlines shall commence on the first working day following the date on which the Commission receives the exemption request or, where the information to be supplied with the exemption request is incomplete, on the working day following the receipt of the complete information.

The periods set out in point (b) may be extended by the Commission with the agreement of the Member State or the contracting entity concerned.

The Commission may request from the Member State or the contracting entity concerned or the independent national authority or any other competent national authority information that it considers necessary to carry out its assessment, including supplements or clarifications of information already provided. The periods set out in point (b) shall be suspended until the receipt of the complete and correct information.

5. After the submission of an exemption request, the Member State or the contracting entity concerned may, with the Commission's agreement, substantially modify its exemption request, in particular as regards the activities or the geographical areas concerned. In that case, a new period for the adoption of the implementing act shall apply, which shall be calculated in accordance with point (b) of paragraph 4, unless a shorter period is agreed on by the Commission and the Member State or contracting entity concerned.
6. If, in the context of an exemption request, the Commission issues a request for information to the Member State or the contracting entity concerned which remains unanswered for 180 days, the exemption request shall be deemed to be withdrawn.
7. Where an activity in a given Member State is already the subject of a procedure under paragraphs 1 and 5, further exemption requests concerning the same activity in the same Member State before the expiry of the period opened in respect of the first exemption request shall not be considered as new procedures and shall be treated in the context and period of the first exemption request.
8. Where the circumstances which are the basis of an implementing act establishing the applicability of Article 21(1) substantially change, the Commission may adopt an implementing act modifying, correcting or revoking the previous implementing act.

The Commission may decide to carry out a new analysis of the conditions for granting an exemption ex officio, including following information from a third party, or in case of a formal request from a Member State.

9. Information on the applicability of Article 21(1) on covered activities for a given market and activity shall be made available in [Access2Marktes/Marketplace], including the fact of the submission of an exemption request, the applicable periods for its assessment and any prolongations or suspensions thereof. The Commission shall also publish information on preliminary questions and reanalysing of implementing acts in [Access2Marktes/Marketplace].
10. The Commission shall adopt an implementing act establishing detailed rules for the application of paragraphs 1 to 9. That implementing act shall include at least rules relating to:
 - (a) implementing provisions concerning the form, content and other details of preliminary questions and exemption requests pursuant to paragraph 1 and 3 of this Article;
 - (b) publication in [Access2Marktes/Marketplace] pursuant to paragraph 9.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 139(2).

Title II Economic Operators

Chapter 1 General Provisions

Article 23

Economic operators

1. Economic operators that, under the law of the Member State in which they are established, are entitled to provide the relevant supplies, works or services, shall not be rejected solely on the ground that, under the law of the Member State in which the contract is going to be awarded, the economic operator would have been required to be either a natural or legal person.
2. Public buyers may, in the case of services, works or siting and installation operations, require legal persons to indicate before the start of the execution of the tasks concerned, the names and relevant qualifications of the staff responsible for the performance of the contract in question.

Article 24

Groups of economic operators

1. Groups of economic operators, including temporary associations without legal personality, may participate in procurement procedures. Public buyers shall not require economic operators including groups of thereof to have a specific legal form in order to participate in the procurement procedure.

2. Public buyers shall not define selection criteria pursuant to Article 37 for groups of economic operators that differ from those for individual economic operators unless otherwise laid down in this Article.

Groups of economic operators shall be deemed to fulfil all relevant selection criteria, without needing to recourse to reliance on the capacity of other entities pursuant to Article 25, where:

- (a) one economic operator in the group possesses the necessary technical and professional ability or economic and financial standing; or,
 - (b) where such ability or standing can be established by combining the relevant technical and professional ability or economic and financial standing from two or several members of the group, unless such combination will not achieve the same level of ability or standing.
3. When justified by the nature of the contract and in accordance with the principle of proportionality, public buyers may
 - (a) derogate from point (a) or (b) of the second sentence in paragraph 2 for selection criteria relevant for certain critical tasks;
 - (b) require that certain critical tasks be performed directly by the member of the group that fulfils the selection criterion relevant for that task.

Such requirements and justification shall be clearly indicated in the [competition information] or in the procurement documents.

4. Conditions for the performance of the contract by groups may only differ from those imposed on individual economic operators, where justified by objective reasons, proportionate and clearly indicated in the procurement documents.
5. Without prejudice to Member States' competence to organize their social security systems, public buyers shall not require groups of economic operators to assume a specific legal form once they have been awarded the contract.
6. Public buyers shall give particular consideration not to create unjustified or disproportionate barriers related to the size of the economic operators participating in a group, in particular for SMEs.

Article 25

Reliance on the capacity of other entities

1. With regard to selection criteria as set out pursuant to Article 37, economic operators may rely on the capacities of other entities, regardless of the legal nature of the links which it has with them.
2. The public buyer shall verify whether the entities on whose capacity the economic operator intends to rely on fulfil the relevant selection criteria and whether there are grounds for their exclusion.
3. The public buyer shall require the economic operator to replace an entity which does not meet the relevant selection criteria, or in respect of which there are mandatory grounds for exclusion pursuant to Article 27. It may require the economic operator to replace an entity in respect of which there are voluntary grounds for exclusion pursuant to Article 28.

4. Public buyers may request that the economic operator proves that it will have the relevant resources of the entity it intends to rely on at its disposal throughout the period of execution of the contract, for example by a statement to that effect by those entities.
5. Where an economic operator relies on the capacities of other entities with regard to criteria relating to economic and financial standing, the public buyer may require that the economic operator and those entities be jointly liable for the execution of the contract.
6. Where an economic operator relies on the capacities of other entities as proof of technical and professional ability, the public buyer may require that the entity the economic operator intends to rely on will perform the works or services for which these capacities are required.

Article 26

Subcontracting

1. A successful tenderer may subcontract parts of the contract. The contract awarded to the economic operator shall not be subcontracted in its entirety.
2. Public buyers shall require economic operators to indicate in their tender any share of the contract that they envisage to subcontract to third parties, and any proposed subcontractors.

In the case of works contracts and in respect of services to be provided at a facility under the direct oversight of the public buyer, after the award of the contract and at the latest when the performance of the contract commences, public buyers shall require the main contractor to inform them of the tasks and activities it intends to externalise, as well as the identity of its subcontractors. The public buyer shall require the main contractor to notify the public buyer of any changes to this information during the course of the contract.

Public buyers may require the information as referred to in the second subparagraph, or the information and identity of subcontractors of the main contractor's subcontractors, to other types of contracts.

3. The public buyer shall require the economic operator to replace a subcontractor in respect of which there are mandatory grounds for exclusion pursuant to Article 27. It may require the economic operator to replace a subcontractor in respect of which there are voluntary grounds for exclusion pursuant to Article 28.
4. When justified by the nature of the contract and in accordance with the principle of proportionality, public buyers may require that certain critical tasks be performed directly by the main contractor.
5. The provisions in this Article shall be without prejudice to the main contractor's liability.
6. Observance of the obligations referred to in Article 2(4) by subcontractors shall be ensured through appropriate action by the competent national authorities acting within the scope of their responsibility and remit.

Chapter 2

Exclusion grounds

Article 27

Mandatory exclusions

1. Public buyers shall at any time exclude an economic operator from participation in a procurement procedure where that economic operator, or key persons in its functioning in case of legal persons, has been the subject, in any Member State, of a conviction by final judgment, for or, regarding Member States not bound by the relevant Union act, as defined in equivalent national legislation:
 - (a) participation in a criminal organisation, as defined in [Article 2 of Council Framework Decision 2008/841/JHA](#);
 - (b) corruption offences, as defined in as defined in Directive 2026/1021/EU;
 - (c) fraud within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests¹⁷⁽³⁾ and offences referred to in Article 3 to 5 under Directive (EU) 2017/137;
 - (d) terrorist offences and offences related to a terrorist group, as well as offences related to terrorist activities, as defined in Articles 3 to 12 of Directive (EU) 2017/541;
 - (e) Money laundering, as defined in Article 3 of Directive 2018/1673/EU;
 - (f) trafficking in human beings as defined in Article 2 of Directive 2011/36/EU as amended by Directive 2024/1712 of the European Parliament and of the Council;
 - (g) criminal offences concerning the employment of illegally staying third-country nationals, as defined and sanctioned in Articles 3 and 9 of Directive 2009/52/EC;
 - (h) environmental criminal offences referred to in Articles 3 and 4 of Directive (EU) 2024/1203;
 - (i) criminal offences concerning the violation of Union Restrictive Measures as referred to in Article 3 and 4 of Directive (EU) 2024/1226;
 - (j) fraudulent use of non-cash payment instruments as referred to in Articles 3 to 8 of Directive 2019/713/EU;
 - (k) offences as referred to in Article 3 to 9 of Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child sexual abuse material;
 - (l) infringements of rules on the making available and the export of certain commodities and products associated with deforestation and forest degradation laid down in Regulation 2023/1115/EU.

Key persons in the functioning of a legal person means a member of the administrative, management or supervisory body of that economic operator or having powers of representation, decision or control therein.

¹⁷⁽³⁾ Council Act of 26 July 1995 drawing up the Convention on the protection of the European Communities' financial interests, OJ C 316, 27.11.1995, pp. 48–57,

The exclusion grounds set out in this article shall apply during five years from the date of the delivery of the final judgment, except where the period of exclusion has been set by the final judgment.

2. Public buyers shall at any time exclude an economic operator from participation in a procurement procedure where, at the time when the public buyer takes the decision to exclude the economic operator, the economic operator or contractor is in breach of its obligations relating to the payment of taxes or social security contributions, except if by that moment in time, it has concluded a binding arrangement on paying the taxes or social security contributions due, including, where applicable, any interest accrued or fines.

Public buyers may derogate from the mandatory exclusion provided for in subparagraph 1 where an exclusion would be clearly disproportionate, in particular where only minor amounts are unpaid.

3. Public buyers may decide to derogate from the mandatory exclusion provided for in paragraphs 1 and 2, on an exceptional basis, where such derogation is provided for in national law, for overriding reasons relating to the public interest such as public health or protection of the environment.

Article 28

Optional exclusion grounds

1. Public buyers may at any time exclude an economic operator from participation in a procurement procedure, where:
 - (a) the public buyer can demonstrate by any appropriate means that the economic operator has breached applicable obligations under relevant Union legislation, as referred to in Article 2(4);
 - (b) where the economic operator is bankrupt or is the subject of insolvency or winding-up proceedings or a comparable situation;
 - (c) where the public buyer can demonstrate by appropriate means that the economic operator is guilty of grave professional misconduct, which renders its integrity questionable;
 - (d) where the public buyer has sufficiently plausible indications to conclude that the economic operator has entered into agreements with other economic operators aimed at distorting competition;
 - (e) where the economic operator has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, which led to early termination of that prior contract, damages or other comparable sanctions by the public buyer;
 - (f) where the economic operator has been guilty of serious misrepresentation with regard to the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria; or has otherwise undertaken to unduly obtain advantages in the public procurement procedure;
 - (g) where the public buyer can demonstrate by any appropriate means, including protected data sources or assessments provided by competent national authorities, that the economic operator does not possess the reliability

necessary to exclude risks to the security and public safety interests of the Union or of one or several Member States.

2. Any economic operator that is in one of the situations referred to in paragraph 1 may provide evidence to the effect that it has taken sufficient measures to demonstrate its reliability despite the existence of a relevant ground for exclusion.

For this purpose, the economic operator shall, in particular, prove that it has

- (a) paid or undertaken to pay compensation in respect of any damage caused by the misconduct;
- (b) clarified the facts and circumstances in a comprehensive manner by actively cooperating with the investigating authorities; and
- (c) taken concrete technical, organisational and personnel measures that are appropriate to prevent further misconduct.

If the public buyer considers the evidence provided as sufficient, the economic operator concerned shall not be excluded from the procurement procedure.

The measures taken by the economic operators shall be evaluated taking into account the gravity and particular circumstances of the misconduct. In assessing the measures taken by the economic operator public buyers shall take into account the nature, extent and timing of the cooperation with the relevant investigating authorities.

Where the measures are considered to be insufficient, the economic operator shall receive a statement of the reasons for that decision.

An economic operator which has been excluded by final judgment in any Member State from participating in procurement procedures shall not be entitled to make use of the possibility provided for under this paragraph during the period of exclusion resulting from that judgment.

3. The maximum period within which an economic operator may be excluded, if no measures as specified in paragraph 2 are taken and where the period of exclusion has not been set by final judgment, shall not exceed five years from the date when the relevant event has occurred.

Chapter 3

Means of proof of the suitability of economic operators and registries

Article 29

Means of proof of the suitability of economic operators

1. Public buyers shall require economic operators to use the electronic eligibility service established pursuant to Article 129 as the means of proof for the following:
 - (a) absence of exclusion grounds pursuant to This title Chapter 2; and,
 - (b) compliance with selection criteria pursuant to [Article 39](#).

Where the economic operator relies on the capacities of other entities pursuant to Article 25 or proposes to make use of subcontractors in the execution of the contract, the economic operator shall also provide the information referred to in the first subparagraph for these entities through the electronic eligibility service.

2. Where the electronic eligibility service provides for an automated assessment of the existence of an exclusion ground or compliance with a selection criterion, the public buyer shall rely on this assessment.
3. Economic operators shall use the digital business credential tool pursuant to Article 129. Where an economic operator does not have access to the digital business credential tool or where the relevant evidence is not available through the digital business credential tool, the economic operator shall declare through the electronic eligibility service whether it complies with the requirements set out for exclusion grounds and selection criteria and whether it would be able to submit the required evidence (self-declaration).

In this case, the public buyer may, at any moment during the procedure, require evidence that is not available through the electronic eligibility service where this is necessary for the assessment of the public buyer's requirements.

4. Economic operators shall indicate their country of origin, in accordance with Article 73, in the electronic eligibility service referred to in Article 129.

If required for applying requirements under Article 72(2), economic operators shall indicate the country of origin of the goods that compose their tender, incorporating it [where applicable] into the digital product passport of the goods.

Where public buyers conduct a procurement procedure by applying one or more measures set out in Part III, Title II, Chapter 5, they may, at any time during the public procurement procedure, request the economic operator to supplement, clarify or complete information or documentation related to the verification of the origin of the economic operator, or the goods, services or works offered, provided that such requests comply with the principles of equal treatment and transparency.

Where the economic operator fails to provide the information or documentation referred to in paragraph 3 without any reasonable explanation and thereby prevents the verification of the origin by a public buyer or makes such verification practically impossible or very difficult, the economic operator or the tender, in which it participates, may be excluded from participating in the public procurement procedure concerned.

Article 30

Connection of databases to the electronic eligibility service

1. Member States shall, by 15 December 2030, provide free of charge access for the digital business credential tool pursuant to Article 121 [Electronic Eligibility Service] to the national databases in which
 - (a) final judgements for the offences referred to in Article 57 paragraph 1 are recorded, in particular to the national criminal registers for legal and those for natural persons;
 - (b) information on key persons pursuant to Article 57 paragraph 1 second subparagraph is recorded, in particular to the national professional or trade registers;
 - (c) evidence on the outstanding payment of taxes or social security contributions pursuant to Article 57 paragraph 2 is recorded, in particular to the national

professional or trade registers and the tax obligation databases and social security obligation databases;

- (d) evidence on bankruptcy, insolvency and restructuring pursuant to Article 57 paragraph 4 point b is recorded, in particular to the national professional or trade registers and the national registers of bankruptcy, insolvency and reorganisations, including court registers;
 - (e) evidence for the compliance with selection criteria pursuant to Article 39 and for the assessment of origin pursuant to Article 75 is stored, in particular to the national professional or trade registers and the beneficial ownership registers established pursuant to Article 12 of Directive (EU) 2024/1640; and,
 - (f) any other structured evidence relevant within the scope of this Regulation is recorded, such as labels, specifications including security requirements or means of proof for product requirements pursuant to Article 85.
2. The Commission shall, by 15 December 2030, provide free of charge access for the digital business credential tool to the database in which information pursuant to Article 25 paragraph 3 of Regulation (EU) 2023/1115 is stored, as well as to any other structured evidence relevant within the scope of this Regulation that may be made available.
 3. The access according to paragraphs 1 and 2 shall, where possible, be provided in such a manner that the electronic eligibility service may automate the assessment as set out in Article 58 bis paragraph 2. An automated assessment shall in particular be provided for national criminal registers, tax obligation databases and social security obligation databases and national registers of bankruptcy, insolvency and reorganisations.
 4. Member States shall inform the Commission of any newly established national databases available to provide means of proof through use of the digital business credential tool and provide free of charge access for the digital business credential tool to these national databases.

Part III

Procedures for Public contracts

Title I

Public procurement procedures

Chapter 1

Preliminary steps and general provisions

Article 31

Planning

1. For the purpose of informing the market about intended procurement, public buyers shall publish indicative planning information at the beginning of every budgetary period ('Needs Plan'). The Needs Plan shall be published in accordance with Article 105 and shall indicate the period it covers (validity).
2. The Needs Plan may be adapted to changing needs during its validity. It shall not oblige public buyers to procure what is announced in the plan.
3. Where the public buyer intends to conduct a dynamic simplified procedure, it shall publish the works, services or supplies to be procured in the Needs Plan at least 25 days before the publication of the competition information pursuant to Article 39.

Article 32

Market consultations

1. Public buyers may conduct market consultations to prepare their Needs Plan and gain market knowledge, including on the availability of, or potential of developing, innovative solutions.
2. Public buyers shall announce any such market consultation in accordance with Article 105.
3. During the market consultations, public buyers may seek or accept information and advice from the general public, independent experts, public authorities, market participants or other relevant parties. The advice may take the form of written or verbal exchanges, demonstration of prototypes, live demonstrations, or other suitable objective formats. Such advice may be used in the planning and conduct of the procurement procedures, respecting the principles of equal treatment, non-discrimination, fair competition and transparency. [The transparency principle relates to conduct of consultation but not details of discussed solutions.]
4. When conducting the procedure referred to in This title Chapter 4 public buyers shall consult the general public widely. To that effect, and without prejudice to paragraph 2, public buyers may publish the announcement of the market consultations in any widely available media in their territory.
5. The participation of an economic operator to a market consultation does not prejudice its eligibility.

Article 33

Choice of procedures

1. Public buyers may use the Open-Negotiated Procedure or the Dynamic Simplified Procedure.
2. Public buyers may use the Innovation Procedure in cases of procurement to address a societal need, for which they have not identified a solution available on the market, through development of a solution followed by purchase of that solution where the public buyer considers that the solution developed meets its need.
3. Public buyers may use the special procedure pursuant to Article 49 only in the specific cases and circumstances laid down in Article 50 and Article 51.

Article 34

Estimation of the value of the contract

1. Public buyers intending to award a contract shall estimate the value of the contract. The estimation shall include the maximum amount to be spent on the satisfaction of the need over the entire duration of the contract, whether awarded to one or more suppliers, taking into account all forms of remuneration, including:
 - (a) premiums, fees, commissions and interests; and
 - (b) the total value of options or renewals, where the contract provides for the possibility of options or renewals.
2. Where public buyers conclude more than one contract to satisfy their need, the calculation of the estimated value shall be based on:
 - (a) the value of recurring contracts for the same type of purchase during the preceding 12 months or the buyer's preceding fiscal year, adjusted, where possible, to take into account anticipated changes in the quantity or value of the solution procured over the following 12 months.
 - (b) the estimated value of recurring contracts for the same type of purchase during the 12 months following the initial contract or the buyer's preceding fiscal year.

Article 35

Conduct of negotiations

1. Public buyers shall respect the principles of proportionality and equal treatment in the conduct of negotiations. Public buyers shall ensure that any disclosure of information during negotiations does not affect the commercial interest of the economic operators taking part in such negotiations.
2. Public buyers may negotiate all characteristics of the purchased works, supplies and services, including, for instance, quality, quantities, commercial as well as strategic aspects, in so far as they do not constitute essential characteristics. Public buyers shall indicate in the procurement documents which elements are not subject to negotiation. Public buyers shall not substantially alter the subject matter of the contract as a result of the negotiations.
3. Public buyers may conduct negotiations in one or several rounds. After each round, the economic operators participating in the negotiations shall be invited to submit a

tender and public buyers may decide to reduce the number of participants based either on the award criteria set pursuant to Article 93, or, only on the basis of the quality elements thereof of the tenders submitted. Public buyers shall inform economic operators when a new round of negotiations will start and whether or not they will be invited. Economic operators may submit revised tenders depending on the outcome of the negotiations.

4. Where a public buyer has decided to end the negotiations and proceed to the award of the contract, it shall invite the remaining economic operators to submit a final tender. Public buyers shall not accept any modification to these final tenders.
5. Where public buyers exercise the option of reducing the number of solutions to be discussed, they shall ensure that in any given round of negotiations the number of solutions discussed allows for genuine competition amongst solutions or participating economic operators.

Chapter 2

Open-Negotiated Procedure

Article 36

Launch and conduct of the Open-Negotiated Procedure

1. In the open-negotiated procedure, any interested economic operator may express its interest and submit a tender in response to competition information. The public buyer shall establish in the competition information whether and which selection criteria apply and whether it intends to negotiate.
2. Public buyers shall publish competition information pursuant to Article 105. Interested economic operators shall express their interest by using the electronic eligibility service pursuant to Article 29. The expression of interest shall be submitted together with a tender specifying how the economic operator proposes to address the needs of the public buyer. The deadline for receiving expressions of interest with tenders shall be no less than 30 days from the publication of the competition information.
3. Where a public buyer has indicated that it intends not to negotiate, it shall award the contract in accordance with Article 93 on the basis of the tender received with the expression of interest, from all interested economic operators that are not in a situation of exclusion pursuant to Part II, Title II, Chapter 2, and, where applicable, fulfil the selection criteria set pursuant to Article 37.
4. When the public buyer has indicated that it intends to negotiate, it shall send an invitation to negotiate to all interested economic operators that are not in a situation of exclusion pursuant to Part II, Title II, Chapter 2, and where applicable fulfil the selection criteria set pursuant to Article 37.
5. Where, after verifying the absence of exclusion grounds and, where applicable, the fulfilment of selection criteria, less than three economic operators remain eligible for negotiations, the public buyer may decide not to negotiate, despite having indicated its intention to do so, but instead proceed to award the contract on the basis of the first tenders received.

Article 37

Selection criteria

1. Where public buyers decide to make use of selection criteria as means of condition for participation in the open-negotiated procedure, they shall design such criteria in accordance with the conditions in this Article.
2. Selection criteria shall only relate to:
 - (a) Technical and professional ability within the meaning of paragraphs 3 to 5;
 - (b) Economic and financial standing within the meaning of paragraph 6 .
3. Public buyers shall limit any requirements to those that are appropriate to ensure that an economic operator has the legal and financial capacities and the technical and professional abilities to perform the contract to be awarded. All requirements shall be related and proportional to the complexity and risks associated to the subject-matter of the contract.
4. Public buyers may require economic operators to be enrolled in one of the professional or trade registers established in the country where the economic operator conducts its main activity.

In procurement procedures for services, in so far as economic operators have to possess a particular authorisation or to be members of a particular organisation in order to be able to perform in their country of origin the service concerned, the public buyer may require them to prove that they hold such authorisation or membership.

Certified registration on official lists by the competent bodies or a certificate issued by the certification body shall constitute a presumption of suitability with regard to the requirements set out pursuant to this paragraph.

5. Public buyers may impose requirements ensuring that economic operators possess the necessary human and technical resources and experience to perform the contract to an appropriate quality standard. The required resources and experience may be connected with employment of disabled persons and, middle and long-term unemployed persons.

Unless justified due to the complexity of the contract, public buyers shall not require prior experience in public contracts as a condition for participation in the procurement procedure. A public buyer may assume that an economic operator does not possess the required professional abilities where:

- (a) the public buyer has established by any means that the economic operator has conflicting interests related to the subject of the contract which may negatively affect the performance of the contract; or
 - (b) the public buyer has been made aware by any means that the economic operator presents a security concern for a Member State or the Union as a whole.
6. Public buyers may require economic operators:
 - (a) to have a certain minimum yearly turnover;
 - (b) to provide information on their annual accounts, including on the ratios between assets and liabilities; or

(c) to have an appropriate level of professional risk indemnity insurance.

The minimum yearly turnover that economic operators are required to have shall not exceed 50% of the estimated contract value, except in duly justified cases such as relating to the special risks attached to the nature of the works, services or supplies.

The public buyer shall indicate the main reasons for such a requirement in the procurement documents.

Information from the annual accounts may be taken into consideration only where the public buyer has specified the methods and criteria for such consideration in the procurement documents. Such methods and criteria shall be transparent, objective and non-discriminatory.

7. Information that can be deduced from existing national databases established by a public body, or from the registration on official lists or certifications shall not be questioned without sufficient justification.

Article 38

Finalisation and Award of the contract

1. Public buyers shall award the contract to the best tender in accordance with Article 93.
2. Without prejudice to the standstill period established in Council Directive 89/665/EEC the contract shall be concluded in accordance with the applicable contract law of the Member State of the public buyer.
3. Where the public buyer has indicated that the object of the procurement is to conclude a framework agreement with selected economic operators, public buyers may acquire goods, services and works directly from the economic operators listed in the result information, using the procedure in Article 49.

Chapter 3 Dynamic Simplified Procedure

Article 39

Launch and validity of the Dynamic Simplified Procedure

1. Public buyers may use a dynamic simplified procedure for the acquisition of off-the-shelf solutions to recurrent needs from a large number of economic operators. Public buyers shall not introduce selection criteria in procedures under this Chapter. Public buyers may opt to negotiate with economic operators determined according to this Chapter.
2. Public buyers conducting a dynamic simplified procedure shall publish a needs plan pursuant to Article 31, followed by competition information pursuant to Article 105. Public buyers may reuse the competition information both for multiple purchases and in cases in which tenders were not received or negotiations were not successful.
3. The duration for which acquisitions may be made in a dynamic simplified procedure shall not exceed the time period indicated in the Needs Plan published pursuant to Article 31.

Article 40

Expression of interest

1. Upon the publication of the competition information, and until the period for submission of expressions of interest set by the public buyer has expired, economic operators may express their interest in a procedure by sharing their eligibility profile with the public buyer pursuant [through the eligibility system]. By sharing their profile the economic operators confirm that they are qualified and available to perform the contract.
2. Where the economic operator considers that the performance of the contract may require the subcontracting of significant part of the contract, it shall also share with the public buyer the profile of the envisaged subcontractors.
3. Public buyers shall have a maximum of 14 calendar days from the moment that the period for submission of expression of interest has expired to invite economic operators to enter negotiations or to submit tenders. After that period, economic operators who did not receive an invitation to negotiate or submit a tender shall be deemed not be invited.

Article 41

Invitation to negotiate

1. Where the public buyer has decided to negotiate all or certain aspects of the contract, and where the number of expressions of interest is more than five, public buyers shall invite to negotiations at least the first five economic operators selected through the electronic eligibility service by means of random indiscriminate algorithmic determination.
2. Where the number of expressions of interest is less than or equal to five, public buyers shall invite all interested economic operators to negotiate.

Article 42

Invitation to submit a tender

1. Where a public buyer has decided not to negotiate any aspect of the contract, and where the number of expressions of interest is more than five, public buyers shall invite at least five economic operators selected through the electronic eligibility service by means of random indiscriminate algorithmic determination to submit a final offer.
2. Where the number of expressions of interest is less than or equal to five, public buyers shall invite all interested economic operators to submit a final offer.

Article 43

Finalisation of the procedure and award of the contract

1. Public buyers shall evaluate the final tenders in accordance with Article 93 and establish a ranking of all economic operators that have submitted a final tender. The results of this evaluation, including the ranking, shall be disclosed to the tenderers.
2. Only economic operators that have submitted a final tender shall be considered to be concerned tenderers within the meaning of Council [Directive 89/665/EEC](#).

3. Where the public buyer has indicated that the object of the procurement is to establish a framework agreement with selected economic operators, public buyers may acquire goods, services and works directly with the economic operators listed in the result information using the procedure in Article 49.
4. The value of the contracts based on a framework agreement shall not exceed the estimated value indicated in the competition information.
5. Public buyers shall ensure that every contract signed under a specific Dynamic Simplified Procedure includes a reference to the procedure used in each instance

Chapter 4

Innovation Challenge procedure

Article 44

Design and launch of the Innovation Challenge Procedure

1. Public buyers may use the Innovation Challenge Procedure to address a societal challenge as set out in this Chapter.
2. The innovation challenge procedure shall be composed of different phases: the market consultation, the selection of solution proposals, testing and validation of the solution proposals, assessment of the solution proposals, and commercial purchase of the products, supply or works resulting from validated solution proposals. Public buyers shall indicate in the procurement documents what are the requirements or milestones needed to advance from one phase to the other.
3. To launch an innovation challenge, public buyers shall publish the societal challenge according to the rules in Article 32 including:
 - (a) A preliminary description of the societal challenge;
 - (b) a value assessment framework pursuant to Article 46 designed to ensure the future effectiveness and efficiency of public funding;
 - (c) an invitation for feedback from concerned stakeholders, including the general public
4. The market consultation on the societal challenge shall run for a minimum of 2 months. Upon the closure of the period to provide feedback on the societal challenge, public buyers shall , on the basis of the feedback received, prepare a competition information in accordance with Article 105, indicating
 - (a) the societal challenge;
 - (b) the minimum functional requirements that the solution proposal would have to achieve to consider the challenge addressed;
 - (c) the value assessment framework;
 - (d) all cash and in kind contributions that the public can make available during the procurement procedure and Testing and Validation phase; and
 - (e) the conditions for participation in the procedure.
5. Any economic operator may submit an innovative solution proposal in response to a competition information by providing the information necessary during the selection phase.

Article 45

Selection Phase

1. In the selection phase, public buyers shall perform an eligibility assessment on the economic operators that have submitted an innovative solution proposal. The eligibility assessment shall consist of:
 - (a) verification of the absence of any exclusion grounds applicable to the economic operator; and,
 - (b) confirmation that the solution proposal submitted by the economic operator complies with the minimum baseline requirements for addressing the defined societal challenge, as specified in the open call and the procurement documents,
2. Economic operators that have fulfilled the eligibility assessment shall then be selected to go to the next phase according to:
 - (a) an evaluation of the innovation potential of their innovative solution proposal, as well as their innovation capacity to address the societal challenge;
 - (b) the feasibility and scalability of the innovative solution proposal.

Except for paragraph 1, public buyers may conduct the selection phase by means of an interview with the economic operator that may be in person or online, or written exchanges between the economic operator and the public buyer.

The public buyer shall make the final selection decision based on all written and oral information received.

Article 46

Value assessment framework

1. Public buyers shall define a value assessment framework that will be used to evaluate and award both the testing and validation phase and the commercialisation phase of the innovative solution proposal addressing the societal challenge. The value assessment framework shall be published in the competition information.
2. The value assessment framework shall consist of objective performance indicators aiming to evaluate the extent to which the solution addresses the societal challenge in an objectively measurable manner.
3. The value assessment framework may include:
 - (a) Enhanced user and process value, such as feedback gathered from citizens during the testing and validation of the solution, such as lower noise levels, faster response time;
 - (b) Key performance indicators pertaining to increase efficiency or lower nuisance in the performance of public services, improved sustainability performance, reduced environmental impacts or increased security and resilience, such as safer cybersecurity systems;
 - (c) Cost savings for the public buyer as compared with traditional or previously applied solutions.

Article 47

Testing and validation phase

1. Economic operators found eligible in the selection phase pursuant Article 45 shall be invited to participate in the testing and validation phase to test and validate their innovative solution proposal. The Testing and Validation Phase shall not exceed two years from the date of selection of the solution proposals, unless duly justified.
2. The testing and validation phase shall consist of a structured and systematic process conducted by or on behalf of the public buyer with the purpose of where appropriate:
 - (a) assessing the technical, operational, and functional feasibility of the innovative Solution Proposal in addressing the defined societal challenge;
 - (b) verifying compliance of the innovative solution proposal with the specified requirements, standards, and performance criteria as outlined in the open call and any applicable legal or regulatory frameworks;
 - (c) evaluating the effectiveness, efficiency, and potential impact of the innovative solution Proposal in a real-world or simulated environment; and
 - (d) identifying any risks, limitations, or areas for improvement prior to full-scale implementation or procurement of the innovative Solution Proposal.
3. The Testing and Validation of the innovative solution proposal may include, but is not limited to, laboratory testing, field trials, pilot deployments, user feedback collection, and comparative analysis.
4. Payments for each defined milestone in the Testing and Validation of the innovative solution proposal shall be upfront.
5. During the Testing and Validation Phase, economic operators may adjust and enhance their innovative Solution Proposals with the objective of optimizing their impact in addressing the societal challenge.
6. the results of the Testing and Validation Phase shall be included in the [conduct information].
7. The testing and validation phase shall finish when the Public buyers make a final assessment of the overall suitability of the innovative solution proposal or proposals to address the societal challenge based on the findings from this phase. The final assessment shall be published as completion information in the form of a ranking.

Article 48

Commercialisation and award of innovation challenge solutions

Following the final assessment of the overall suitability of the solution, the public buyer may purchase the products, supply or works resulting from validated solution proposals through the procedure set out in Article 49 from economic operators that are part of the ranking published pursuant Article 47(7) for up to five years after the publication of the ranking.

Chapter 5

Special procedures

Article 49

Contracts requiring publication of result information

In the specific cases and circumstances laid down in Article 50 and Article 51, public buyers may award a public contract by requesting a solution directly from an economic operator. This request may take the form of an invitation to negotiate, a request to submit a tender, or a request to deliver the solution against invoice. Public buyers shall publish result information pursuant to Article 105.

Article 50

Conditions for the use of contracts with publication of result information

Public buyers may use the procedure described in Article 49 in any of the following situations:

- (a) The solution needed can be supplied only by a particular economic operator and no reasonable alternative or substitute exists for any of the following reasons:
 - (i) the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance;
 - (ii) competition is absent for technical reasons that cannot be attributed to the design of a prior procurement procedure or an artificial narrowing down of the parameters of the procurement;
 - (iii) the protection of exclusive rights, including intellectual property rights;
 - (iv) where the opening up of the contract to competition could negatively affect essential national security interests of the Member State of the public buyer and there is no possibility of applying less intrusive measures.
- (b) In the case of public supply contracts that concern:
 - (i) additional deliveries during not more than two years by the original supplier which are intended either as a partial replacement of supplies or installations or as the extension of existing supplies or installations, where a change of supplier would entail disproportionate costs or technical difficulties for the public buyer;
 - (ii) for supplies quoted and purchased on a commodity market;
 - (iii) for the purchase of supplies or services on particularly advantageous terms that only arise in the very short term in the case of unusual disposals such as those arising from winding down or insolvency proceedings.
- (b) In the case of public service contracts that concern:
 - (i) administrative social, educational, healthcare and cultural service contracts under CPV codes 79950000-8 [Exhibition, fair and congress organisation services], 79951000-5 [Seminar organisation services],

79952000-2 [Event services], 79952100-3 [Cultural event organisation services], 79953000-9 [Festival organisation services], 79954000-6 [Party organisation services], 79955000-3 [Fashion shows organisation services], 79956000-0 [Fair and exhibition organisation services];

- (ii) Hotel and restaurant services under CPVs 55100000-1 to 55410000-7; 55521000-8 to 55521200-0 [55521000-8 Catering services for private households, 55521100-9 Meals-on-wheels services, 55521200-0 Meal delivery service] 55520000-1 Catering services, 55522000-5 Catering services for transport enterprises, 55523000-2 Catering services for other enterprises or other institutions, 55524000-9 School catering services 55510000-8 Canteen services, 55511000-5 Canteen and other restricted clientele cafeteria services, 55512000-2 Canteen management services, 55523100-3 School-meal service.

Article 51

Emergencies and crisis

1. Public buyers may make use of the procedure described in Article 49, where, for reasons of urgency unforeseeable by and not attributable to the public buyer, the time limits for the procedures in this Regulation cannot be complied with.
2. Without prejudice to any joint procurement activities organised by the Union institutions, where an emergency mode has been activated pursuant Regulation (EU) 2024/2747, serious cross-border threats to health pursuant to Regulation (EU) 2022/2371 exist, or the Commission has declared a crisis or a state of emergency, the condition set out in paragraph 1 shall be deemed to be fulfilled for the type of solutions concerned and for as long as the emergency mode or the serious cross-border threat exist. In such cases, This part Title II shall not apply.

Title II

Strategic design and execution of public procurement

Chapter 1

Green Public Procurement

Article 52

Green Public Procurement

1. Public buyers may take environmental considerations into account when procuring supplies, services and works with a view to reducing adverse environmental and climate impacts or pursuing positive environmental and climate impacts through their life cycle, as compared to the alternative supplies, services and works with the same primary function, (“Green public procurement”).
2. The environmental considerations referred to in the first subparagraph shall pursue the climate and environmental objectives referred to in Article 5, including the following: climate change mitigation and adaptation including emission reduction, the sustainable use and protection of water and marine resources, quality and environmentally friendly production of food, the transition to a circular economy,

pollution prevention and control, or the protection and restoration of biodiversity and ecosystems.

Public buyers may take such environmental considerations into account, where relevant to the subject-matter of the contract as defined in Article 85, in specifications, award criteria, contract performance clauses, or, where relevant, selection criteria.

3. Public procurement integrating environmental criteria or requirements for public procurement referred to in Article 53 and Article 54 shall be considered 'green public procurement' within the meaning of [the previous paragraph].

[Mere compliance with general minimum environmental obligations established by Union law, national law or international conventions listed in Annex II shall not by itself be considered 'green public procurement' for the purpose of this Regulation.]

Article 53

Circular economy and resource efficiency

1. In the preparation of their Needs Plan referred to in Article 31, public buyers shall consider, as appropriate, how their planned procurement may contribute to resource efficiency and the transition towards a circular economy. In particular, they should assess opportunities to reduce resource consumption, prevent waste generation, extend product lifetimes, promote repair, reuse, refurbishment and remanufacturing, increase the uptake of recycled products and materials, including the recycled content, and support the recovery and use of secondary raw materials, including critical raw materials. Public buyers may also consider whether their needs may be met through circular business models, including product-as-a-service, leasing, sharing or rental solutions, rather than through the purchase of new products.
2. Public buyers may establish technical specifications, selection requirements, award criteria or conditions for the execution of a contract that promote circularity and resource efficiency throughout the life cycle of works, supplies and services. Such requirements or criteria may, where appropriate, relate to durability, reparability, upgradeability, reuse, refurbishment, remanufacturing recycled content, the use of secondary raw materials, waste prevention, preparation for reuse or the procurement of refurbished, remanufactured or previously used products.

Article 54

Energy efficiency

1. Public buyers shall, when purchasing goods, services or works purchase whenever possible only those products, services and works with a high energy-efficiency performance.
2. For the purposes of paragraph 1, high energy-efficiency performance means purchases complying with one of the following:
 - (a) Annex IV of Directive (EU) 2023/1791;
 - (b) Article 7(2) of Regulation (EU) 2017/1369;
 - (c) An implementing measure adopted under Directive 2009/125/EC;

When the purchase concerns product package as defined in a delegated act adopted under Regulation (EU) 2017/1369, public buyers may require that the aggregate energy efficiency of the product package takes precedence over the energy efficiency of the individual products within that package, by purchasing the product package that complies with the criterion of belonging to the highest available energy efficiency class.

Article 55

Requirements for green public procurement for certain products

1. Where public buyers set specific mandatory requirements relating to environmental characteristics in specifications, award criteria or contract performance clauses, they shall express these requirements by reference to classes of performance, levels or requirements for the placing on the market of products or technologies in the Union set in Union legislation, provided that the products or product families in question are subject to Union legislation referred to in Annex VII, which lists Union legislation setting environmental requirement for the placing on the market of products in the Union, where public procurement represents a significant share of the placing on the market of such products or technologies.
2. When setting, for the purposes of a given procurement, the specific mandatory requirements referred to in paragraph 1, public buyers shall ensure full compliance of the goods or works procured with all minimum requirements for placing on the market set out in the legislation referred to in Annex VII.

Where the legislation referred to in Annex VII allows for different classes or levels of performance, public buyers shall require the class or level of performance most appropriate for the procurement in question, taking into account the objectives of a high level of environmental protection in the Union as well as the principles of equal treatment, proportionality and non-discrimination.
3. To ensure uniform application of the provisions set out in paragraphs 1 and 2, and where the application by public buyers of different common specifications and quality criteria would risk giving rise to obstacles to the functioning of the internal market, the Commission may adopt implementing acts establishing how, for a given technology, product or product family, the requirements referred to in paragraphs 1 and 2 are to be specified, either as common specifications, or as quality criteria to be taken into account when applying the Best-Price Quality ratio method in accordance with Article 93.

Common specifications referred to in the first subparagraph shall mean either ‘specifications’ within the meaning of Article 83 or ‘conditions for the performance of contracts’ within the meaning of Article 99.
4. The implementing act referred to in paragraph 3 shall be adopted in accordance with Article 139(3)
5. The Commission shall be empowered to adopt delegated acts, in accordance with Article 137, to amend the list of Union legislation in Annex VII, where new legislation setting environmental requirements for the placing on the market of products or technologies in the Union, where public procurement represents a significant share of the placing of the market of those products or technologies.

Chapter 2

Socially Responsible Public Procurement

Article 56

Socially responsible Public Procurement

1. Public buyers may take social considerations into account when procuring supplies, services and works with a view to achieving positive social outcomes or preventing or mitigating adverse social impacts through their life cycle ('Socially responsible public procurement').
2. The social considerations referred to in the first subparagraph shall pursue the social objectives of the Union referred to in Article 5, including the following:
 - (a) social inclusion and labour market integration of persons with disabilities and disadvantaged persons involved in the performance of a given contract;
 - (b) high quality jobs;
 - (c) improvement of working conditions of workers performing a given contract and, in particular, vulnerable categories of workers, as appropriate in dialogue with social partners;
 - (d) accessibility and design for all users, beyond the minimum legal requirements set out in Article 57 of this Regulation;
 - (e) training, upskilling and reskilling of workers performing a given contract;
 - (f) gender equality and non-discrimination measures for workers performing a given contract;
 - (g) promotion of the social economy;
 - (h) effective human rights protection across the supply chains relevant to the procurement in question.
3. Public buyers may take such social considerations into account, where relevant to the subject-matter pursuant to Article 85, through relevant criteria or requirements in specifications, award criteria, contract performance clauses, or, where relevant to the subject-matter, selection criteria.
4. The mere compliance with applicable labour and social law obligations established by Union law, national law, universally applicable collective agreements or by the international social and labour law provisions listed in Annex II, shall not by itself be considered 'socially responsible public procurement'.

Article 57

Accessibility

For all procurement of goods, services and works which are intended for use by natural persons, public buyers shall take into account accessibility criteria for persons with disabilities, including through design for all users. To that effect, public buyers shall include appropriate accessibility requirements in the specifications or contract performance conditions.

For the products and services referred to in Article 2 of Directive (EU) 2019/882, specifications shall, as far as accessibility criteria for persons with disabilities or design for all users are concerned, be defined by reference to Annex I to Directive (EU) 2019/882.

Article 58

Reserved contracts

1. Public buyers may reserve the participation in procedures for the award of public contracts, including for specific lots thereof, to organisations established in the Union whose main aim is the social and professional integration of people with disabilities or disadvantaged persons, or may provide for such contracts to be performed in the context of sheltered employment contracts, provided that at least 30 % of the employees of those workshops, economic operators or programmes are workers with disabilities or disadvantages.
2. Public buyers may reserve the participation in procedures for the award of public service contracts forming part of the social welfare system which are covered by CPV-codes in Annex VI, to organisations established in the Union which fulfil all of the following conditions:
 - (a) the organisation is legally recognised as non-profit under national law;
 - (b) the organisation has as its main purpose the delivering of a public welfare service of general interest;
 - (c) the organisation's decisions are not guided by purely commercial considerations, and surplus generated from the performance of the contract is reinvested in delivering the public welfare services of general interest for which it is constituted.

Article 59

Contracts for social, health and educational services

1. For public contracts having as subject matter any of the services listed in Annex VI public buyers may award contracts in accordance with the procedures provided for in national law, provided that the nature of the service makes it necessary for the public buyers to take into account the specificities of the services in question, and the principles of transparency and equal treatment of economic operators are respected.
2. Public buyers awarding contracts pursuant to paragraph 1, shall take into account, through appropriate requirements in specification, award criteria or contract performance clauses, the need to ensure the quality, continuity, accessibility, affordability, availability and comprehensiveness of the services, and the involvement and empowerment of users, including disadvantaged and vulnerable persons, in order to safeguard their specific personal medical or social needs. In awarding such contracts, public buyers shall also take into account the need to ensure respect for the right to self-determination of persons with disabilities, as laid down in Article 19 of the United Nations Convention on the Rights of Persons with Disabilities.
3. Where a public buyer awards a contract on the basis of this Article, it shall within 30 days publish result information pursuant to Article 105

Chapter 3

Public Procurement of Innovation

Article 60

Innovation objectives in public procurement

Public buyers may take innovation objectives into consideration when procuring supplies, works or services that comprise, without being limited to, any or several of the following:

- (a) promoting the market deployment of the results from research and innovation and to encourage the participation of innovative start-ups, scale-ups and SMEs in public procurement, thereby supporting the diffusion of innovation and the growth of innovative enterprises;
- (b) fostering the growth of green and digital lead markets [in the Union] by encouraging the procurement of innovative solutions that contribute to environmental sustainability, digital transformation and technological advancement;
- (c) improving the cost-effectiveness of the public buyer's purchases compared with existing or conventional alternatives, while maintaining or enhancing the quality, quantity, or impact of the solutions.

Article 61

Public procurement of innovation

1. Public buyers shall qualify their procurement as public procurement of innovation in the [competition information] when the procurement has as its objective the purchase of a solution that has one or several new characteristics that deliver better performance or added value compared to alternatives with the same primary function.
2. 'New characteristics' of a solution means goods, works or services with characteristics that:
 - (a) are not yet available on a large-scale commercial basis and may include testing and validation prior to its commercial deployment; or
 - (b) are already on the market in a first deployment, meaning they have not, at the time of the market consultations, been adopted by more than 20 % of the market compared to alternatives with the same primary function in the Union.Such new characteristics may include new or improved combinations of existing characteristics and new or improved ways of using existing characteristics, such as using existing characteristics in a new sector or a new context.
3. In any event, public buyers shall qualify their purchases as public procurement of innovation in case of the following:
 - (a) the award of a contract for a solution that was successfully developed in an innovation challenge procedure by way of Article 48 and Article 49;
 - (b) the award of a contract in an open-negotiated procedure pursuant to This part Title I, Chapter 2 where a public buyer intends to purchase a near to market solution such as after a pre-commercial procurement.

Article 62

Techniques to pursue innovation objectives in public procurement

1. In order to pursue innovation objectives, public buyers may prepare and design any procurement procedure using any or any combination of the following techniques:
 - (a) seek, analyse and implement advice targeted specifically on the availability of innovation in the market consultations;
 - (b) use only functional requirements and, where not feasible, allow explicitly for variants;
 - (c) limit the selection criteria to what is necessary and proportionate to the risks of the public contract and the capacities needed to perform it, and, where appropriate, without requirements on turnover and past performance;
 - (d) require a concept for innovation of the good, work or service as a qualitative award criterion, including the feasibility and scalability of that innovative concept or its impact on the green, social or digital objectives set for the procurement;
 - (e) designate specific lots for innovation and provide clear, precise and unambiguous conditions for any additional purchases based on the contract awarded in that lot, if the solution proves successful;
 - (f) combine multiple phases of a works contract such as design, construction, operation, and maintenance into a single integrated contract;
 - (g) aggregate demand of innovative solutions and to allow for task distribution of testing and validation among public buyers;
 - (h) allow for experimentation, testing, validation, development, enhancement and reinvestment in the procurement procedure or contract implementation.
2. The techniques under paragraph 1 may, as appropriate to the technique and the type of solution concerned, take the form of specifications, selection criteria, quality considerations when applying the Best-Price Quality ratio method, or conditions for the performance of contracts.

Article 63

Intellectual Property Rights

1. The procurement documents shall clearly specify the allocation of any intellectual property rights necessary for the execution of the public contract and of any intellectual property rights originating from or arising in connection with such execution between the public buyer and economic operator to allow economic operators to assess the associated obligations and to prepare and price their tenders accordingly.
2. Any pre-existing intellectual property, software components, models, methods, platforms, or systems owned or controlled by the economic operator prior to or independently of the procurement shall in any case remain the property of the supplier and shall not be subject to ownership transfer obligations to the public buyer.
3. Public buyers may only require those intellectual property rights that are necessary for the performance, operation, and maintenance of the solutions and where these are

included the procurement documents in a proportionate, transparent and non-discriminate manner not distorting competition.

4. Notwithstanding paragraph 3, in contracts subject to an innovation challenge procedure pursuant to This part Title I, Chapter 4, suppliers shall retain ownership of the intellectual property rights of the innovative solution developed under this procedure, unless justified by overriding reasons of public interest which shall be indicated in the [competition information]. Such overriding reasons of public interest may relate inter alia to the need to prevent technological lock-in, or to protect the security or critical public services of the public buyer, a Member State or the Union.

Article 64

Building information modelling

1. For the execution of public works contracts with an estimated value equal to or greater than EUR 25,000,000, public buyers shall require the use of Building Information Modelling.
2. Public buyers may decide to only request the use of BIM from the contractor, certain contractors, or in certain lots, where such requirements would otherwise impose a disproportionate burden on the economic operators concerned and fully covering the project in BIM is not necessary.
3. 'Building Information Modelling' means the methodologies of collaborative digital processes using open, interoperable formats with the purpose of creating, managing and sharing structured information about a public works contract throughout its lifecycle.
4. The Commission shall be empowered to adopt a delegated act amending this Regulation to lower the threshold in paragraph 1 in accordance with Article 137.

Chapter 4 Security and Resilience

Article 65

Security considerations in public procurement

1. Public buyers shall take appropriate measures, where relevant at any stage of the procurement procedure, from planning and market consultation to contract award and execution, to ensure the protection of the security and public safety interests of the Union or one or several of its Member State for any public procurement procedure falling within the scope of this Regulation identified as presenting or including a risk for security or public safety, irrespective of the contract value.
2. Security and public safety interests of the Union or a Member State relevant for a given contract may include, but are not limited to, the following:
 - (a) protection of critical infrastructure, critical supply chains, critical technologies or essential services, resilience against physical, cyber, or hybrid threats, and prevention and protection against risks of their disruption including due to harmful strategic dependencies on third-country suppliers;
 - (b) prevention of espionage, sabotage or technology leakage;

- (c) crisis preparedness, including business continuity and contingency planning for disruptions in case of natural disasters or geopolitical instability, pandemics or cyberattacks;
 - (d) the prevention of other harmful interference, including non-EU and non-EU state-controlled influence;
 - (e) the cybersecurity of systems, networks, and data processed;
 - (f) the protection of classified information, sensitive data, research, or intellectual property from unauthorised access or transfer;
 - (g) ensuring public health, including crisis-prepared and self-sufficient health services; or
 - (h) protection against climate-related disruptions.
3. Risks for security or public safety in a public contract may arise in particular from:
- (a) the subject matter of the contract, such as:
 - (i) sensitivity of the assets involved or to be developed in its implementation;
 - (ii) access to and handling sensitive data;
 - (iii) critical dependency or risk of critical dependency on a limited number of non-EU suppliers;
 - (iv) risks associated with access to critical infrastructure, research facilities, IT systems, or critical materials;
 - (v) dual-use nature of the technologies, works, goods or services procured;
 - (vi) the nature of the public interests attached to it and the potential consequences of a malfunction or malperformance, such as harm to public safety, national security, economic stability, health security or fundamental rights.
 - (b) the characteristics of economic operators, such as:
 - (i) ownership, control, or financing structure bearing risks of undue interference or influence over it;
 - (ii) security track record, including past breaches, non-compliance with security standards, or exclusion from other procurement procedures on security grounds;
 - (iii) capacity to meet applicable security clearance, personnel vetting, or information security requirements;
 - (iv) exposure to third-country legislation that may compel disclosure of sensitive information or interference with contract performance.
4. Public buyers shall, to the extent possible specify in the procurement documents in a clear, sufficiently detailed manner appropriate measures that are proportionate to the risks referred to in paragraph 3 and non-discriminatory. They may be implemented, in particular through:
- (a) specifications, such as mandatory security standards, certifications, personnel vetting or security clearance obligations, or risk management and assurance requirements;

- (b) award criteria, such as evaluating bidders' security management systems, security compliance standards, incident response capabilities, supply chain security;
- (c) contract performance clauses, such as enabling security oversight of suppliers through audits, inspections, or documentation reviews and implementation of corrective measures in case of breaches, including provisions on subcontracting, ownership change notification, and the protection of classified or sensitive information;
- (d) selection criteria, where justified, such as possessing security clearances or otherwise requiring bidders to establish that they do not present unacceptable security risks pursuant to point (b) of paragraph 3. This shall be without prejudice to Article 28.

Public buyers may also indicate in the procurement documents which security measures they intend to implement where security risks arise during the procurement procedure.

5. Where there is evidence that disparities in measures affect the functioning of internal market, the Commission is empowered to adopt delegated acts in accordance with Article 137 in order to supplement this Regulation by establishing mandatory technical specifications, selection criteria, award criteria or contract performance clauses, for specific categories of goods, services or works where such elements address an identified specific security and public safety interest of the Union.

Article 66

Termination of contracts and exclusion of economic operators during contract implementation for security reasons

1. Without prejudice to Article 102 and the national contract law of the Member States, the public buyer may terminate a contract in whole or in part where it determines that the contractor has failed to comply with security obligations or a risk to security or public safety has materialised or is likely to materialise, or exclude certain economic operators for the same reasons.
2. Termination and exclusion pursuant to this Article shall be proportionate in relation to the security risk. Before terminating a contract or excluding an economic operator, the public buyer shall conduct a written assessment. The public buyer shall take into account in particular:
 - (a) the severity of the risk to security or public safety;
 - (b) the impact of termination on the delivery of public services;
 - (c) alternative mitigation measures such as contractual amendments or enhanced monitoring.
3. Unless justified by the severity of the risks involved, the imminence of the threat or where notification may aggravate the risk, the public buyer shall in a preparatory phase notify the contractor in writing of its intent to terminate or exclude, specifying:
 - (a) the grounds for termination or exclusion;
 - (b) the facts and evidence supporting the decision, with the exception of classified information;

- (c) the proposed date of termination or exclusion.
4. The contractor shall have at least ten calendar days to submit observations on the grounds for termination or exclusion and propose remedial actions. The public buyer may shorten the deadline in case of emergency.
 5. The contractor shall cooperate with the public buyer to secure or transfer data, documents, or assets related to the contract and ensure continuity of critical services during the transition period.

Article 67

Cybersecurity

1. For all products with digital elements that fall within the scope of Regulation (EU) 2024/2847, public buyers shall ensure compliance with the essential cybersecurity requirements set out in Annex I of that Regulation, including the manufacturers' ability to handle vulnerabilities effectively.
2. Without prejudice to paragraph 1, and without prejudice to Directive (EU) 2022/2555, public buyers may specify in the procurement documents requirements relating to cybersecurity for the works, supplies or services procured. To that end, they may include specifications, selection criteria, award criteria or contract performance clauses. Such requirements shall be linked to the subject matter of the contract and comply with the principles of transparency, non-discrimination and proportionality.

Article 68

Resilience and security of supply for critical entities or infrastructures

1. Where a public contract is intended to be performed for, or used by, an essential or important entity within the meaning of Directive (EU) 2022/2555 or that has been identified by a Member State as critical entity within the meaning of Directive (EU) 2022/2557, the public buyer shall consider including in the procurement documents requirements relating to security of supply, economic and geopolitical resilience, as well as transparency and sustainability of the supply chains for the works, supplies or services procured. Such requirements shall be based on the risks identified through a documented assessment of vulnerabilities and dependencies, in accordance with the obligation for risk assessment under [Article 12 of Directive \(EU\) 2022/2557](#) and where applicable, the cybersecurity risk-management obligations, laid down in [Article 21 of Directive \(EU\) 2022/2555](#).
2. Requirements referred to in paragraph 1 may be set out in specifications, selection criteria, award criteria or contract performance clauses, shall be linked to the subject matter of the contract and comply with the principles of transparency, non-discrimination and be limited to measures necessary and proportionate to address the identified risks.
3. Public buyers may, inter alia, require that the tender contains, or that the contract provides for, one or several of the following elements:
 - (a) Diversification of the supply chain, including recourse to a multi-source approach, geographic diversification of production, or limitation of dependency on a single third country or single economic operator from a third country;

- (b) Security of supply and continuity, including:
 - (i) certification or documentation demonstrating that the organisation and location of the tenderer's supply chain will allow it to comply with the security-of-supply requirements set out in the contract documents;
 - (ii) a commitment to ensure that possible changes in the supply chain during the execution of the contract will not adversely affect compliance with those requirements;
 - (iii) stockpiling obligations within the Union;
 - (iv) business continuity and disaster recovery plans;
 - (v) commitment from the tenderer to provide, according to terms and conditions to be agreed, the specific means necessary for the continued production or provision of spare parts, components, assemblies, software updates or testing equipment in the event that it is no longer able to ensure the supply itself.
 - (b) Crisis preparedness and surge capacity, including:
 - (i) a commitment from the tenderer to establish and/or maintain the capacity required to meet additional needs of the contracting authority or contracting entity as a result of a crisis, according to terms and conditions to be agreed;
 - (ii) crisis preparedness plans, mandatory training of management and key personnel, and incident notification to the contracting authority or contracting entity;
 - (b) Supply chain transparency and traceability where proportionate to the value of the contract and the risks involved, including the quality of supply chain management and contingency plans provided by the tenderers.
4. The Commission is empowered to adopt delegated acts in accordance with Article 137 in order to supplement this Regulation by establishing mandatory specifications, selection criteria, award criteria or contract performance clauses relating to resilience, security of supply, and supply chain transparency, for specific categories of works, supplies or services where a strategic dependency, a systemic risk or a critical-infrastructure dimension has been identified.
5. This Article is without prejudice to additional or mandatory requirements under relevant Union legislation and is without prejudice to the requirements under [Regulation \(EU\) 2019/1242](#) and [Regulation \(EU\) 2024/1735](#).

Chapter 5

European Preference

Article 69

Covered economic operators, goods, services or works

1. An economic operator shall be considered 'covered' for the purposes of this Regulation when it originates in:
 - (a) a third country that is party to the World Trade Organization Agreement on Government Procurement (GPA), provided that the procurement in question

falls within the scope of the commitments under the Union's Appendix I to the GPA, taking into account the [applicable] Annexes and the General Notes;

- (b) a third country that has concluded a bilateral or multilateral trade agreement with the Union, under the conditions laid down in that agreement, provided that the procurement in question falls within the scope of the Union's public procurement commitments in that agreement.
2. Goods, services or works shall be considered 'covered' for the purposes of this Regulation when it originates in:
 - (a) a third country that is party to the GPA, provided that the procurement in question falls within the scope of the commitments under the Union's Appendix I to the GPA, taking into account the applicable Annexes and the General Notes;
 - (b) a third country that has concluded a bilateral or multilateral trade agreement with the Union, under the conditions laid down in that agreement, provided that the procurement in question falls within the scope of the public procurement commitments in such agreement.

Article 70

Determining coverage for third country covered economic operators goods, services or works

1. The Commission shall establish and make available free of charge a publicly accessible online tool ["Procurement for Buyers" module of Access2Market database], with a view to enabling public buyers to determine, for the purposes of a given procurement procedure, which economic operators, goods, services and works are covered in accordance with Article 69. Public buyers shall make a determination to that effect exclusively on the basis of that online tool.
2. The Commission shall keep the online tool updated to reflect any change in the Union's commitments in the field of public procurement, including:
 - (a) union acts, in particular Commission decisions to exclude in whole or in part, a third country's economic operators, goods, services or works from public procurement procedures in the Union, in accordance with the applicable EU legislation;
 - (b) Union measures with regard to covered economic operators goods, services or works, in accordance with Article 71.
 - (c) Union measures with regard to non-covered economic operators, goods, services or works, in accordance with Article 74.

Article 71

Restrictions on covered economic operators, goods, services or works

The Commission is empowered to adopt delegated acts in accordance with Article 137 to amend Article 69 by establishing that shall not be considered as covered, covered economic operators from certain third countries, and/or all or certain covered goods, services, or works where:

- (a) the Commission has established, on the basis of a factual market access analysis, that their country of origin has failed to provide national treatment related to Union economic operators, goods, services and works contrary to its commitments on public procurement in an international agreement with the Union; or
- (b) such exclusion is justified to avoid dependencies or any other developments that may threaten the security of supply in the Union of the relevant goods; or
- (c) such restriction is necessary to protect public morals, public order or public safety, human, animal or plant life or health, or intellectual property or the Union's essential security interests.

Article 72

European preference requirements

1. Public buyers may:
 - (a) restrict participation only to economic operators and subcontractors originating in the Union and those that are covered, or, in the case of groups of economic operators, or any other form of joint participation, to groups which are either composed solely of Union or covered economic operators or to groups where most, but not all members of the group are Union or covered economic operators.
 - (b) reject a tender in the course of a procedure where it is not submitted by Union or covered operators or groups thereof as referred to in point (a).
2. Public buyers may do one or more of the following:
 - (a) require that the goods, services and works offered originate in the Union or be covered goods, services or works, either fully, or to a certain degree, or for specific components, products, services or works;
 - (b) solely for the purposes of evaluation and ranking of tenders in the award phase without affecting the price payable under the contract, apply a percentage reduction to the price of the tender or the allocation of additional award points, where:
 - (i) the tender is submitted only by a Union or covered economic operator or, in the case of groups of economic operators, or any other form of joint participation, to groups composed solely of such operators or to groups where most, but not all members of the group are covered economic operators, or
 - (ii) the tender contains a higher proportion of Union or covered goods, services or works, in comparison with the other submitted tenders.
 - (b) reject a tender where the value of covered goods, services or works contained in the tender is below 50 % of the total estimated value of the tender.
3. The measures referred to in paragraph 2 may only be applied if they have been clearly stated by the public buyer in the competition information. The competition information shall specify the goods, services or works required to be of Union or covered origin, well as the percentage of reduction or award points allocation, together with the corresponding value that the public buyer will apply for the evaluation and ranking of tenders in the award phase. Public buyers applying the

measures set out in this article shall report any indications of circumvention by an economic operator [through the National Public Procurement Data Space / to the competent national authorities].

Article 73

Origin

1. The origin of economic operators shall be determined in accordance with Article 3 of Regulation (EU) 2022/1031.
2. The origin of goods shall be determined in accordance with Article 60 of Regulation (EU) No 952/2013.
3. The origin of services shall be determined on the basis of the origin, in accordance with paragraph 1, of the economic operator or subcontractor providing the service.
4. The overall origin of works shall be determined pursuant to the origin of the economic operator, or subcontractor, providing it. For the European preference requirements, pursuant to Articles 72, 74 and 75, public buyers may determine separately the origin of the goods used as part of the works pursuant to paragraph 2.

Article 74

Union restriction for third country non covered economic operators, goods, services and works

The Commission is empowered to adopt delegated acts, in accordance with Article 137, to amend Article 72 to require public buyers to apply any of the restrictive measures set out in Article 72 in relation to economic operators, goods services and works that are not covered by Union's international commitments

Article 75

Framework for mandatory European preference in sector-specific EU legal acts

Where Union legislation requires public buyers to restrict participation or give preference to Union and covered economic operators or Union or covered goods, services or works, the rules set out in this Chapter shall apply to the modalities of such preference unless regulated otherwise in the Union legislation in question.

Article 76

Exceptions

Public buyers may decide not to apply European preference requirements, pursuant to the delegated acts adopted pursuant to Articles 70, 74 and 75 where:

- (a) the contracts in question are governed by Article 49;
- (b) the required products or services cannot be supplied by a Union or covered economic operator, and no reasonable alternative or substitute exists; or,
- (c) no suitable tenders or requests to participate have been submitted, including in response to a similar public procurement procedure launched by the same public buyer in the two years preceding the launch of the planned new procurement procedure; or,

- (d) the application of such European preference requirements would entail that a public buyer would have to acquire goods, services or works at disproportionate costs.

Title III

Horizontal provisions

Chapter 1

Excluded and mixed contracts

Article 77

Defence and security contracts

1. This Regulation shall not apply to public contracts the subject-matter of which fall within the scope of Directive 2009/81/EC, but which are excluded from its scope pursuant to its Articles 8, 12 or 13.
2. This Regulation shall not apply to public contracts not otherwise exempted under paragraph 1, to the extent that the protection of the essential security interests of a Member State cannot be guaranteed by less intrusive measures, in particular the measures indicated in This part Title II, Chapter 4 or requirements aimed at protecting the confidential nature of information, which the public buyer makes available in a contract award procedure as provided for in this Regulation.
3. Furthermore, and in conformity with point (a) of Article 346(1) TFEU, this Regulation shall not apply to public contracts not otherwise exempted under paragraph 1 of this Article to the extent that the application of this Regulation would oblige a Member State to supply information the disclosure of which it considers contrary to the essential interests of its security.
4. Where the procurement and performance of the public contract are declared to be secret or must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force in a Member State, this Regulation shall not apply provided that the Member State has determined that the essential interests concerned cannot be guaranteed by less intrusive measures, such as those referred to in the first subparagraph of paragraph 2.

Article 78

Local and regional administrative cooperation

1. This Regulation shall not apply to situations where public buyers that are regional or local authorities entrust each other with the performance of tasks incumbent on them, or use each other's own resources for that purpose, including in exchange for remuneration only, provided that the task is performed by themselves by means of their own resources; own resources do not include goods not yet acquired or services that are being provided to one of the participating local or regional authorities by an economic operators or legal persons entrusted pursuant to Article 11 paragraphs 1 to 3.
2. For the purpose of this Article, 'regional authorities' includes authorities listed non-exhaustively in NUTS 1 and 2, as referred to in Regulation (EC) No 1059/2003

of the European Parliament and of the Council (1), while ‘local authorities’ includes all authorities of the administrative units falling under NUTS 3 and smaller administrative units, as referred to in Regulation (EC) No 1059/2003.

Article 79

Other public contracts excluded

1. This Regulation shall not apply to:
 - (a) public service contracts awarded by a public buyer to another public buyer or to an association of public buyers on the basis of an exclusive right which they enjoy pursuant to a law, regulation, or published administrative provision which is compatible with the TFEU;
 - (b) public contracts for the purpose of permitting the public buyers to provide or exploit public communications networks or to provide to the public one or more electronic communications services; for the purposes of this Article, ‘public communications network’ and ‘electronic communications service’ shall have the same meaning as in [Directive 2002/21/EC of the European Parliament and of the Council](#);
 - (c) public contracts which have to be organised in accordance with procurement procedures different than those laid down in this Regulation where such procedures have been established:
 - (i) by an international agreement in accordance with the Treaties and concern a common project implementation which requires common purchasing;
 - (ii) by an international organisation, or
 - (iii) by an international financing institution fully financing a concerned project; where the concerned project is co-financed for the most part by such institution, the parties shall agree which procurement rules shall be applicable;
 - (b) the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property or concerning rights thereon;
 - (c) the acquisition, development, production or co-production of programme material intended for audiovisual media services or radio media services within the meaning of [Directive 2010/13/EU](#);
 - (d) legal services which are related to representation in Court proceedings or the exercise of public office, including document certification and authentication services which must be provided by notaries;
 - (e) arbitration and conciliation services;
 - (f) financial services within the meaning of [Directive 2004/39/EC](#), central bank services and operations conducted with the European Financial Stability Facility and the European Stability Mechanism;
 - (g) valuation services referred to in [Articles 36](#) and [74 of Directive 2014/59/EU of the European Parliament and of the Council](#)
 - (h) grants, financing, investments or loans, whether or not in connection with the issue, sale, purchase or transfer of securities or other financial instruments;

- (i) civil defence, civil protection, and danger prevention services that are provided by non-profit organisations or associations, and which are covered by CPV codes 75250000-3, 75251000-0, 75251100-1, 75251110-4, 75251120-7, 75252000-7, 75222000-8, 98113100-9 and 85143000-3 except patient transport ambulance services;
 - (j) political campaign services covered by CPV codes 79341400-0, 92111230-3 and 92111240-6, when awarded by a political party in the context of an election campaign;
 - (k) employment contracts;
 - (l) contracts for public passenger services by rail or metro;
2. Without prejudice to paragraph 1, where activities in the field of utilities pursuant to Part II, Title I, Chapter 2 are concerned, this Regulation shall not apply to:
- (a) contracts for the purchase of water if awarded by contracting entities engaged in one or both of the activities relating to drinking water referred to in Article 16;
 - (b) contracts awarded by contracting entities themselves being active in the energy sector by being engaged in an activity referred to in Article 14(1) Article 15(1) or Article 20 for the supply of energy or of fuels for the production of energy;
 - (c) contracts awarded by contracting entities for purposes of resale or lease to third parties provided that the contracting entity enjoys no special or exclusive right to sell or lease the subject of such contracts, and other entities are free to sell or lease it under the same conditions as the contracting entity;
 - (d) contracts awarded by contracting entities for purposes other than the pursuit of their activities as described in Article 13 or for the pursuit of such activities in a third country in conditions not involving the physical use of a network or geographical area within the Union nor shall it apply to design contests organised for such purposes.

Article 80

Research and development

1. This Regulation shall not apply to public service contracts for the procurement of research and development services meaning basic research, applied research and experimental development by way of:
 - (a) research and development services and related consultancy (CPV codes 73000000-2 to 73120000-9);
 - (b) design and execution of research and development (CPV code 73300000-5);
 - (c) pre-feasibility study and technological demonstration (CPV code 73420000-2);
 - (d) test and evaluation (CPV code 73430000-5).
2. Without prejudice to paragraph 1, this Regulation shall not apply to pre-commercial procurement. Pre-commercial procurement may include the acquisition by the public buyer of prototypes or first goods or services that are developed at its request in the course of, and for, a particular contract for research, experiment, study or original development. Original development of a first good or service may include limited

production or supply in order to incorporate the results of field testing and to demonstrate that the good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs.

Article 81

Mixed procurement involving defence or security aspects

1. In the case of mixed contracts which have as their subject-matter procurement covered by this Regulation as well as procurement covered by [Article 346 TFEU](#) or [[Directive 2009/81/EC](#)], this Article shall apply.
2. Where the different parts of a given public contract are objectively separable, public buyers may choose to award separate contracts for the separate parts or to award a single contract.
3. Where public buyers choose to award separate contracts for separate parts, the decision of which legal regime applies to any one of such separate contracts shall be taken on the basis of the characteristics of the separate part concerned.
4. Where public buyers choose to award a single contract, the following criteria shall apply to determine the applicable legal regime:
 - (a) where part of a given contract is covered by [Article 346 TFEU](#), the contract may be awarded without applying this Regulation, provided that the award of a single contract is justified for objective reasons;
 - (b) where part of a given contract is covered by [Directive 2009/81/EC](#) the contract may be awarded in accordance with that Directive, provided that the award of a single contract is justified for objective reasons. This point shall be without prejudice to the thresholds and exclusions for which that Directive provides.
5. The decision to award a single contract shall not, however, be taken for the purpose of excluding contracts from the application of either this Regulation or Directive 2009/81/EC.
6. Point (a) of the third subparagraph of paragraph 2 shall apply to mixed contracts to which both point (a) and point (b) of that subparagraph could otherwise apply.
7. Where the different parts of a given contract are objectively not separable, the contract may be awarded without applying this Regulation where it includes elements to which [Article 346 TFEU](#) applies; otherwise it may be awarded in accordance with [[Directive 2009/81/EC](#)].

Article 82

Other mixed contracts

1. Contracts which have as their subject two or more types of procurement (works, services or supplies), or partially the pursuit of an activity in the field of utilities pursuant to Part II, Title I, Chapter 2, shall be awarded in accordance with the provisions applicable to the type of procurement that characterises the main subject of the contract in question.
2. In the case of mixed contracts consisting partly of social, health and educational services within the meaning of Article 59 and partly of other services, or in the case

of mixed contracts consisting partly of services and partly of supplies, the main subject shall be determined in accordance with which of the estimated values of the respective services or supplies is the highest.

3. In the case of contracts which have as their subject-matter procurement covered by this Regulation as well as procurement not covered by this Regulation, this Regulation shall apply irrespective of the main subject or of the value of the parts that would otherwise fall under a different legal regime, unless otherwise provided in Article 81.

Chapter 2

Subject matter of the contract and means of proof

Article 83

Specifications

1. Public buyers shall, as part of the procurement documents, set out specifications defining the characteristics of the works, supplies or services that are subject of the procurement. Specifications shall be defined in objective, clear and measurable terms, and formulated so as to allow interested economic operators to identify the subject-matter of the contract and to allow public buyers to assess alignment of tenders with the specifications.
2. These characteristics, may, to the extent they are linked to the subject-matter of the contract according to Article 85 relate to methods or specific processes of production or to strategic aspects as defined in This part Title II.
3. The specifications shall describe the characteristics of the solution to be procured in terms of functional requirements.
4. By means of derogation from paragraph 2, where characteristics cannot be sufficiently described in functional requirements, or where standards are mandatory by Union law, requirements in specifications may be formulated in any of the following ways by reference to harmonised standards cited in the Official Journal of the EU or in order of preference:
 - (a) to national standards transposing European standards;
 - (b) European Assessments Documents;
 - (c) common technical specifications;
 - (d) international standards;
 - (e) other technical reference systems established by the European standardisation bodies; or
 - (f) when any of the above does not exist: national standards, national technical approvals or national technical specifications relating to the design, calculation and execution of the works and use of the supplies; each reference shall be accompanied by the words 'or equivalent' unless the reference is made to mandatory harmonised technical specifications.
5. Specifications shall not refer to a specific make or source, or a particular process which characterises the products or services provided by a specific economic

operator, or to trademarks, patents, types or a specific origin or production, having the effect of favouring or eliminating certain undertakings or products.

6. Such reference shall only be allowed on an exceptional basis, where a minimum level of precision pursuant to paragraph 1 to 3 is otherwise not possible. Such reference shall be accompanied by the words ‘or equivalent’.
7. Where a public buyer uses the option of referring to the standards or specifications referred to in paragraph 3, it shall not reject a tender on the grounds that the solutions offered do not comply with the standards or specifications, to which it has referred, as long as the tenderer proves in its tender that the solutions proposed satisfy the requirements in a manner equivalent to the requirements defined in the specifications. The tender may provide the proof by any appropriate means, including the means of proof referred to in Article 87.

Article 84

Variants

1. Where public buyers do not fully formulate specifications in the form of functional requirements pursuant to Article 83(2), they shall consider whether to allow variants. Where public buyers do not allow variants pursuant to the first sentence, they shall provide the main reasons for that decision in the procurement documents.
2. Public buyers shall indicate in the competition information or the procurement documents whether or not they allow variants. Public buyers shall specify any essential requirements that variants must satisfy, provided that they do not unnecessarily restrict the ability of economic operators to propose alternative solutions capable of meeting the buyer’s needs and objectives. Variants shall be linked to the subject-matter of the contract pursuant to Article 85 and evaluated on the basis of the same award criteria as non-variant tenders.

Article 85

Link to the subject matter

1. Selection criteria, award criteria, specifications, and the conditions for performance of the contracts shall be linked to the subject matter of the contract.

Such a link shall be considered to exist when the condition, requirement or criterion in question relates to the works, supplies or services to be provided under the contract at any stage of their life cycle.
2. The link to the subject-matter may be either direct, in that the condition, requirement or criterion in question is intrinsically related to the material substance of the subject-matter of the contract, or indirect.
3. A condition, requirement or criterion shall be considered to be indirectly linked to the subject-matter of the contracts, where, without being part of the material substance of the works, services or supplies in question, it specifically impacts those works, services or supplies as regards their preparation, production or any other stage of their life-cycle to the extent covered by the contract, including the working conditions of the workers involved in any of those stages of the life-cycle.

Article 86

Labels

1. Where public buyers intend to purchase solutions with specific environmental, social or other characteristics, they may, in the specifications, the award criteria or the contract performance conditions, require a specific label as proof that the works, services and supplies correspond to the required characteristics, provided that all of the following conditions are fulfilled:
 - (a) the label requirements only concern criteria which are linked to the subject matter of the contract and are appropriate to define characteristics of the solutions that are the subject-matter of the contract;
 - (b) the label requirements are based on objectively verifiable and non-discriminatory criteria;
 - (c) the labels are established in an open and transparent procedure in which all relevant stakeholders, including government bodies, consumers, social partners, manufacturers, distributors and non-governmental organisations, may participate;
 - (d) the labels are accessible to all interested parties;
 - (e) the label requirements are set by a third party over which the economic operator applying for the label cannot exercise a decisive influence.

In addition to the conditions set out in the first sub-paragraph, where public buyers require an ecolabel, the label shall be an EU Ecolabel, provided that the works, supplies or services in question are covered by EU Ecolabel criteria adopted pursuant to Regulation (EC) No 66/2010, and, in any event the label shall be a label of the EN ISO 14024 type I.

Where public buyers do not require the works, services and supplies to meet all the label requirements, they shall indicate which label requirements have to be met.

2. Public buyers that require a specific label shall accept all other labels that confirm that the works, supplies, or services meet equivalent requirements.
3. Where an economic operator had demonstrably no possibility of obtaining the specific label indicated by the public buyer or an equivalent label within the relevant time limits for reasons that are not attributable to that economic operator, the public buyer shall accept other appropriate means of proof, which may include a technical dossier from the manufacturer, provided that the economic operator concerned proves that the work, service or supply to be provided by it fulfil the requirements of the specific label or the specific requirements indicated by the public buyer.

Where a label fulfils the conditions under points (b), (c), (d) and (e) of paragraph 1 but also sets out requirements not linked to the subject-matter of the contract, contracting authorities shall not require the label as such but may define the specifications by reference to those of the detailed specifications of that label, or, where necessary, parts thereof, that are linked to the subject-matter of the contract and are appropriate to define characteristics of this subject-matter.

Article 87

Means of proof for product requirements

1. Public buyers may require that economic operators provide the declaration of conformity or a declaration of performance and conformity of a product through the digital product passport or other equivalent electronic means as means of proof of conformity or compliance with requirements or criteria set out in the technical specifications, the award criteria or the contract performance conditions.
2. Public buyers may require a test report from a notified body, a technical assessment body, a conformity assessment body or a certificate issued by such a body as means of proof of conformity with requirements or criteria set out in the technical specifications, the award criteria or the contract performance conditions.

Where public buyers require the submission of certificates drawn up by a specific notified body, a technical assessment body or conformity assessment body, certificates from equivalent other notified bodies, technical assessment bodies or conformity assessment bodies shall also be accepted by the public buyers.

For the purpose of this paragraph, a conformity assessment body shall be a body that performs conformity assessment activities including calibration, testing, certification and inspection accredited in accordance with [Regulation \(EC\) No 765/2008 of the European Parliament and of the Council \(31\)](#).

For the purpose of this paragraph, a technical assessment body and a notified body shall be a body established in accordance with [Regulation \(EU\) 2024/3110](#).

3. Public buyers may accept other appropriate means of proof than those referred to in paragraph 1, such as a technical dossier of the manufacturer where the economic operator concerned had no access to the certificates or test reports referred to in paragraph 1, or no possibility of obtaining them within the relevant time limits, provided that the lack of access is not attributable to the economic operator concerned and provided that the economic operator concerned thereby proves that the works, supplies or services provided by it meet the requirements or criteria set out in the specifications, the award criteria or the contract performance conditions; and that the existence of such documents is not a condition sine qua non pursuant other Union legislation.

Chapter 3

Conduct of the procedure

Article 88

Confidentiality

1. The public buyer shall not disclose information provided by economic operators which they have designated as confidential, including, but not limited to, technical or trade secrets and the confidential aspects of tenders, unless otherwise provided in this Regulation or in the national law to which the public buyer is subject, in particular legislation concerning access to information.
2. Public buyers may impose on economic operators requirements aimed at protecting the confidential nature of information which the public buyers make available throughout the procurement procedure or in contract implementation.
3. Where justified by security reasons, including but not limited to essential national security interests or the security of the Union, public buyers may restrict the information that they provide to economic operators

- (a) to certain stages of the procurement procedure; or
- (b) make the access to information conditional to having taken certain security measures, in particular having acquired security clearance in the Member State where the public contract is to be performed.

Article 89

Conflict of interest

1. Public buyers shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures, including the design and preparation of the procedure and the staff involved, the drawing-up of the procurement documents, the selection of economic operators and the award of the contract, so as to avoid any distortion of competition and ensure equal treatment of all economic operators, as well as in the contract implementation.
2. The rules referred to in paragraph 1 shall apply to conflicts of interests involving at least the following categories of persons:
 - (a) staff members of the public buyer, procurement service providers or staff members of other service providers who are involved in the conduct of the procurement procedure or may or may influence its outcome;
 - (b) the members of decision-making bodies of the public buyer, or of other bodies that influence the decision making of the public buyer, who may influence the outcome of the procurement procedure, without necessarily being involved in the conduct of the that procedure.
3. Staff members referred to in paragraph 2 are required to declare any conflict of interests in relation to any of the economic operators participating in a procurement procedure, as soon as they become aware of such conflicts, in order to enable remedial action.

Public buyers may require that economic operators declare in their expression of interest, tender or at the beginning of negotiations the existence of any privileged links with the persons referred to in point (b) of paragraph 2, which may place those persons in a situation of conflict of interests, as well as a conflict of interest in relation to the subject matter of the procurement procedure.
4. Without prejudice to Article 136(3), remedy measures shall primarily include the recusal of the staff member in question from involvement in the affected procurement procedure or the re-assignment of the staff member's duties and responsibilities.

Where a conflict of interests cannot be effectively remedied by other means, the economic operator concerned shall be excluded from the procedure only after it has been given the opportunity to prove that the situation of suspected conflict of interest does not distort competition.
5. All conflicts of interests identified or declared and the remedy measures taken shall be documented pursuant to Article 104.

Article 90

Prior involvement of economic operators

1. Where an economic operator has been involved in the preparation of the procurement procedure, the public buyer shall take appropriate measures to ensure that competition is not distorted by the participation of that economic operator.

Preparation of the procurement procedure within the meaning of this Article shall not include participation in the market consultation.

2. The measures referred to in paragraph 1 shall include making available relevant information exchanged or obtained during the preparation to all interested economic operators, as well as setting appropriate time-limits to ensure fair competition.
3. The economic operator concerned shall only be excluded from the procedure where there are no other means to ensure equal treatment and after it has been given the opportunity to prove that its prior involvement does not distort competition.
4. The measures shall be documented pursuant to Article [individual report].

Article 91

Setting time limits

1. When setting the time limits for expressions of interest or the receipt of tenders and without prejudice to the minimum and maximum time limits set out in This part Title I, public buyers shall take account of the nature and complexity of the contract, the necessity of on-site inspections, and the time required for drawing up tenders.
2. Public buyers shall extend time limits set for the receipt of tenders in case of additional information or significant changes. The length of the extension shall be proportionate to the relevance and complexity of the information or change.

Article 92

Availability of procurement documents

1. Public buyers shall by electronic means ensure unrestricted and full direct access free of charge to the procurement documents from the date of publication of a competition information until three years after the award of the contract.
2. Where for certain procurement documents such access cannot be provided, public buyers may indicate in the notice how these parts of the procurement documents will be made available by other than electronic means.
3. Public buyers shall provide without undue delay to all economic operators all additional information relating to the specifications and any supporting documents necessary for the submission of tenders provided that it has been requested in good time.
4. This Article is without prejudice to Article 88(2).

Article 93

Award criteria

1. Public buyers shall award the contract to the economic operator that offers the best quality for money.

To that effect, public buyers shall evaluate the tenders received according to the best price-quality ratio method, through applying award criteria with the minimum quality weighting pursuant to paragraph 4, except as provided for in paragraph 5.

2. To determine the best price-quality ratio, public buyers shall evaluate the tenders through a comparison of their price, costs and quality, the latter based on quality criteria linked to the subject matter of the contract.

Quality criteria shall refer to any criteria used to assess to which degree a tender proposes beneficial, efficient or sustainable outcomes in relation to the subject matter of the contract.

The quality of the tender may, for instance, relate to the following aspects:

- (a) technical merit, aesthetic and functional characteristics, accessibility, design for all users, and production methods;
- (b) environmental considerations, as defined in Article 52, social considerations, as defined in Article 56, innovative considerations, as defined in Article 60, security and resilience considerations, as described in Article 65; or European preference requirements where a public buyer applies those in form of an allocation of award points pursuant to Article 72(2), point (b);
- (c) quality of the staff assigned that can significantly impact the level of performance of the contract, such as organisation, qualification and experience of the staff assigned to performing the contract;
- (d) after-sales service and technical assistance, delivery conditions such as date at which or period during which the delivery is to take place or to be completed.

Public buyers may also establish a fixed price on the basis of which economic operators are to compete on quality criteria only.

3. Award criteria shall be proportionate, specific, objective and measurable, shall allow the public buyer to effectively compare the strengths and weaknesses of the offered goods, services, works, and shall not have the effect of conferring an unrestricted freedom of choice on the public buyer.

Public buyers shall specify, in the competition information, the criteria and their relative weighting chosen to determine the best price-quality ratio.

The weight of quality criteria shall represent at least 30 % of total points awarded.

For contracts where the subject-matter is labour-intensive, the weight of quality criteria shall represent at least 50% of total points awarded.

Where, pursuant to Article 94, public buyers apply life-cycle costing, the weight given to life-cycle costs shall be counted within the respective percentage share.

4. Public buyers may derogate from the second subparagraph of paragraph 1 and from paragraph 3, where the quality of the product, service or works procured can be ensured by any of the following:

- (a) specifications;
- (b) where relevant, contract performance clauses;
- (c) a combination of any of the following: quality based award criteria, specifications and contract performance clauses.

Public buyers shall indicate in the competition information which of the hypothesis set out in subparagraph 1 justifies derogating from paragraph 1 and from paragraph 3.

Article 94

Life-cycle costing

1. Life-cycle costing shall, to the extent relevant, cover parts or all of the following costs over the life cycle of a product, service or works:
 - (a) costs borne by the public buyers or other parties for purchase of the solution, costs of use, consumption of energy and other resources, maintenance costs and end of life costs, such as collection and recycling costs;
 - (b) Costs imputed to environmental externalities linked to the product, service or works during its life cycle, provided their monetary value can be determined and verified; such costs may include the cost of emissions of greenhouse gases and of other pollutant emissions and other climate change mitigation costs.
2. Where public buyers assess the costs using a life-cycle costing approach they shall indicate in the procurement documents the data to be provided by the tenderers and the method which the public buyer will use to determine the life-cycle costs on the basis of those data.
3. The methods used for assessment of costs imputed to environmental externalities shall be accessible to all interested parties and based on objectively verifiable and non-discriminatory criteria. In particular, when the method has not been established for repeated or continuous application, it shall not unduly favour or disadvantage certain economic operators.

Article 95

Division into lots

1. Public buyers shall consider whether to divide contracts into lots.

In assessing whether a contract should be divided into lots, public buyers shall also take into account, where relevant, the potential contribution of such division to reducing dependency on a single supplier, strengthening supply chain resilience and security of supply, or fostering innovation.
2. Where public buyers consider that division into lots is not appropriate, they shall provide an indication of the main reason therefore in the procurement documents or in the individual documentation pursuant to Article 104.
3. Where public buyers decide to divide a contract into lots, they shall do so in a way that the scope, size, number and nature of lots are proportionate to the subject matter and complexity of the contract.
4. Public buyers may allow economic operators to bid for one lot, multiple lots or all lots. They shall indicate in the [competition information] or in the procurement documents, the number of lots for which a tenderer may submit a tender.
5. Public buyers may limit the number of lots that may be awarded to a single tenderer. Where they do so, they shall state the maximum number, and where applicable possible combinations, of lots in the [competition information] or in the procurement

documents. They may also indicate objective and non-discriminatory criteria they intend to apply to determine which lots a tenderer shall be awarded where a tenderer would otherwise be awarded more lots than the maximum number permitted.

Article 96

Abnormally low tenders

1. Public buyers shall require tenderers to explain their price and costs where these are significantly below:
 - (a) the other tenders received in the procurement procedure;
 - (b) the public buyer's estimation of contract value, in particular where it was based on market consultation and including all costs such as for labour, materials and logistics and other contractual requirements as well as other life-cycle costing; or,
 - (c) contract values in past procurement procedures with a comparable subject-matter, in particular in past estimations, tenders or prices paid by the same public buyer or other public buyers.
2. The explanations of the tenderer shall establish the economic viability and sustainability of its price and costs over the lifetime of the contract. They may in particular relate to:
 - (a) the economics of the manufacturing process, of the services provided or of the construction method or the technical solutions chosen;
 - (b) exceptionally favourable conditions, including state aid where compatible with the internal market; and
 - (c) whether the tenderer complies with all regulatory obligations and strategic requirements pursuant to [strategic chapters] applicable to the contract.
3. Where the public buyer deems the explanations to be satisfactory to ensure performance over the lifetime of the contract, it shall record its assessment in the individual documentation pursuant to Article [99].
4. Where the evidence supplied does not satisfactorily account for the low level of price or costs proposed or compliance with the obligations, public buyers shall exclude the tenderer from the procurement procedure.
5. Where the tenderer has been subject, in the three years preceding the procurement procedure, to a decision pursuant to Article 31 paragraph 2 of Regulation (EU) 2022/2560, prohibiting the award to the economic operator concerned of a contract in the same field of activity, the abnormally low character of the tender shall be presumed. Except where the economic operator concerned positively proves that its tender is not abnormally low in accordance with paragraph 2, the economic operator shall be excluded from the procurement procedure.

Article 97

Corrections during procedures and cancellation

1. Before the deadline for each submission of tenders or start of negotiations, public buyers may make corrections to the procurement documents without initiating a new procurement procedure or [modifying the competition information] provided that:

- (a) the correction does not change the subject-matter or scope of the procurement; and,
- (b) the correction is indicated clearly in updated procurement documents made available to all economic operators concerned.

If the correction is done less than 24 hours before the deadline for submission of tenders, the deadline shall be extended by a minimum of two working days, or more where warranted due to the nature and complexity of the correction.

2. The public buyer shall cancel the procurement procedure if it identifies material errors in the procurement procedure that cannot be corrected by any other means and that are liable to distort competition.

Article 98

Framework agreements

1. Public buyers may use the procedures in This part Title I, Chapter 2 and This part Title I, Chapter 3 to conclude a framework agreement.
2. The term of a framework agreement shall not exceed the following duration from the time that the result information including the economic operators with whom the framework agreement is concluded, is published:
 - (a) three years for framework agreements with one economic operator; or
 - (b) five years for framework agreements with several economic operators.
3. Where a public buyer intends to conclude a framework agreement, it shall indicate so in the competition information. The information shall also include the maximum cumulative value and volumes of contracts concluded under the framework agreement over its duration.
4. The [competition information] shall also include the non-discriminatory and objective criteria that shall be used to conclude subsequent contracts based on the framework agreement.

Chapter 4 Contract execution

Article 99

Conditions for the performance of contracts

Public buyers may lay down conditions relating to the performance of a contract, provided that they are linked to the subject-matter of the contract in accordance with Article 85 and clearly indicated in the procurement documents.

Those conditions may, in addition to general contractual, technical, quality and economic aspects, such as price indexation, also include conditions related to strategic considerations, including:

- (a) environmental considerations as defined in Article 52, such the handling of waste, compliance with sustainability due diligence and reporting in the execution of the contract, or other requirements in a circular economy;

- (b) employment and other social considerations as defined in Article 56, such as fair working conditions of the workers employed in the execution of the contract, including remuneration as well as health at work;
- (c) innovation considerations, as defined in Article 60, such as continued testing and improvement of the solution;
- (d) security and resilience considerations as described in Article 65, such as security clearance of the personnel, handling restrictions or continued observance and improvement of the supply chain.

Article 100

Adjustment mechanisms

1. Public buyers may include in the procurement documents clauses establishing mechanisms for the adjustment of the economic conditions of the contract throughout its duration, provided that such mechanisms are objectively justified by the nature of the contract and maintain the economic balance between the parties and that the clauses are clear, precise and unequivocal.
2. The mechanisms referred to in paragraph 1 may relate, in particular, to:
 - (a) predefined rules for the adjustment of revenues, including variations linked to demand or usage levels;
 - (b) indexation mechanisms, including those linked to objective economic indicators, such as price indices, inflation rates or input costs;
 - (c) performance-based payment adjustments, based on the achievement of qualitative or quantitative objectives relating to the supply of works or services.

Article 101

Modifications of contracts after the award

1. Public buyers may modify awarded contracts during their term without a new award procedure provided that the modification is not substantial within the meaning of paragraph 2 or falls within any of the cases listed in paragraph 3, and provided that the modification responds to objective needs arising during the performance of the contract, is limited to what is necessary and appropriate for ensuring its performance and continuity, and does not alter the essential terms of the contract as initially awarded.
2. A modification shall be considered substantial where had it been part of the original contract would have changed significant contractual provisions or tender conditions, such as the scope of the contract, its economic balance or the original contractor in other cases than those provided for in paragraph 3, point (c).
3. Provided that they do not alter the initial economic balance of the contract, substantial modifications shall be permissible within the meaning of paragraph 1 only in the following cases:
 - (a) where additional works, services, or supplies have become necessary during performance of the contract, and a change of contractor is not technically or economically feasible, including due to interdependence with existing works or services or substantial increase of costs;

- (b) where the modification is necessary due to circumstances which could not reasonably be anticipated by a diligent public buyer at the time of the award of the contract, and which significantly affect the performance or feasibility of the contract, such as
 - (i) substantial changes in the applicable regulatory or legal framework;
 - (ii) major technological developments;
 - (iii) severe disruptions, emergencies or crises with significant economic, societal or operational impact;
 - (b) where the original contractor is replaced by another entity:
 - (i) where, following a merger, takeover, acquisition, insolvency or other corporate restructuring, another economic operator succeeds, wholly or partly, to the rights and obligations of the initial contractor and where the new entity meets the original qualitative criteria; provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Regulation; or
 - (ii) in the event that the public buyer itself assumes the main contractor's obligations towards its subcontractors where this possibly is provided for under national legislation.
4. Before modifying the contract, the public buyer shall establish, on the basis of objective and verifiable elements, that the conditions set out in paragraph 1 are satisfied. Public buyers shall maintain detailed written records with respect to the essential elements of the modification, including its justification, its necessity or appropriateness, and its impact on the allocation of risks and economic advantages, to justify decisions relating to the modification and to enable verification of compliance with this Article by competent supervisory, audit and review bodies.
5. Before any modification of a contract that exceeds 50 % of the initial estimated value of the contract, the public buyers shall publish modification information to that effect. Such notice shall contain the justification for the modification without a new award procedure and be published in accordance with Article 105. Where several successive modifications are made that individually exceed 50 % of the initial estimated value of the contract, this obligation shall apply to each of such modifications. Consecutive modifications shall not be aimed at circumventing this Regulation.
- For the purpose of the calculation of the value referred to in paragraph 1, the updated value shall be the reference value when the contract includes an indexation clause. If the contract does not include an indexation clause, the updated value shall be calculated taking into account the average inflation in the Member State of the public buyer. Public buyers shall not be obliged to publish the [contract modification information] in accordance with the first subparagraph, in cases of urgency pursuant to Article 51. In that case, public buyers shall publish a [contract modification information] pursuant to paragraph 6.
6. Where public buyers substantially modify a contract pursuant to paragraph 3, and the modification does not exceed 50 % of the initial estimated contract value of the contract, they shall publish modification information in accordance with Article 105 within 30 days after the modification was made.

7. Modifications of a contract shall not be used to remedy deficiencies in the performance of the contract.

Article 102

Termination of contracts

Public buyers shall terminate the contract where:

- (a) the economic operator becomes subject of a conviction for one of the grounds referred to in Article [obligatory exclusion grounds], except where the public buyer establishes that such termination is not warranted for reasons of overriding public interest;
- (b) the contract should not have been awarded to the contractor in view of a serious infringement of the obligations under the Treaties and this Regulation that has been declared by the Court of Justice of the European Union in a procedure pursuant to Article 258 TFEU, a review procedure pursuant to Council Directive 89/665/EEC or a competent national oversight body pursuant to Article [in governance chapter].

Article 103

Payments

1. Public buyers shall ensure the timely payment of contractors and, where applicable, subcontractors, in accordance with Directive 2011/7/EU.
2. The payment periods set by public buyers shall not exceed the time limits laid down in Article 4(3) of Directive 2011/7/EU. Where a Member State has established longer deadlines in accordance with Article 4(4) of Directive 2011/7/EU, those deadlines shall apply.
3. Public buyers shall not exceed the deadlines set out in paragraph 2 of this Article, unless otherwise expressly agreed in the contract and provided it is objectively justified in the light of the particular nature or features of the contract, and that in any event does not exceed 60 calendar days.
4. Upon the expiry of the period defined in paragraph 2 or 3, economic operators shall be entitled to statutory interest for late payment as defined in Article 4(1) of Directive 2011/7/EU .
5. As part of the conditions for the performance of the contract pursuant to Article 99, public buyers may provide that the contractors pass equivalent payment terms applicable under paragraphs 2 to 4 through the supply chain.
6. Member States shall provide through the [NPPDS] information on payment status linked to each individual contract concerned pursuant to Article 130(4)..
7. Member States shall make available information on prompt payment compliance for each annual reporting period for each public buyer pursuant to Article 130(4).
8. Without prejudice to Article Article 47(4), public buyers may provide for advance payments in the procurement documents; where the contract in question has particular relevance for the strategic considerations set out in This part Title II, Chapter 3, and unless justified by an overriding interest of the public buyer, public

buyers shall provide for an advance payment to the contractor of 30 % of the minimum.

9. At the request of the subcontractor and where the nature of the contract so allows, the public buyer shall transfer due payments directly to the subcontractor for services, supplies or works provided to the main contractor. Such measures may include appropriate mechanisms permitting the main contractor to object to undue payments. The arrangements concerning that mode of payment shall be set out in the procurement documents.

Chapter 5

Publication and documentation rules

Article 104

Individual documentation of procedures

1. Public buyers shall record, in the public buyer's electronic procurement system [and to be stored in the NPPDS], sufficient documentation to justify decisions taken in all stages of the procurement procedure, in particular documentation on communications with economic operators, including in negotiations if any, and internal decisions for the preparation of the procurement documents, after negotiations if any, in selection of economic operators and award of the contract. The documentation shall be kept for a period of at least three years from the date of award of the contract.
2. Procurement information and procurement decisions shall be recorded and managed in a manner enabling their origin, evolution, justification and approval history to be identified throughout their lifecycle.
3. Public buyers shall include in their reports identified conflicts of interest, integrity breaches and significant security risks affecting procurement procedures or contract implementation. Serious violations shall be communicated to the monitoring body pursuant to Article 133.

Article 105

Publication of information

1. Public buyers shall use the following information categories for publication:
 - (a) consultation;
 - (b) planning;
 - (c) competition;
 - (d) result;
 - (e) contract;
 - (f) modification;
 - (g) completion; and,
 - (h) registration of a central purchasing body.
2. For the publication of consultation information as set out in Article 32, information related to the following shall be published:

- (a) identification of the organisations relevant for the consultation;
 - (b) purpose of the consultation;
 - (c) where appropriate, a description of societal challenge and value assessment framework, and consultation feedback including the final date for feedback, and other necessary information.
3. For the publication of planning information in needs plan as set out in Article 31, information related to the following shall be published:
 - (a) identification of the organisations relevant for the planning;
 - (b) description of needs and of their presumed availability on the market;
 - (c) the planning period covered;
 - (d) if applicable, information on origin requirements;
 - (e) GPA coverage; and,
 - (f) other necessary information.
4. For the publication of competition information in an open-negotiated procedure as set out in Article 36, for a dynamic simplified procedure as set out in Article 39, or for an innovation procedure as set out in Article 44, information related to the following shall be published:
 - (a) identification of the organisations relevant for the procedure;
 - (b) purpose of the procedure;
 - (c) description of the procedure, including communication and submission terms;
 - (d) in the case of a dynamic simplified procedure: estimated validity of the procedure and information on the renewal of the call for competition;
 - (e) in the case of an innovation procedure: description of societal challenge and the minimum requirements to consider it addressed;
 - (f) contract terms;
 - (g) if applicable, an indication on the strategic nature of the procurement, including on SMEs;
 - (h) GPA coverage; and,
 - (i) other necessary information.
5. For the publication of result information as set out in Article 47, Article 52 paragraphs 4 and 6 [Testing and Validation result] and Article 54 [special procedures], for in-house as set out in Article x, affiliate or Joint Ventures as set out in x, information related to the following shall be published, if applicable:
 - (a) identification of the organisations relevant for the procedure;
 - (b) purpose of the procedure;
 - (c) result of the procedure, including on cancellation;
 - (d) for contracts awarded pursuant to Article 11, Article 12 or Article 49: justification for the decision of the public buyer to award the contract according to these provisions;

- (e) for contracts awarded pursuant to Article 49: description of the request as described in the invitation to negotiate, the request to submit a tender or the request to deliver the solution against invoice;
 - (f) an indication of the strategic nature of the procurement, including on SMEs;
 - (g) GPA coverage; and,
 - (h) other necessary information.
6. For the publication of contract, modification or completion information as set out in Article 107, information related to the following shall be published, if applicable:
- (a) identification of the organisations relevant for the contract;
 - (b) purpose of the contract;
 - (c) purpose of the modification;
 - (d) reasons for the modification;
 - (e) result of the contract including information; and,
 - (f) other necessary information.
7. For the publication of the registration of a central purchasing body as set out in Article 9, information related to the following shall be published:
- (a) identification of the central purchasing body, general description of competencies, information on establishment, and other necessary information.
8. The Commission may adopt a delegated act to amend this Article in accordance with Article 137 to modify the information in each information category for the implementation needs.
9. The Commission may adopt implementing acts in accordance with Article 139(3) further detailing the specific information which shall be contained in each information category as described in paragraphs 2 to 7 and in compliance with the Agreement on Government Procurement, as well as establishing the connection of categories and the sequencing of specific information contained in multiple categories.

Article 106

Publication deadlines

1. The information categories that are to be published pursuant to this Article shall be sent pursuant to Article 105:
- (a) Not later than twenty days after the end of a consultation according to Article 32, the final assessment of solution proposals according to Article 47(7) and the award decision pursuant Article 38 the public buyer shall send the result information.
 - (b) Not later than twenty days after the cancellation of a market consultation, a procurement procedure or an individual procedure according to Article 43, public buyers shall send the result information.
 - (c) Not later than twenty days after the conclusion of a contract including a contract concluded pursuant to Article 11 or Article 12, the public buyer shall send the contract information.

- (d) Not later than twenty days after the modification of a contract pursuant to Article 101 or Article 120, the public buyer shall send the modification information where the preceding procurement procedure was within the scope of this Regulation and where the modification has a value of at least 10 000 Euro or [sui generis qualitative changes to always be notified – see provisions on modification for which cases that makes sense?].
 - (e) Not later than twenty days after the completion of the execution of a contract where the preceding procurement procedure was within the scope of this Regulation, the public buyer shall send the completion information. The same shall apply where an awarded contract was not entered into or where the contract execution was not completed, from the day of the respective event.
2. Certain information may be withheld from publication where its release would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of a particular economic operator, public or private, or might prejudice fair competition between economic operators. Such information shall at the same time however be provided to the NPPDS pursuant to Article 108.
 3. Public buyers shall ensure the complete, correct and timely provision of information categories to the NPPDS pursuant to Article 130(8).

Article 107

Form and manner of publication

1. Information referred to in Article 105 including changes to information shall be sent by public buyers through the National Public Procurement Data Space to the Publications Office of the European Union. Information referred to in Article 105 shall be published in the Supplement to the Official Journal of the European Union and be provided to the interoperability network by the Publications Office of the European Union no later than five days after they are received, unless the public buyer requests a later date of publication. The information shall be considered to be received only once it has been validated according to the technical validation requirements set up by the Union.
2. The Publications Office of the European Union shall ensure that the information categories referred in Article 105 shall be made available:
 - (a) in full in the official languages of the Union chosen by the public buyer which shall constitute the sole authentic texts;
 - (b) as summaries in the other languages of the Union in addition to languages chosen by the public buyer; and,
 - (c) for the entirety of their respective validity.
3. Public buyers shall be able to supply proof of the date on which their information was sent for publication.
4. The Publications Office of the European Union shall give the National Public Procurement Data Space confirmation of the receipt and of the publication of the information categories sent, indicating the date of publication. Such confirmation shall be provided to the public buyer and constitute proof of publication.

5. Public buyers may publish information categories for public contracts that are not subject to the publication requirements laid down in this Regulation, provided that these are sent to the Publications Office of the European Union according to the implementing act set out in paragraph 1.
6. The costs of the reception, validation and publication of the information and its provision to the interoperability network by the Publications Office of the European Union shall be borne by the Union.
7. The Commission may adopt implementing acts in accordance with Article 139(3), specifying the details concerning the provision of information categories to the Publications Office of the European Union and the source of the technical validation requirements according to paragraph 1.

Article 108

Publication at national level

1. Information referred to in Article 105 or the implementing act pursuant to Article 105(9) shall not be published at national level before the publication pursuant to Article 107. However, publication may in any event take place at the national level where public buyers have not been notified of the publication within 48 hours after confirmation of the receipt of the information in accordance with Article 107.
2. Information published at national level shall indicate the date that the information was sent to the Publications Office of the European Union as well as the identifier of the information published pursuant to Article 107.

Part IV Concessions

Title I General Provisions

Article 109

Scope

1. This Part shall apply to concessions for the execution of works and provision of services as defined in Article 110.
2. For the purposes of this Regulation, concessions shall be considered public contracts. All the provisions in this Regulation concerning public contracts shall apply to concessions unless otherwise provided in this Part.

Article 110

Definition and characteristics of concessions

For the purposes of this Regulation, the following definitions shall apply:

- (a) ‘concession’ means a contract for pecuniary interest, where one or more public buyers entrust the execution of works or the provision of services to one or more economic operators (‘cessionnaire’) for supply to end-users and that complies with the following conditions:
 - (i) the consideration for the contract consists either solely in the right to exploit the works or services that are the subject of the contract or in that right together with payment by the public buyer; and
 - (ii) it involves the transfer to the concessionaire of a real operating risk in exploiting those works or services to which the public buyer awarding the works or services in question would be exposed if it was to execute the works or perform the services itself.
- (b) ‘operating risk’ means the risk for the concessionaire not to recoup, under normal operating conditions, the investments made and the costs incurred in executing the works or providing the services which are the subject matter of the concession, so that the concessionaire bears the risk of losses attached to the performance of the concession, such as risks linked to uncertainties affecting demand, revenues, operating costs, availability, technical and operational conditions or performance. The operating risk to be borne by the concessionaire shall involve real exposure to the vagaries of the market, and any potential estimated loss incurred by the concessionaire shall not be economically insignificant.
- (c) A concession shall provide for legally enforceable obligations under which the public buyer determines the nature, scope and conditions for the performance of the works or services by setting specific requirements, ensuring that the economic operator performs those tasks in pursuit of the objectives defined by that public buyer and meets the requirements determined, throughout the term of the contract.

- (d) A concession shall have as its subject matter the performance of those works or services and shall not consist merely in the entitlement of all operators fulfilling certain conditions to perform a given task without any selectivity. Agreements the sole or predominant subject matter of which is the granting of a right to use or exploit public domain or resources, including land or public property, and in respect of which the public buyer establishes only general conditions of use without entrusting the performance of specific works or services, shall not constitute concessions within the meaning of this Regulation.

Article 111

Mixed concession contracts

1. In addition to Article 81, the applicable legal regime for contracts containing elements of concessions and of other public contracts ('mixed concession contracts') shall be determined in accordance with paragraphs 2 and 3.
2. Where the different parts of a mixed concession contract are objectively separable, but are not procured separately by the public buyer, the mixed concession contract shall be awarded in accordance with Part II Article 79.
3. Where the different parts of a mixed concession contract are objectively not separable, the applicable legal regime shall be determined on the basis of the main subject matter of that contract. In the case that such a contract contains elements of a services concession and of a supply contract, the main subject matter of that contract shall be determined according to which of the estimated values of the respective services or supplies is the higher.

Article 112

Contracts excluded

1. In addition to Articles 77 and 79 but excluding Article 79(1), point (n)], this Regulation shall not apply to concessions:
 - (a) for air transport services based on the granting of an operating licence within the meaning of Regulation 1008/2008;
 - (b) for public passenger transport services within the meaning of Regulation 1370/2007;
 - (c) to provide or operate fixed networks intended to provide a service to the public in connection with the production, transport or distribution of drinking water, or to supply drinking water to such networks;
 - (d) with one or both of the following subject matters when they are connected with an activity referred to in point (c):
 - (i) hydraulic engineering projects, irrigation or land drainage, provided that the volume of water to be used for the supply of drinking water represents more than 20 % of the total volume of water made available by such projects or irrigation or drainage installations;
 - (ii) the disposal or treatment of sewage;

- (b) for lottery services, which are covered by CPV code 92351100-7, awarded by a Member State to an economic operator on the basis of an exclusive right;
 - (c) awarded to an economic operator on the basis of an exclusive right which has been granted in accordance with the TFEU and Union legislation laying down common rules on access to the market applicable to the activities referred to in Annex XX.
2. However, where the Union legislation referred to in paragraph 1, point (f), of this Article does not provide for sector-specific transparency obligations, Article XX [award notices] shall apply to the concessions referred to in that point. Where a Member State grants an exclusive right to an economic operator for the exercise of one of the activities referred to in Annex XX, that Member State shall inform the Commission thereof within one month of the award of that exclusive right.

Article 113

Threshold and estimation of value of a concession

1. This Regulation shall apply to concessions whose value is equal to or greater than the amount specified in Article 3(1), point (a).
2. The estimated value of a concession shall be the projected total turnover, net of VAT, that the concessionaire may generate over the maximum duration of the contract, as estimated by the public buyer, in consideration for the works and services that are the subject matter of the concession, as well as for the supplies incidental to such works and services.
3. The estimated value of the concession shall be calculated using an objective method specified in the concession documents. When calculating the estimated value of the concession, public buyers shall, where applicable, take into account:
 - (a) the value of any form of option and any extension of the duration of the concession;
 - (b) revenue from the payment of fees and fines by the users of the works or services other than those collected on behalf of the public buyer;
 - (c) payments or any financial advantage in any form made by the public buyer or any other public authority to the concessionaire, including compensation for fulfilment of a public service obligation and public investment subsidies;
 - (d) the value of grants or any other financial advantages, in any form, from third parties for the performance of the concession;
 - (e) revenue from sales of any assets which are part of the concession;
 - (f) the value of all the supplies and services that are made available to the concessionaire by the public buyers, provided that they are necessary for executing the works or providing the services;
 - (g) any prizes, payments, compensation or reimbursement to economic operators in connection with the procedure for the award of a concession.

Title II

Preparation, Design and Procedure

Article 114

Contractual obligations relating to public service needs

1. Public buyers shall determine in the concession documents the service obligations applicable to the concession, having regard to the nature and subject matter of the works or services concerned. Where relevant, such service obligations shall ensure the continuity, quality, accessibility, safety, and effectiveness of the works and services provided to users.
2. Where appropriate, the service obligations shall be established as clear, objective and measurable performance requirements, including indicators relating to:
 - (a) quality of service;
 - (b) availability and continuity of service;
 - (c) efficiency and reliability;
 - (d) sustainability and resilience.
3. Where performance requirements are established in accordance with paragraph 2, public buyers shall specify in the concession documents:
 - (a) the applicable key performance indicators;
 - (b) the methods for monitoring and verifying performance;
 - (c) the information and supporting documents necessary to enable effective monitoring of the performance of the concession and compliance with the contractual obligations of the concessionaire;
 - (d) the consequences of performance outcomes on the economic conditions of the concession, including incentives, deductions, or other adjustments where appropriate.

Article 115

Structured risk assessment

1. Before initiating a procedure for the award of a concession, public buyers shall carry out an assessment of the main economic risks related to the performance of the concession, taking into account the nature, duration and economic characteristics of the works or services concerned.
2. For the purposes of paragraph 1, public buyers shall:
 - (a) identify the principal categories of risks associated with the performance of the concession;
 - (b) determine, on the basis of objective elements, the allocation of those risks between the parties, having regard to their respective ability to control or influence their occurrence or consequences, without such allocation effectively relieving the concessionaire of its exposure to potential losses, even where the public buyer bears part of the risk or where the overall risk exposure is limited.

3. For the identification of risks for the purposes of paragraph 1, public buyers shall distinguish between:
 - (a) the operating risks relating to the operation of the works or services and to exposure to market uncertainties;
 - (b) general contractual risks, including those arising from decisions or measures attributable to the public buyer, or from circumstances beyond the concessionaire's reasonable control.
4. For the determination of risk allocation for the purposes of paragraph 2, point (b), the concession documents may provide for adjustment mechanisms pursuant to Article 120 intended to re-allocate or mitigate the risks between the parties where necessary with regard to the nature of those risks. The existence of such mechanisms shall not, in itself, preclude the qualification of the contract as a concession, provided that the concessionaire continues to bear the operating risk inherent in the exploitation of the works and services.

Article 116

Conditions for the performance of concessions

1. Public buyers shall include in concession contracts provisions that are directly linked to the performance of the contract and are aimed at ensuring the long-term efficiency of the works or services, including promoting environmental sustainability and technological innovation throughout the duration of the concession. Such provisions shall include, where appropriate:
 - (a) requirements ensuring that the performance of the concession contributes to environmental sustainability objectives as referred to in Part III, Title II, Chapter 1, including resource efficiency, reduction of environmental impact, and adaptation to climate-related risks;
 - (b) obligations to promote technological development and innovation throughout the duration of the concession, including, where relevant, the introduction of new technologies, processes or solutions to improve the quality or efficiency of the service;
 - (c) mechanisms allowing for the periodic assessment of technological and environmental performance indicators during the performance of the contract;
 - (d) requirements ensuring that the concessionaire maintains the capacity to adapt the performance of the concession to technological developments and evolving sustainability standards;
2. Public buyers shall include in concession contracts, where relevant, provisions that are directly linked to the performance of the contract and that are aimed at ensuring the security, resilience and continuity of the works or services throughout the duration of the concession. Such contractual provisions shall include, where appropriate:
 - (a) requirements ensuring the continuity of essential services under conditions of disruption, including technical failures, supply chain disruptions, cyber incidents, natural disasters or other emergencies;
 - (b) obligations for the concessionaire to identify, assess and manage risks affecting the security and operational resilience of the concession;

- (c) measures to ensure the protection of critical infrastructure, systems and data used in the performance of the concession, including, where relevant, cybersecurity safeguards ;
 - (d) requirements to establish contingency, business continuity and recovery plans ensuring the rapid restoration of services in the event of disruption.
- 3. Public buyers shall include in concession contracts provisions requiring concessionaires to maintain adequate records for five years from the date of the concessions award and reporting mechanisms enabling the public buyer to monitor the performance and implementation of the concession, to verify compliance with contractual and legal obligations, and to enable verification of compliance by competent supervisory, audit and review bodies. Such contractual provisions shall, where appropriate, require concessionaires to:
 - (a) maintain complete, accurate and verifiable records relating to the performance of the concession;
 - (b) provide periodic performance information, including, where applicable, reporting against contractual performance indicators; and
 - (c) notify, without undue delay, incidents or breaches materially affecting the performance of the concession or compliance with applicable legal, safety or environmental requirements.
- 4. Where the performance of the concession involves rights over assets, infrastructure or public property necessary for the operation of the concession, public buyers shall ensure that the contractual, property or occupancy arrangements governing the transfer, return or takeover of those assets upon expiry or termination of the contract are clear, proportionate, non-discriminatory and are specified in the proposed conditions of the concession. Such transfer arrangements shall not create unjustified barriers to competition or unduly favour the incumbent concessionaire and shall ensure that a successor operator is able to continue the performance of the concession under effective and non-discriminatory conditions. The proposed conditions of the concession shall specify, where appropriate:
 - (a) the conditions governing the use, transfer or return of the rights referred to in the first subparagraph upon expiry or termination of the concession;
 - (b) the arrangements intended to ensure continuity of the service and effective access for a future operator, including conditions relating to the transfer or taking-over of personnel assigned to the performance of the concession;
 - (c) the principles governing any compensation payable upon expiry or termination of the concession.

Article 117

Duration of concessions

1. The duration of concessions shall be limited. It shall be limited to the period necessary for the concessionaire to recoup the investment made for operating the works and services together with a reasonable return on invested capital under normal operating conditions, taking into account the investments required to achieve the specific contractual objectives.

2. The duration shall be determined having regard to the subject matter of the concession and to the public interest in preserving competition and market access.
3. In determining the duration of the concession, the public buyer shall take into account :
 - (a) the investments required for the performance of the concession, both initially and during the lifetime of the concession, including infrastructure, equipment and intellectual property investments;
 - (b) the operating and maintenance costs associated with the exploitation of the works or services;
 - (c) the allocation of risks between the parties, provided that the duration of the concession does not result in the elimination of the operating risk for the concessionaire;
 - (d) the public service obligations and other performance conditions imposed on the concessionaire;
 - (e) the expected revenues and the time reasonably necessary for the concessionaire to recover the investments and operating costs together with a reasonable return;
 - (f) the need to ensure periodic exposure to competition.

The duration of the concession shall be aligned, where appropriate, with the expected technological, regulatory, and environmental lifecycle relevant to the subject matter of the concession. The determination of the duration shall not result in a guarantee that the concessionaire will obtain a predetermined or minimum return on invested capital. A concession may be awarded for a duration shorter than that required for the recovery of investments, provided that any financial arrangements linked to such duration, including compensation or guarantees, shall not eliminate or substantially reduce the operating risk borne by the concessionaire.

4. The public buyer may determine the duration in the concession documents as a proposed condition of the concession or may determine that the duration forms part of the tender. Where the duration forms part of the tender, the public buyer shall set out in the concession documents:
 - (a) the method for determining the duration of the concession, including any minimum or maximum duration or permissible range;
 - (b) the rules governing the evaluation and verification of the duration proposed by tenderers, including the relationship between that duration and the following elements:
 - (i) the investments to be made;
 - (ii) the financial structure of the concession;
 - (iii) the allocation of risks;
 - (iv) the economic equilibrium of the contract;
 - (b) the extent to which the proposed duration constitutes an award criterion.
5. The public buyer may include in the proposed conditions of the concession provisions that allow for the potential adjustment of the duration of the concession.

- (a) Any mechanism permitting the adjustment, extension, reduction, or contingent determination of the duration of the concession shall:
 - (i) be set out in a clear, precise, and unequivocal manner in the concession documents;
 - (ii) include the conditions under which adjustments may occur, the applicable methodology and maximum duration of concession determined having regard to the factors set out in the paragraph 3.

Any adjustment of the duration of the concession that is not provided for in the concession documents or is not implemented in accordance with the methodology and conditions established pursuant to the second subparagraph shall be subject to the rules applicable to the modification of concessions set out in Article 110.

Article 118

Procedure for the award of a concession

1. When awarding a concession, public buyers shall apply the open-negotiated procedure pursuant to Chapter Part III, Title I, Chapter 2. Where the conditions for the procedure with publication of result information pursuant to Article 49 and Article 50 are met, public buyers may use that procedure.
2. The competition information for the award of the concession pursuant to Article 36 shall additionally include a summary of the following information:
 - (a) the main components of the estimation of the value of the concession, including estimated investment costs and operating revenues;
 - (b) the allocation of key risks, including, where applicable, the demand, construction, and regulatory risks.

Title III

Management of contracts

Article 119

Adjustment mechanisms

1. Public buyers may include in the proposed conditions of the concession mechanisms enabling the adjustment of the economic conditions of the concession throughout the duration of the concession, provided that such mechanisms are objectively justified by the nature, duration and risk profile of the concession, maintain the economic balance between the parties, and preserve the transfer of an operating risk to the concessionaire.
2. The mechanisms referred to in paragraph 1 may relate, in particular, to:
 - (a) predefined rules for the adjustment of revenues, including variations linked to demand or usage levels;
 - (b) indexation mechanisms, including those linked to objective economic indicators, such as price indices, inflation rates or input costs;
 - (c) performance-based payment adjustments, based on the achievement of qualitative or quantitative objectives relating to the supply of works or services.

Modifications of concessions

1. Public buyers may modify concessions during their term without a new award procedure provided that the modification is not substantial within the meaning of paragraph 2 or falls within any of the cases listed in paragraph 3, provided that the modification responds to objective needs arising during the performance of the concession, is limited to what is necessary and appropriate for ensuring its performance and continuity, and does not alter the essential characteristics of the concession as initially awarded.
2. A modification is substantial where it introduces terms which, had they been part of the original concession award procedure, would have changed significant contractual provisions or tender conditions, such as the scope of the contract, its economic balance or the original contractor in other cases than those provided for in paragraph 3, point (c).
3. Provided that they do not alter the initial economic balance of the concession, substantial modifications shall be permissible, within the meaning of paragraph 1, in the following cases:
 - (a) where additional works, services, or supplies become necessary during performance of the concession, provided that a change of concessionaire is not technically or economically feasible, including due to interdependence with existing works or services or substantial increase of costs;
 - (b) where the modification is necessary due to circumstances which could not reasonably be anticipated by a diligent public buyer at the time of the award of the concession, and which significantly affect the performance or feasibility of the concession, such as:
 - (i) substantial changes in the applicable regulatory or legal framework;
 - (ii) major technological developments;
 - (iii) severe disruptions, emergencies or crises with significant economic, societal or operational impact;
 - (b) where the original concessionaire is replaced by another entity due to:
 - (i) a merger, takeover, acquisition, insolvency or other corporate restructuring, where another economic operator succeeds, wholly or partly, to the rights and obligations of the initial contractor and where the new entity meets the original qualitative criteria; provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of this Regulation; or
 - (ii) in the event that the public buyer itself assumes the main concessionaire's obligations towards its subcontractors where this possibly is provided for under national legislation.
4. Before modifying the concession, the public buyer shall establish, on the basis of objective and verifiable elements, that the conditions set out in paragraph 1 are satisfied. Public buyers shall maintain detailed written records with respect to the essential elements of the modification, including its justification, its necessity or appropriateness, and its impact on the allocation of economic advantages and operational risks of the concession, to justify decisions relating to the modification

and to enable verification of compliance with this Article by competent supervisory, audit and review bodies.

5. Before any modification of a concession that exceeds 50 % of the initial estimated value of a concession, the public buyers shall publish a contract modification notice to that effect. Such notice shall contain the justification for the modification without a new award procedure and all information set out in Article 105. Where several successive modifications are made that individually exceed 50 % of the initial estimated value of the concession, this obligation shall apply to each of such modifications. Consecutive modifications shall not be aimed at circumventing this Regulation. The first subparagraph does not apply where urgency due to an emergency determined in accordance with Article 54 does not allow for prior publication of the modification. In that case, public buyers shall publish a contract modification notice under the conditions set out in paragraph 6.
6. Where public buyers substantially modify a concession under the conditions set out in paragraph 3, and the modification does not exceed 50 % of the initial estimated value of the concession, they shall publish a contract modification notice with the information set out in Article 105 within 30 days after the modification was made.
7. Where the improper performance or failure of the concessionaire to provide works and services threatens the continuity of an essential service provided under the concession, the public buyer may take or require strictly necessary temporary measures to ensure the uninterrupted provision of that service. Where such measures are taken, the public buyer shall ensure that the measures are limited to what is objectively necessary to maintain essential service continuity; proportionate to the seriousness of the disruption; and do not result in a modification of the economic balance of the concession or a transfer of operating risk from the concessionaire to the public buyer, except to the extent strictly indispensable for the temporary continuation of the essential service.
8. Modifications of a concession contract shall not be used to remedy deficiencies in the performance of the concessionaire.

Article 121

Termination of concessions

1. In addition to Article 102 and notwithstanding Article 122(2), point (c), public buyers may terminate a concession contract before its expiry, where provided for in national law, where such termination is justified by overriding reasons of public interest.
2. Any termination pursuant to the first subparagraph shall:
 - (a) comply with the principles of proportionality and equal treatment;
 - (b) be duly reasoned and based on objective and verifiable grounds;
 - (c) be exercised only where the objective pursued cannot reasonably be achieved by less restrictive measures, including modification of the concession pursuant to this Regulation.
3. In the event of termination under this Article, the concessionaire shall be entitled to appropriate compensation.

4. The justification for the termination and the compensation shall be duly documented and accessible for verification by competent audit, supervisory and review bodies for a minimum of five years.

Title IV

Performance monitoring and evaluation

Article 122

Performance monitoring during execution of concessions

1. Where performance requirements were established in the concession documents pursuant to Article 104, the concessionaire shall monitor its performance following methods laid down in the concession documents and shall submit periodic reports on its performance to the public buyer. The frequency, content and format of such reports shall be specified in the concession documents. At least once every five years during the term of the contract and on termination of the contract, the public buyer shall assess the performance of the concessionaire against the key performance indicators and publish the summary of the main findings of that assessment.
2. The concession contract shall provide for the consequences of failure to comply with the performance requirements. Such consequences may include, as appropriate:
 - (a) financial adjustments or penalties;
 - (b) obligations to take corrective measures;
 - (c) termination of the concession in the event of a serious or persistent breach of the performance requirements.
3. Serious or persistent breach of the performance requirements of a concession which resulted in the termination of the concession shall be duly recorded by the public buyer on the basis of objective elements and the termination in accordance with Article 105 shall be published in the Commission e-Procurement service.

Article 123

Framework for monitoring and supervision

1. The authority designated in [Article on National coordinating authority] shall support the consistent application of this Regulation in relation to concessions by appropriate measures, such as:
 - (a) develop and make available standardised contract documents or guidance, including model provisions relating to risk allocation and financial mechanisms;
 - (b) establish and maintain reference frameworks or methodologies for the identification and classification of risks;
 - (c) support or monitor the performance of concessions, including through the collection and analysis of relevant data;
 - (d) facilitate the consistent application of financial adjustment mechanisms and, where appropriate, provide advice to public buyers;
 - (e) provide opinions or recommendations in cases involving substantial modifications or the application of the adjustment mechanism.

2. Modification of concessions involving an increase in the value that exceeds 50 % of the initial estimated value of the concession may, where provided for by national law, be subject to a structured and transparent prior review procedure by the authorities designated pursuant to paragraph 1, which may include:
- (a) an independent technical or economic assessment of the circumstances justifying the modification;
 - (b) verification that such circumstances could not reasonably have been foreseen and fall outside the scope of predefined adjustment mechanisms;
 - (c) documentation and publication of the reasons for the modification and its impact on the allocation of risks and the economic balance of the concession.

Agence Europe

Part V

Digital Ecosystem

Title I

Digital Tools

Chapter 1

Interoperability rules

Article 124

Interoperability network

1. The Commission shall establish or designate a secure network for data exchange, to enable public buyers and economic operators to communicate electronically in procurement procedures using different eProcurement service providers ('interoperability network').
2. The Commission shall adopt delegated acts in accordance with Article 137, to supplement this Regulation in order to designate such an interoperability network.
The Commission shall ensure that the interoperability network meets the following requirements:
 - (a) it is technologically neutral;
 - (b) it commits to be in conformity at least with the harmonised standards and the common specifications referred to in Article 125 or Article 126;
 - (c) it considers existing Union tools and standards;
 - (d) it has regard to the requirement for protection of personal data in accordance with Regulation (EU) 2018/1725, and to the principles of 'data protection by design' approach, proportionality, data minimisation and purpose limitations;
 - (e) it commits to establishing a secure, practical, user-friendly, flexible, configurable and cost-efficient data exchange in all procurement procedures;
 - (f) it considers the particular needs of small and medium-sized enterprises;, it considers the eProcurement ontology as a semantic framework standardising the concepts of Union public procurement; and,
 - (g) it considers the information categories and their technical implementation in accordance to Article 105
3. The Commission may adopt implementing acts specifying the implementation arrangements for the interoperability network pursuant to Union law, which may include the reuse of existing networks that meet the specified requirements. Those implementing acts shall specify the following:
 - (a) technical information on the connection to the interoperability network;
 - (b) data format and structure including configuration and syntax;
 - (c) semantic repository;

- (d) interoperability criteria;
- (e) scalability and performance;
- (f) security requirements;
- (g) data ownership;
- (h) access management;
- (i) qualification of eProcurement service providers;
- (j) handling of personal data;
- (k) arrangements to tackle inappropriate or fraudulent use of the network;
- (l) availability of the network and data; and
- (m) interconnections made via the network, such as to the digital business credential tool, to National Public Procurement Data Spaces established in accordance with Article 130.

The implementing acts referred to in the first subparagraph shall be adopted in accordance with examination procedure referred to in Article 139(3).

The Commission shall retain overall responsibility for testing usability of the interoperability network for end users and shall ensure that, during the performance of the test, special account is taken of the respect for the criteria of practicality and user-friendliness in accordance with the second subparagraph of paragraph 1.

4. The Commission may require the interoperability network to deny or remove access to the network for eProcurement service providers where those providers do not, or no longer, fulfil the requirements laid down in Article 40. The Commission shall provide appropriate prior notice to eProcurement service providers of the denial of or loss of access to the network. The interoperability network shall provide the information to the Commission which is necessary to access the requirements pursuant to Article 40.

Article 125

Harmonised standards for public procurement

1. The Commission shall, in accordance with Article 10 of Regulation (EU) No 1025/2012, request one or more standardisation organisations to draft, amend or update European harmonised standards for the semantic data model and interoperability of the core elements of the following:
 - (a) the procurement procedures in accordance with to this Regulation (the ‘harmonised standard for procurement procedures’); and,
 - (b) at least the main elements of the procurement documents (the ‘harmonised standard for procurement documents’).
2. The relevant European standardisation organisations shall ensure that standards adopted in accordance with paragraph 1 comply at least with the following criteria:
 - (a) they are technologically neutral;
 - (b) they take into account already existing Union tools and standards;
 - (c) they have regard to the requirement for the protection of personal data in accordance with Regulation (EU) 2018/1725, and to the principles of ‘data

- protection by design' , proportionality, data minimisation and purpose limitation;
- (d) they allow for the establishment of a secure, easily implementable, flexible, configurable and cost-efficient data exchange in all procurement procedures;
 - (e) they consider the particular needs of micro, small and medium-sized enterprises; and
 - (f) they consider the eProcurement ontology as a semantic framework standardising the concepts of Union public procurement.

Article 126

Common specifications

1. The Commission may adopt implementing acts establishing common specifications covering the essential requirements for the semantic data model of the core elements of the procurement procedures referred to in Article 38 point (1)(a).

Those implementing acts shall only be adopted where:

- (a) the Commission has requested, pursuant to Article 10(1) of Regulation (EU) No 1025/2012, one or more European standardisation organisations to draft a harmonised standard for procurement procedures; and,
 - (b) the request has not been accepted; or,
 - (c) the harmonised standard addressing that request is not delivered within the deadline set in accordance with Article 10(1) of Regulation (EU) No 1025/2012; or,
 - (d) the harmonised standard does not comply with the request. The implementing acts referred to in the first paragraph shall be adopted in accordance with the examination procedure referred to in Article 139(3).
2. Before preparing the draft of the implementing act referred to in paragraph 1 of this Article, the Commission shall inform the committee referred to in Article 22 of Regulation (EU) No 1025/2012 that it considers that the conditions in paragraph 1 of this Article are fulfilled.
 3. When preparing the draft of the implementing act referred to in paragraph 1, the Commission may consider the views of the Member States Expert Group as well as of any other relevant bodies and shall duly consult all relevant stakeholders.
 4. Where a harmonised standard for procurement procedure is adopted by a European standardisation organisation and proposed to the Commission for the purpose of publishing its reference in the Official Journal of the European Union, the Commission shall assess that harmonised standard in accordance with Regulation (EU) No 1025/2012.

When references of a harmonised standard are published in the Official Journal of the European Union, the Commission shall repeal the implementing acts referred to in paragraph 1 or the parts thereof which cover the same requirements.

Chapter 2

eProcurement service providers

Article 127

Obligations of e-Procurement service providers

1. eProcurement service providers shall ensure that their eProcurement services is in conformity with harmonised standards published pursuant to Article 125 or the common specifications pursuant to Article 126, they shall be presumed to be in conformity with the requirements set out in Article 38, in so far as those standards cover those requirements.
2. eProcurement service providers shall connect to the interoperability network in accordance with the implementation arrangements provided in the implementing acts in accordance with Article 39(2).
3. eProcurement service providers shall not be in an exclusion situation according to Part II, Title II, Chapter 2, shall be established in the European Economic Area and shall be owned and controlled by persons located or entities located in the European Economic Area with no third-country natural or legal person exercising, directly or indirectly, decisive influence over them. They shall ensure that all data related to public procurement procedures conducted by public buyers pursuant to this Regulation shall remain in the European Economic Area.
4. eProcurement service providers shall ensure access to the procurement documents pursuant to Article 88 and shall not charge for access to any electronic communication conducted through the interoperability network.
5. eProcurement service providers shall connect to the electronic eligibility service set out in Article 129.
6. eProcurement service providers shall connect to a National Public Procurement Data Space established in accordance with Article 130, unless the eProcurement service provider provides its services exclusively to economic operators.
7. Member States shall designate one or more competent authorities responsible for verifying compliance of eProcurement service providers with the obligations set out in this Article. Member States shall provide for effective, proportionate and dissuasive penalties for the infringement of the obligations set out in this Article.

Article 128

Commission e-Procurement service

1. The Commission shall set up e an eProcurement service ('Commisison eProcurement service') and market it available both to public buyers, for the purpose of conducting procurement procedures, and to economic operators, for the purpose of participating in procurement those procedures.
2. The Commission eProcurement service shall comply with the requirements for eProcurement service providers set out in Article 40 1 to 5. The Commission shall market the solution developed for the Commission eProcurement service as open-source software.

3. Member States may require public buyers to use the Commission eProcurement services. They shall at latest 12 months in advance notify the Commission of their decision.

Chapter 3

Electronic Eligibility

Article 129

Electronic eligibility service

1. The Commission shall set up a service for electronically checking the eligibility of the economic operators ('electronic eligibility service'). The service shall support public buyers and economic operators in the digital eligibility check process for procurement procedures by enabling the digital verification of company information, exclusion grounds selection criteria and requirements of origin through a digital business credential tool, as well as by providing company information through a digital company profile.
2. The Commission shall adopt delegated acts in accordance with Article 137 to supplement this Regulation, by setting up and laying down rules of the management the electronic eligibility service, designating the digital business credential tool and the related network to be used by economic operators for their electronic eligibility. The digital business credential tool and its related network shall fulfil the following requirements:
 - (a) they shall be technologically neutral;
 - (b) they shall be based already existing Union tools and standards;
 - (c) they shall comply with the requirements for the protection of personal data in accordance with Regulation 2018/1725, and the principles of 'data protection by design' data minimisation and purpose limitation pursuant to the Regulation (EU) 2016/679;
 - (d) they shall ensure a secure, practical, user-friendly, flexible, configurable and cost-efficient data exchange in all procurement procedures;
 - (e) they shall be adapted to the particular needs of small and medium-sized enterprises; and,
 - (f) they consider the eProcurement ontology as a semantic framework standardising concept of Union public procurement.
3. The Commission may adopt implementing acts specifying the technical arrangements for the electronic eligibility service. Those implementing acts shall specify the following:
 - (a) technical information on the connection to the digital business credential tool;
 - (b) semantic repository;
 - (c) interoperability criteria;
 - (d) technical set-up and structure of the network;
 - (e) set-up of the algorithmic tool required for the dynamic simplified procedure, including definition of the algorithm;

- (f) data format and structure including configuration;
- (g) scalability and performance;
- (h) security and accountability requirements;
- (i) data ownership; access management;
- (j) technical information on national access points of the digital business credential tool and the access point of the Commission;
- (k) handling of personal data;
- (l) arrangements to tackle inappropriate or fraudulent use of the network;
- (m) technical audits;
- (n) availability of the network and data;
- (o) obligations of digital credential business tool network; and
- (p) obligations of the Member States and the Commission with regards to the electronic eligibility service, including handling the exclusion grounds established in Part II, Title II, Chapter 2 and selection criteria set out pursuant to Article 37.

The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 139(3).

4. The Commission shall be regarded as controller as defined in Article 3, point (8), of Regulation (EU) 2018/1725, in relation to the processing of any personal data that may result from the setting up and management electronic eligibility service Member States shall inform the Commission of any new certificates or forms of documentary evidence required to be provided through the electronic eligibility service.

Part VI

Transparency and Governance

Title I

Data Spaces and networks

Article 130

National Public Procurement Data Spaces

1. Each Member State shall establish a National Public Procurement Data Space ('NPPDS') or assign the role to an already existing system in the Member State, as the central national data access point for data across the public procurement and contract life cycle as well as other related national data. The NPPDS shall be set up as the central connection point to the Public Procurement Data Space pursuant to Article 124.

The NPPDS shall be established in the European Economic Area and shall be owned and controlled by persons located or entities located in the European Economic Area with no third-country natural or legal person exercising, directly or indirectly, decisive influence over them. All data shall be stored within the European Economic Area.

2. Member States shall ensure that all data from the following sources is made available in the NPPDS:
 - (a) data from information categories as set out in the implementing act adopted pursuant to Article 56; and,
 - (b) data from below the thresholds which is available in the format of the information categories set out in the implementing act adopted pursuant to Article 105.

The information shall be made available to the NPPDS at the same time as it is published at Union level or nationally, in case it is not published at Union level.

3. Member States shall ensure that information from contracts and information from completed contracts with a value of at least 10 000 Euro where the preceding procurement would have been covered by this Regulation if its value had exceeded the relevant threshold laid down in Article 3 is made available in the NPPDS. It shall include information on the organisations relevant to the contract and the purpose and result of the contract.

The information shall be made available to the NPPDS 20 days after the contract conclusion and contract completion, respectively.

4. Member States shall ensure that for all procurement procedures within the scope of this Regulation, the following information is made available in the NPPDS:
 - (a) information on participants in the procurement procedure, including on the outcome of their participation in the procedure;
 - (b) information on ancillary service providers and subcontractors;
 - (c) procurement documents, tenders, contracts and handover documents;

- (d) information on budget, including on EU funds;
- (e) information on contracts and on individual payments;
- (f) information that is relevant for the assessment of the adherence by the public buyers to the rules set out by this Regulation;
- (g) information that is relevant to assess the extent to which strategic goals such as environmental, social or innovation aims or the support of SME participation in public procurement, are pursued by public buyers and their contribution to the overall attainment of such goals;
- (h) information on risk factors in public procurement, such as corruption, fraud, or unfair competition practices;
- (i) information on the functioning of national review systems;
- (j) information on the efficiency and accountability of public spending; and,
- (k) information on the functioning of national procurement markets below and above the thresholds, including information on national, cross-border and third country participation including origin of goods.

The information shall be made available to the NPPDS as soon as it is created at the source. However, where the information is related to an ongoing review procedure, it shall only be provided 40 days from the conclusion of the respective review procedure.

5. The data shall be considered to be received only once it has been validated according to the technical validation requirements set up by the Union.
6. The Commission may adopt delegated acts in accordance with Article 137. specifying further data categories of data to be made available to the NPPDS.
7. The Commission may adopt implementing acts in accordance with Article 139(2) to determine the data elements which shall be made available to the NPPDS as well as the designation of specific data elements as publicly available data and the source of the technical validation requirements according to paragraph 6. Where data is not designated as publicly available, Member States shall ensure that certain categories of users such as public buyers, competition authorities, courts of auditors and national Financial Intelligence Units have extensive access rights corresponding to their respective needs and purposes.
8. Member States shall establish rules ensuring the complete, correct and timely provision of access to data for the NPPDS according to this Regulation, as well as rules providing for data governance that assign clear responsibilities for the management and use of the available data. Member States may also establish rules assigning the obligation to provide data to the NPPDS to specific legal entities, including rules regarding the provision by or retrieval of data from other national databases. Member States shall designate one or more competent authorities and shall impose effective, proportionate and dissuasive fines in respect of infringements related to the obligation to provide access to data. Member States shall communicate these rules to the Commission.
9. Where a Member State so requests it, the Commission shall provide that the Member States with the source code of the Public Procurement Data Space for purpose of setting-up the NPPDS.

Article 131

Public Procurement Data Space

1. The Public Procurement Data Space (the ‘PPDS’) established by the Commission shall be a central repository of data provided by all NPPDS for the monitoring of the aims set out in Article 123 paragraph 2 at Union level.
2. Member States shall provide data available to the NPPDS to the PPDS within:
 - (a) 20 days from the conclusion of the respective procurement or review procedure; or,
 - (b) where the data does not fall within point a, 20 days from the creation of the data at its source.

The data shall be considered to be received only once it has been validated according to the technical validation requirements set up by the Union. To this end, the NPPDS shall receive a confirmation of the validation.

3. The Commission may adopt implementing acts, specifying the data elements to be provided by the Member State to the PPDS, the designation of specific data elements as publicly available data and the source of the technical validation requirements according to paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 139(3).
4. The PPDS shall contain both publicly available data and data that are not publicly available. Access to data that are not publicly available shall be restricted to persons having the necessary rights, which may only be accessed with the necessary access rights. Where a Member State requests access rights for a national public authority to data from another Member State, it shall obtain access rights only once the other Member State approves the access.
5. The Commission may grant access to the PPDS to Union institutions within the meaning of Article 2 point 73 of Regulation (EU, Euratom) 2024/2509, Executive Agencies and Union bodies within the meaning of Articles 68, 69 and 70 of that Regulation, to the European Public Prosecutors Office, to the European Anti-Fraud Office and to the European Central Bank according to their respective scope of activity.

Article 132

Data network

1. The Commission shall establish a data network for the management of access to PPDS and NPPDS data.
2. The Commission shall manage the data network and shall ensure that data is exchanged securely. To this end, the Commission may adopt implementing acts specifying the implementation arrangements of the data network pursuant to Union law, 2, which shall specify the following:
 - (a) technical information on the connection to the data network;
 - (b) data format and structure including configuration;
 - (c) semantic repository;
 - (d) interoperability criteria;

- (e) scalability and performance;
- (f) security requirements;
- (g) data ownership;
- (h) access management;
- (i) handling of personal data;
- (j) arrangements to tackle inappropriate or fraudulent use of the network;
- (k) availability of the network and data; and,
- (l) interconnections made via the network, such as to the NPPDS or to the independent national oversight authorities.

The implementing acts referred to in the first subparagraph shall be adopted in accordance with the advisory procedure referred to in Article 139(2).

Title II Governance

Article 133

Monitoring of the functioning of procurement markets

1. Member States shall monitor and analyse the performance of their public procurement systems, based on the data in their National Public Procurement Data Space. They shall identify potential shortcomings and possible improvements, thereby supporting the continuous enhancement of their public procurement system.

To measure the performance of their public procurement systems, Member States shall as a minimum:

- (a) monitor the application of this Regulation and to identify challenges and trends;
- (b) assess the overall performance of their procurement system, including but not limited to barriers to competition and access to procurement opportunities, in particular for SMEs;
- (c) identify and assess systemic risks, vulnerabilities to corruption, and supply-chain dependencies and circumvention of rules and measures taken pursuant to Part III, Title II, Chapter 5;
- (d) evaluate progress in achieving the strategic procurement objectives, including sustainability, innovation, digitalisation, and SME access.

The results of the analysis based on the monitoring shall be made available to the public through appropriate means of information, at least once a year.

2. Every three years, Member States shall report to the Commission on the results of the analyses and, where the structural shortcomings are identified, on the measures taken, planned or envisaged to address those shortcomings.
3. The Commission shall monitor and analyse the functioning of public procurement in the Union, in particular the competition in procurement markets, on the basis of the data in the Public Procurement Data Space. The Commission shall every three years provide an analysis of the public procurement system across the EU.

Article 134

National coordinating authority

1. Member States shall designate one authority, body or structure as national coordinating authority for the purposes of this Regulation.
2. The national coordinating authority shall:
 - (a) ensure effective coordination among the national authorities responsible for carrying out the tasks and exercising the powers provided for under this Regulation;
 - (b) facilitate cooperation and the exchange of information between those authorities;
 - (c) act as the single contact point for the Commission, the competent authorities of other Member States and, where appropriate, relevant stakeholders in matters relating to this Regulation.
3. The designation of a national coordinating authority shall be without prejudice to the allocation of tasks and powers among competent authorities under national law.
4. Member States shall notify the Commission of the national coordinating authority designated pursuant to paragraph 1 and of any subsequent changes thereto.

Article 135

Professionalisation and capacity building

1. Member States shall take appropriate measures to support the professionalisation of public procurement as a long-term and strategic element of public governance, including through appropriate institutional and organisational arrangements and adequate human resources.
2. Member States shall designate at least one competence centre for public procurement. Such competence centre shall provide guidance, advice and support to public buyers to improve the effectiveness, efficiency and integrity of public procurement, including as regards:
 - (a) procurement planning and needs assessment;
 - (b) market engagement and dialogue with economic operators;
 - (c) risk assessment and risk management;
 - (d) integrity, transparency and the prevention of conflicts of interest, fraud and corruption;
 - (e) the preparation and conduct of procurement procedures;
 - (f) sustainable, innovative and strategic procurement;
 - (g) contract management and performance monitoring;
 - (h) collection and dissemination of good practices.
3. The Commission shall support Member States in their efforts to strengthen the professionalisation of public procurement, including by promoting cooperation among competence centres, the exchange of knowledge and good practices, the use of capacity-building tools and, where appropriate, the development of additional measures.

4. The measures referred to in paragraphs 1 to 3 shall, where relevant, also support other stakeholders involved in the public procurement system, including economic operators, in particular SMEs, and audit and control authorities.
5. Member States shall monitor the development of procurement capacities and competencies and periodically assess the effectiveness of the measures adopted pursuant to this Article.

Article 136

Integrity Governance

1. Public buyers shall take appropriate, proportionate, and effective measures to combat fraud, favouritism, collusion, and corruption, and to effectively prevent, identify, and remedy conflicts of interest arising in the conduct of award procedures and in the execution of public contracts. Those measures shall be designed to avoid any distortion of competition, to ensure the transparency of the procedure, and to guarantee the equal treatment of all economic operators participating in the procurement procedure.
2. To support the measures referred to in paragraph 1, Member States shall use appropriate tools, such as ARACHNE, to prevent and detect irregularities.
3. Where, in accordance with paragraph 2, a public buyer identifies a high risk of irregularities, all procurement personnel involved in the preparation, evaluation, or award of the public contract shall be required to complete and submit an electronic integrity declaration. The public buyer shall address by appropriate measures the identified irregularities.

Agence Europe

Part VII

Final Provisions

Title I

Final Provisions

Article 137

Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 3, Article 55, Article 64, Article 65, Article 68, Article 71, Article 74, Article 104, Article 123, Article 128 and Article 129 shall be conferred on the Commission for an indeterminate period of time from [Date of entry into force].
3. The delegation of power referred to in Article 3, Article 55, Article 64, Article 65, Article 68, Article 71, Article 74, Article 104, Article 123, Article 128 and Article 129 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 55, Article 64, Article 65, Article 68, Article 71, Article 74, Article 104, Article 123, Article 128 and Article 129 shall enter into force only where no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of the act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.
6. Text...

Article 138

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 137(5). In such case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or by the Council.

Article 139

Committee procedure

1. The Commission shall be assisted by the Committee on Public Contracts established by Council Decision 71/306/EEC¹⁸⁽⁴⁾. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply. [ADVISORY PROCEDURE]
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. [EXAMINATION PROCEDURE]

Title II

Amendments, repeals, transitional provisions, entry into force and entry into application

Article 140

Repeals

1. [Directive 2014/23/EU](#) is repealed with effect from [date of entry into application]
2. [Directive 2014/24/EU](#) is repealed with effect from [date of entry into application]
3. [Directive 2014/25/EU](#) is repealed with effect from [date of entry into application]
4. References to the repealed Directives shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex XX.

Article 141

Amendments to horizontal public procurement provisions

1. [Article 65 of Regulation \(EU\) 2024/1781](#) is deleted with effect from [date]. References to this Article shall be construed as references to Article 55 of this Regulation.
2. [Article 74\(3\) point \(b\) of Regulation \(EU\) 2024/1781](#) is deleted with effect from [date]. References to this Article shall be construed as reference to Article 28(1), point (a).
3. [NZIA] [Article 22\(4\) and \(5\) of Regulation \(EU\) 2024/1735](#) is deleted with effect from [date]. References to this Article shall be construed as references to Article 55 of this Regulation.
4. [Batteries] [Article 85 of Regulation \(EU\) 2023/1542](#) is deleted with effect from [date]. References to this Article shall be construed as references to Article 55 of this Regulation.
5. [CPR] [Article 83 of Regulation \(EU\) 2024/3110](#) is deleted with effect from [date]. References to this Article shall be construed as references to Article 55 of this Regulation.

¹⁸⁽⁴⁾ Council Decision 71/306/EEC of 26 July 1971 setting up an Advisory Committee for Public Works Contracts, OJ L 185, 16.8.1971, p. 15–15, ELI: <http://data.europa.eu/eli/dec/1971/306/oj>

6. [packaging] [Article 63 of Regulation \(EU\) 2025/40](#) is repealed with effect from [date]. References to this Article shall be construed as references to Article 55 of this Regulation.
7. [EED] [Article 7 of Directive 2023/1791](#) is amended as follows: Article 7 is replaced by the following: “Without prejudice to Article 54[Regulation on public procurement) Member States shall ensure that public buyers, when concluding public contracts and concessions with a value equal to or greater than the thresholds laid down in Article 3 of that Regulation, comply with the requirements referred to in Annex IV to this Directive, unless it is not technically feasible.” with effect from [date].
8. [waste framework] [Article 11 of Directive 2008/98/EC](#) is amended as follows: first subparagraph of paragraph (1) is replaced by the following: “Member States shall take measures, as appropriate, to promote the re-use of products and preparing for re-use activities, notably by encouraging the establishment and support of re-use and repair networks, the use of economic instruments, quantitative objectives or other measures” with effect from [date].
9. [Raw materials] [Article 26\(1\)\(d\) of Regulation \(EU\) 2024/1252](#) is deleted with effect from [date]. References to this Article shall be construed as references to Article 53(1) of this Regulation.
10. [accessibility] [Article 24\(1\) of Directive 2019/882](#) is deleted with effect from [date]. References to this Article shall be construed as references to Article 57 of this Regulation.
11. [women on board] [Article 8\(3\) of Directive 2022/2381](#) is deleted with effect from [date]. References to this Article shall be construed as references to Article 2(4) of this Regulation.
12. [horizontal cyber security] [Article 5 of Regulation \(EU\) 2024/2847](#) is deleted with effect from [date]. References to this Article shall be construed as references to Article 67 of this Regulation.
13. [CSDD] Article 31 of Directive (EU) 2024/1760 is deleted with effect from [date]. References to this Article shall be construed as references to Article 56 of this Regulation.
14. [Regulation \(EU\) 2023/1115](#) [Deforestation] is amended as follows: point (d) in Article 25 (2) is replaced by the following: “(d) temporary exclusion for a maximum period of 12 months from access to public funding, including grants” with effect from [date].
15. [Article 63\(3\) point \(c\) of Regulation \(EU\) 2024/1157](#) [Shipment of Waste] is deleted with effect from [date]. References to this Article shall be construed as reference to Article 28(1), point (a).
16. Article 24(2) of Regulation (EU) 2023/970 [Transparency (equal pay for equal work)] is deleted with effect from [date]. References to this Article shall be construed as reference to Article 28(1), point (a).

Article 142

Transitional provisions

Decisions adopted pursuant Article 35 Directive 2014/25/EU and Article 30 of Directive 2004/17/EC shall remain valid until [XXX] unless they have expired for other reasons.

Article 143

Review

1. Every seven years after the entry into force of this Regulation, the Commission shall carry out an evaluation of this Regulation. That evaluation shall assess
 - (a) the simplification, flexibility and coherence of public procurement legislation;
 - (b) the uptake of environmental, social and innovation public procurement;
 - (c) the contribution of public procurement in improving the EU's economic security and strategic autonomy; and,
 - (d) the transparency rate, accessibility, data quality and data integration of public procurement information.
2. The Commission shall present a report on the main findings to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Member States shall provide the Commission with the necessary information for the preparation of the report.

Article 144

Entry into force and entry into application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall apply [2 years] following the entry into force.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President
[...]

For the Council
The President
[...]

LEGISLATIVE FINANCIAL AND DIGITAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Regulation of the European Parliament and of the Council on public contracts and concessions, repealing Directive 2014/23/EU, Directive 2014/24/EU and Directive 2014/25/EU, and amending Regulation (EU) 2023/1115, Regulation (EU) 2024/1157, Regulation (EU) 2024/1781, Regulation (EU) 2024/3110, Regulation (EU) 2023/1542, Regulation (EU) 2025/40, Directive (EU) 2023/1791, Directive (EU) 2024/1760, Directive 2008/98/EC, Regulation (EU) 2024/1252, Directive (EU) 2019/882, Directive (EU) 2022/2381, Regulation (EU) 2024/1735, and Regulation (EU) 2024/2847.

1.2. Policy area(s) concerned

Public Procurement; Internal Market; Communications Networks, Content and Technology

1.3. Objective(s)

1.3.1. General objective(s)

The general objectives are to make public procurement a more efficient public investment instrument, supporting policy objectives, in particular single market integration, strategic economic autonomy, social and ecological sustainability and innovation. The general objectives contribute to the achievement of SDG goals, in particular #9 Industry, Innovation and tr, #12 Responsible consumption and production and #8 Decent work and economic growth.

1.3.2. Specific objective(s)

Four specific objectives have been derived from the general objectives, providing practical detail on how the latter will be achieved.

Specific objective No 1:

Simplify and promote flexibility in procurement procedures and increase legal clarity and coherence of applicable rules, so as to facilitate public procurement processes and access to them for economic operators across the single market, including for SMEs.

Specific objective No 2:

Increase the uptake of environmental, social and innovation public procurement in support of strategic policy objectives of the Union and provide a more coherent legal framework in this regard.

Specific objective No 3:

Improve EU economic security and strategic autonomy in public procurement, promoting a coherent legal framework in this regard.

Specific objective No 4:

Facilitate access to public procurement information, data and IT solutions so as to reduce administrative burden and increase transparency and monitoring, thereby preventing and reducing irregular practices and enabling policy-making choices.

1.3.3. Expected result(s) and impact

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

The Regulation is expected to bring several positive outcomes for the three main stakeholders related to public procurement, namely policy makers, contracting authorities and economic operators. The main expected result is a more efficient and transparent single market, with easier access to business opportunities for economic operators. This will lead to increased participation and competition, benefiting both public buyers and economic operators. Policy makers will also gain a better understanding of the procurement lifecycle, enabling more effective oversight and evidence-based decision making but also improve better insights to fight irregularities. The impact will be a reduction in administrative burdens, improved market insights, and more effective procurement decisions. Ultimately, this will contribute to a stronger and more integrated single market, with benefits for all stakeholders involved.

1.3.4. *Indicators of performance*

Specify the indicators for monitoring progress and achievements.

Monitoring and evaluation aspect and relevant objectives	Indicator(s)	Responsibility for collection	Source(s)
Improvement of competitiveness in the Single Market for suppliers.	Increase of number of bids per procedure	European Commission	Single Market and Competitiveness Scoreboard and PPDS
Removing barriers to participate in other EU countries for suppliers.	Increase of cross-border participation	European Commission	Single Market and Competitiveness Scoreboard and PPDS
Reduce administrative burden that prevent SMEs of participating in procurement procedures.	Increase of participation from SMEs	European Commission	Single Market and Competitiveness Scoreboard and PPDS

1.4. **The proposal/initiative relates to:**

- a new action**
- a new action following a pilot project/preparatory action** ¹⁹⁽¹⁾
- the extension of an existing action**
- a merger or redirection of one or more actions towards another/a new action**

¹⁹⁽¹⁾ As referred to in Article 58(2), point (a) or (b) of the Financial Regulation.

1.5. Grounds for the proposal/initiative

1.5.1. *Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative*

The Regulation aims to simplify the whole public procurement market. This includes the public procurement digital ecosystem. It requires eProcurement service providers to ensure interoperability in their services in accordance with the upcoming standards. Additionally, it will mandate that Member States integrate and connect their digital business credential tool to the Electronic Eligibility Service and their respective national registries. This will enable economic operators to fully utilise the digital business credential tool. Member States will also be required to establish and connect their National Public Procurement Data Spaces to the Data Network.

1.5.2. *Added value of EU involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this section 'added value of EU involvement' is the value resulting from EU action, that is additional to the value that would have been otherwise created by Member States alone.*

Reasons for action at EU level (ex-ante)

Public buyers in the EU spend around 15% of GDP a year on public procurement, amounting to around EUR 2.6 trillion. This makes rules on the procurement of goods, services and works key for ensuring public funds are invested efficiently and effectively while preventing corruption and anti-competitive practices. It also makes procurement an instrument to support the Union's wider policy objectives including further strengthening a highly competitive, resilient and sustainable social market economy. This requires clear and simple procedures that do not impose unnecessary administrative burden to provide certainty and speed to both, public buyers and economic operators.

In her Political Guidelines for this European Commission, President von der Leyen announced a revision of the EU public procurement rules, emphasising the strategic importance and simplification potential of public procurement and the introduction of "Made in Europe" criteria for certain strategic sectors. Executive Vice-President Séjourné underlined the enormous potential of public procurement as part of the European investment strategy to boost EU competitiveness, resilience and economic security. In its Single Market Strategy, the EC set out the objectives for the revision to centralise and streamline public procurement provisions and to mainstream strategic aspects and European preference criteria.

Expected generated EU added value (ex-post)

Within the Regulation, an important objective is to create a Public Procurement Digital Ecosystem where businesses can participate in procurement across the European Union using just one system. This eliminates the need to navigate multiple platforms while ensuring access to all opportunities. The Electronic Eligibility Service which is connected to the digital business credential tool will automate qualification checks, reducing paperwork for companies and making it easier for buyers to verify eligibility. For lifecycle monitoring, the Public Procurement Data Space and the National Public Procurement Data Space, will allow to have near real-time data replacing static reports, helping policymakers to make better policy decisions, and buyers to assess suppliers.

1.5.3. *Lessons learned from similar experiences in the past*

Previous reforms have shown that digital tools like eProcurement can streamline processes, but these need to be standardised across all member states to avoid fragmentation. The new rules should establish clear core requirements while allowing flexibility in how they are implemented.

Experience has demonstrated that simplified procedures and digital pre-qualification systems help small and medium-sized businesses participate more effectively in public procurement. Automated data collection has proven valuable for improving transparency and enabling better monitoring of procurement processes.

Finally, past reforms have shown that successful implementation requires early engagement with all stakeholders and providing clear guidance throughout the process.

1.5.4. *Compatibility with the multiannual financial framework and possible synergies with other appropriate instruments*

The revision of the public procurement directives supports the EU's simplification and competitiveness goals by enabling economic operators with digital tools and harmonised processes, enabling trusted, secure, and user-friendly compliance with administrative requirements. This includes streamlined identification, authentication, and data exchange, ensuring seamless interactions between businesses and public authorities. Hence, it is fully in line with the objectives of the MFF 2028-2034.

The inclusion of the Commission and Member States in implementing these directives will have financial implications, which will be predominantly covered by the EU budget under the MFF 2028-2034. These costs are mainly associated with:

1. The digital transformation of procurement processes, including the development and deployment of eProcurement platforms.
2. The integration of existing IT systems with new digital tools to ensure interoperability.
3. The establishment of supervisory and monitoring mechanisms to ensure compliance with the revised directives.

1.5.5. *Assessment of the different available financing options, including scope for redeployment*

The staff requested in the amount of 17 additional FTEs (8 ADs for DG GROW, 4 ADs for Publication Office, and 5 ENDS for DG GROW) will be redeployed by existing allocations of the DG that is assigned to the management of the action or other Commission services and if necessary, with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

1.6. **Duration of the proposal/initiative and of its financial impact**

limited duration

in effect from [DD.MM]YYYY to [DD.MM]YYYY

financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

unlimited duration

Implementation with a start-up period from 2028 to 2034,

followed by full-scale operation.

1.7. **Method(s) of budget implementation planned**²⁰⁽²⁾

- Direct management** by the Commission
 - by its departments, including by its staff in the Union delegations;
 - by the executive agencies
- Shared management** with the Member States
- Indirect management** by entrusting budget implementation tasks to:
 - third countries or the bodies they have designated;
 - international organisations and their agencies (to be specified);
 - the European Investment Bank and the European Investment Fund;
 - bodies referred to in Articles 70 and 71 of the Financial Regulation;
 - public law bodies;
 - bodies governed by private law with a public service mission to the extent that they are provided with adequate financial guarantees;
 - bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that are provided with adequate financial guarantees;
 - bodies or persons entrusted with the implementation of specific actions in the common foreign and security policy pursuant to Title V of the Treaty on European Union, and identified in the relevant basic act
 - bodies established in a Member State, governed by the private law of a Member State or Union law and eligible to be entrusted, in accordance with sector-specific rules, with the implementation of Union funds or budgetary guarantees, to the extent that such bodies are controlled by public law bodies or by bodies governed by private law with a public service mission, and are provided with adequate financial guarantees in the form of joint and several liability by the controlling bodies or equivalent financial guarantees and which may be, for each action, limited to the maximum amount of the Union support.

Comments

2. **MANAGEMENT MEASURES**

2.1. **Monitoring and reporting rules**

The Regulation will be reviewed three years after its full application. The Commission must report on the findings to the European Parliament and to the Council.

2.2. **Management and control system(s)**

²⁰⁽²⁾ Details of budget implementation methods and references to the Financial Regulation may be found on the [BUDGpedia](https://myintracomm.ec.europa.eu/corp/budget/financial-rules/budget-implementation/Pages/implementation-methods.aspx) site: <https://myintracomm.ec.europa.eu/corp/budget/financial-rules/budget-implementation/Pages/implementation-methods.aspx>.

2.2.1. *Justification of the budget implementation method(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed*

The revised public procurement directives introduce harmonised digital tools and processes to streamline administrative requirements, ensuring trusted, secure, and user-friendly compliance. These new rules necessitate the development of technical specifications, standards, and interoperability frameworks, as well as supervision and coordination among EU institutions, and Member States.

To effectively implement these measures, the Commission's services must be adequately resourced, including:

1. Technical and operational support for digital infrastructure (e.g., eProcurement platforms, integration with the digital business credential tool).
2. Coordination with Member States to ensure consistent application of the new legislation.

The implementation of the provisions of the new Regulation is estimated to require 17 additional Full-Time Equivalents (FTEs) within the Commission, ensuring sufficient capacity for supervision, monitoring, and policy implementation.

2.2.2. *Information concerning the risks identified and the internal control system(s) set up to mitigate them*

Risks of delays in implementation on Commission or Member States side, leading to non-compliance or fragmented application. Regular engagement with Member States and businesses to identify risks early and align control systems with stakeholder needs.

2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio between the control costs and the value of the related funds managed), and assessment of the expected levels of risk of error (at payment & at closure)*

The internal control systems in place are effective.

2.3. **Measures to prevent fraud and irregularities**

The existing fraud prevention measures applicable to the Commission will cover the additional appropriations necessary for this Regulation.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff. ²¹⁽³⁾	from EFTA countries ²²⁽⁴⁾	from candidate countries and potential candidates ²³⁽⁵⁾	from other third countries	other assigned revenue
2	03.20.03.01 Baseline	Diff.	YES	YES	NO	NO
2	04.01.01 - Support expenditure for European Competiti	Diff.	YES ²⁴⁽⁶⁾	YES ²⁵⁽⁷⁾	NO	NO

²¹⁽³⁾ Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

²²⁽⁴⁾ EFTA: European Free Trade Association.

²³⁽⁵⁾ Candidate countries and, where applicable, potential candidates from the Western Balkans.

²⁴⁽⁶⁾ Not yet determined. It is the intention of the Commission to have EFTA countries participating.

²⁵⁽⁷⁾ Not yet determined. It is the intention of the Commission to have candidate countries and/or potential candidate countries participating.

	veness Fund					
2	03.20.03.0 Scale up	Diff.	YES	YES	NO	NO

New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./non-diff.	from EFTA countries	from candidate countries and potential candidates	from other third countries	other assigned revenue
	[XX.YY.Y Y.YY]	Diff./Non-diff.	YES/NO	YES/NO	YES/NO	YES/NO
	[XX.YY.Y Y.YY]	Diff./Non-diff.	YES/NO	YES/NO	YES/NO	YES/NO
	[XX.YY.Y Y.YY]	Diff./Non-diff.	YES/NO	YES/NO	YES/NO	YES/NO

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

- The proposal/initiative does not require the use of operational appropriations

The proposal/initiative requires the use of operational appropriations, as explained below:

3.2.1.1. *Appropriations from voted budget*

EUR million (to three decimal places)

The estimated impact on expenditure and staffing for 2028 and beyond is added for illustrative purposes only and does not pre-judge the next Multiannual Financial Framework. The source of financing and scope of Union financial commitment in the post-2027 period remain subject to the outcome of interinstitutional negotiations on the MFF 2028-2034 and thereafter shall be determined through the annual budgetary procedure. All appropriations and staffing allocations as of 2028 are indicative.											
This initiative will be financed by redeployment within the operational programmes of the next MFF, and partially by administrative expenditure. At this stage, it is not possible to indicate accurately the contribution from each MFF heading and programme, while it is expected that a significant contribution will come from programmes under heading 2 of the 2028-2034 MFF (e.g. the European Competitiveness Fund).											
Heading of multiannual financial framework				Number			2				
DG: GROW				Year 2028	Year 2029	Year 2030	Year 2031	Year 2032	Year 2033	Year 2034	TOTAL MFF 2028-2034
Operational appropriations											
04.02.01 - Support expenditure for European Competitiveness Fund	Commitments	(1a)	9.908	9.908	9.908	9.908	9.908	9.908	9.908	69.356	
	Payments	(2a)	2.286	6.097	8.384	12.194	12.194	13.719	14.481	69.356	
Appropriations of an administrative nature financed from the envelope of specific programmes ²⁶⁽⁸⁾											
Budget line		(3)								0.000	

²⁶⁽⁸⁾ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

TOTAL appropriations for DG GROW	Commitments	=1a+1b+3	9.908	9.908	9.908	9.908	9.908	9.908	9.908	69.356
	Payments	=2a+2b+3	2.286	6.097	8.384	12.194	12.194	13.719	14.481	69.356
DG: Publication Office			Year 2028	Year 2029	Year 2030	Year 2031	Year 2032	Year 2033	Year 2034	TOTAL MFF 2028-2034
Operational appropriations										
03.20.03.01 Baseline	Commitments	(1a)	11.000	11.000	11.000	11.000	11.000	11.000	11.000	77.000
	Payments	(2a)	2.538	6.769	9.308	13.538	13.538	15.231	16.077	77.000
03.20.03.0 Scale up	Commitments	(1b)	2.224	2.224	2.224	2.224	2.224	2.224	2.224	15.568
	Payments	(2b)	0.513	1.369	1.882	2.737	2.737	3.079	3.250	15.568
Appropriations of an administrative nature financed from the envelope of specific programmes ²⁷⁽⁹⁾										
Budget line		(3)								0.000
TOTAL appropriations for Publication Office	Commitments	=1a+ab+3	13.224	13.224	13.224	13.224	13.224	13.224	13.224	92.568

²⁷⁽⁹⁾ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

	Payments	=2a+ 2b+3	3.052	8.138	11.19 0	16.27 6	16.27 6	18.31 0	19.32 7	92.568
			Year 2028	Year 2029	Year 2030	Year 2031	Year 2032	Year 2033	Year 2034	TOTAL MFF 2028-2034
TOTAL operational appropriations	Commitments	(4)	23.13 2	23.13 2	23.13 2	23.13 2	23.13 2	23.13 2	23.13 2	161.924
	Payments	(5)	5.338	14.23 5	19.57 3	28.47 0	28.47 0	32.02 9	33.80 8	161.924
TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
TOTAL appropriations under HEADING 2 of the multiannual financial framework	Commitments	=4+6	23.13 2	23.13 2	23.13 2	23.13 2	23.13 2	23.13 2	23.13 2	161.924
	Payments	=5+6	5.338	14.23 5	19.57 3	28.47 0	28.47 0	32.02 9	33.80 8	161.924
			Year 2028	Year 2029	Year 2030	Year 2031	Year 2032	Year 2033	Year 2034	TOTAL MFF 2028-2 034
TOTAL operational appropriations (all operational headings)	Commitments	(4)	23.13 2	23.13 2	23.13 2	23.13 2	23.13 2	23.13 2	23.13 2	161.92 4

	Payments	(5)	5.338	14.23 5	19.57 3	28.47 0	28.47 0	32.02 9	33.30 8	161.92 4	
TOTAL appropriations of an administrative nature financed from the envelope for specific programmes (all operational headings)			(6)	0.000	0.000	0.000	0.000	0.000	0.000	0.000	
TOTAL appropriations Under Heading 1 to 3 of the multiannual financial framework (Reference amount)	Commitments	=4+6	23.13 2	23.13 2	23.13 2	23.13 2	23.13 2	23.13 2	23.13 2	161.92 4	
	Payments	=5+6	5.338	14.23 5	19.57 3	28.47 0	28.47 0	32.02 9	33.30 8	161.92 4	
Heading of multiannual financial framework			4				'Administrative expenditure' ²⁸⁽¹⁰⁾				
DG: GROW			Year 2028	Year 2029	Year 2030	Year 2031	Year 2032	Year 2033	Year 2034	TOTAL MFF 2028-2034	
Human resources			2.092	2.092	2.092	2.092	2.092	2.092	2.092	14.644	
Other administrative expenditure			0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	
TOTAL DG GROW	Appropriations		2.092	2.092	2.092	2.092	2.092	2.092	2.092	14.644	
DG: Publication Office			Year 2028	Year 2029	Year 2030	Year 2031	Year 2032	Year 2033	Year 2034	TOTAL MFF	

²⁸⁽¹⁰⁾ The necessary appropriations should be determined using the annual average cost figures available on the appropriate BUDGpedia webpage.

									2028-2034
Human resources		0.776	0.776	0.776	0.776	0.776	0.776	0.776	5.432
Other administrative expenditure		0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
TOTAL Publication Office	Appropriations	0.776	0.776	0.776	0.776	0.776	0.776	0.776	5.432
TOTAL appropriations under HEADING 4 of the multiannual financial framework		2.868	2.868	2.868	2.868	2.868	2.868	2.868	20.076
		(Total commitments = Total payments)							

EUR million (to three decimal places)

		Year 2028	Year 2029	Year 2030	Year 2031	Year 2032	Year 2033	Year 2034	TOTAL MFF 2028-2034
TOTAL appropriations under HEADINGS 1 to 4 of the multiannual financial framework	Commitments	26.000	26.000	26.000	26.000	26.000	26.000	26.000	182.000
	Payments	8.206	17.103	22.441	31.338	31.338	34.897	36.676	182.000

3.2.2. *Estimated output funded from operational appropriations (not to be completed for decentralised agencies)*

Commitment appropriations in EUR million (to three decimal places)

Indicateur	Year 2024	Year 2025	Year 2026	Year 2027	Enter as many years as necessary to show the duration of the impact (see Section 1.6)	TOTAL

ctive s and out puts ↓	OUTPUTS																	
	Type 29(11)	Aver age cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total Cost
SPECIFIC OBJECTIVE No 1 30(12): [...]																		
- Out put																		
- Out put																		
- Out put																		
Subtotal for specific objective No 1																		
SPECIFIC OBJECTIVE No 2 ...																		

²⁹⁽¹¹⁾ Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

³⁰⁽¹²⁾ As described in point 1.4.2. 'Specific objective(s)...'

- Output																		
Subtotal for specific objective No 2																		
TOTALS																		

3.2.3. *Summary of estimated impact on administrative appropriations*

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

3.2.3.1. *Appropriations from voted budget*

VOTED APPROPRIATIONS	Year 2028	Year 2029	Year 2030	Year 2031	Year 2032	Year 2033	Year 2034	TOTAL MFF 2028-2034
HEADING 4								
Human resources	2.868	2.868	2.868	2.868	2.868	2.868	2.868	22.944
Other administrative expenditure	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Subtotal HEADING 4	2.868	2.868	2.868	2.868	2.868	2.868	2.868	22.944
Outside HEADING 4								
Human resources	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000

Other expenditure of an administrative nature	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Subtotal outside HEADING 4	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
TOTAL									
	2.868	2.868	2.868	2.868	2.868	2.868	2.868	2.868	22.944

1.1.1.3. *Total appropriations*

TOTAL VOTED APPROPRIATIONS + EXTERNAL ASSIGNED REVENUES	Year 2028	Year 2029	Year 2030	Year 2031	Year 2032	Year 2033	Year 2034	TOTAL MFF 2028-2034
HEADING 4								
Human resources	2.868	2.868	2.868	2.868	2.868	2.868	2.868	22.944
Other administrative expenditure	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Subtotal HEADING 4	2.868	2.868	2.868	2.868	2.868	2.868	2.868	22.944
Outside HEADING 4								
Human resources	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Other expenditure of an administrative nature	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000

Subtotal outside HEADING 4	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
TOTAL								
	2.868	2.868	2.868	2.868	2.868	2.868	2.868	22.944

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together, if necessary, with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

1.1.2. *Estimated requirements of human resources*

- The proposal/initiative does not require the use of human resources
- The proposal/initiative requires the use of human resources, as explained below

1.1.2.3. *Financed from voted budget*

Estimate to be expressed in full-time equivalent units (FTEs) ³¹⁽¹³⁾

VOTED APPROPRIATIONS	Ye ar 20 28	Ye ar 20 29	Ye ar 20 30	Ye ar 20 31	Year 2032	Year 2033	Year 2034
Establishment plan posts (officials and temporary staff)							
20 01 02 01 (Headquarters and Commission's	12	12	12	12	12	12	12

³¹⁽¹³⁾ Please specify below the table how many FTEs within the number indicated are already assigned to the management of the action and/or can be redeployed within your DG and what are your net needs.

Representation Offices)									
20 01 02 03 (EU Delegations)		0	0	0	0	0	0	0	0
01 01 01 01 (Indirect research)		0	0	0	0	0	0	0	0
01 01 01 11 (Direct research)		0	0	0	0	0	0	0	0
Other budget lines (specify)		0	0	0	0	0	0	0	0
External staff (in FTEs)									
20 02 01 (AC, END from the 'global envelope')		5	5	5	5	5	5	5	5
20 02 03 (AC, AL, END and JPD in the EU Delegations)		0	0	0	0	0	0	0	0
Ad min. support line [XX].01.	at Headquarters	0	0	0	0	0	0	0	0
	in EU Delegations	0	0	0	0	0	0	0	0

YY. YY]								
01 01 01 02 (AC, END - Indirect research)	0	0	0	0	0		0	0
01 01 01 12 (AC, END - Direct research)	0	0	0	0	0		0	0
Other budget lines (specify) - Heading 4	0	0	0	0	0		0	0
Other budget lines (specify) - Outside Heading 4	0	0	0	0	0		0	0
TOTAL	17	17	17	17	17		17	17

1.1.1.3. *Total requirements of human resources*

TOTAL VOTED APPROPRIATIONS + EXTERNAL ASSIGNED REVENUES	Ye	Ye	Ye	Ye	Year 2032	Year 2033	Year 2034
	ar 2028	ar 2029	ar 2030	ar 2031			

Establishment plan posts (officials and temporary staff)							
20 01 02 01 (Headquarters and Commission's Representation Offices)	12	12	12	12	12	12	12
20 01 02 03 (EU Delegations)	0	0	0	0	0	0	0
01 01 01 01 (Indirect research)	0	0	0	0	0	0	0
01 01 01 11 (Direct research)	0	0	0	0	0	0	0
Other budget lines (specify)	0	0	0	0	0	0	0
External staff (in full time equivalent units)							
20 02 01 (AC, END from the global envelope)	5	5	5	5	5	5	5
20 02 03 (AC, AL, END and JPD in the EU Delegations)	0	0	0	0	0	0	0

Admin support line [X X.0 1.Y Y.Y Y]	at Headquarters	0	0	0	0	0	0	0
	in EU Delegations	0	0	0	0	0	0	0
01 01 01 02 (AC, END - Indirect research)		0	0	0	0	0	0	0
01 01 01 12 (AC, END - Direct research)		0	0	0	0	0	0	0
Other budget lines (specify) - Heading 4		0	0	0	0	0	0	0
Other budget lines (specify) - Outside Heading 4		0	0	0	0	0	0	0
TOTAL		17	17	17	17	17	17	17

The staff required to implement the proposal (in FTEs):

	To be covered by current staff available in the Commission services	Exceptional additional staff*		
		To be financed under Heading 4 or Research	To be financed from BA line	To be financed from fees
Establishment plan posts		17	N/A	
External staff (CA, SNEs, INT)				

Description of tasks to be carried out by:

Officials and temporary staff	The tasks to be carried out by the officials and temporary staff pertain the legal workstream, the technical workstream, the coordination and the supervisory role.
External staff	N/A

1.1.2. Overview of estimated impact on digital technology-related investments

Compulsory: the best estimate of the digital technology-related investments entailed by the proposal/initiative should be included in the table below.

Exceptionally, when required for the implementation of the proposal/initiative, the appropriations under Heading 7 should be presented in the designated line.

The appropriations under Headings 1-6 should be reflected as "Policy IT expenditure on operational programmes". This expenditure refers to the operational budget to be used to re-use/ buy/ develop IT platforms/ tools directly linked to the implementation of the initiative and their associated investments (e.g. licences, studies, data storage etc). The information provided in this table should be consistent with details presented under Section 4 "Digital dimensions".

TOTAL Digital and IT appropriations	Year 2028	Year 2029	Year 2030	Year 2031	Year 2032	Year 2033	Year 2034	TOTAL MFF 2028-2034
HEADING 4								
IT expenditure (corporate)	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Subtotal HEADING 4	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Outside HEADING 4								
Policy IT expenditure on operational programmes	23.132	23.132	23.132	23.132	23.132	23.132	23.132	161.924
Subtotal outside HEADING 4	23.132	23.132	23.132	23.132	23.132	23.132	23.132	161.924
TOTAL	23.123	23.132	23.132	23.132	23.132	23.132	23.132	161.924

1.1.3. *Compatibility with the current multiannual financial framework*

The proposal/initiative:

- can be fully financed through redeployment within the relevant heading of the multiannual financial framework (MFF).
- requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.
- requires a revision of the MFF.

Agence Europe

1.1.4. *Third-party contributions*

The proposal/initiative:

- does not provide for co-financing by third parties
 provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

	Year 2024	Year 2025	Year 2026	Year 2027	Total
Specify the co-financing body					
TOTAL appropriations co-financed					

1.2. **Estimated impact on revenue**

- The proposal/initiative has no financial impact on revenue.
 The proposal/initiative has the following financial impact:
 on own resources
 on other revenue
 please indicate, if the revenue is assigned to expenditure lines

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative ³²⁽¹⁴⁾			
		Year 2024	Year 2025	Year 2026	Year 2027

³²⁽¹⁴⁾ As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20% for collection costs.

Article					
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For assigned revenue, specify the budget expenditure line(s) affected.

[...]

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).

[...]

2. DIGITAL DIMENSIONS

2.1. Requirements of digital relevance

If the policy initiative is assessed as having no requirement of digital relevance, provide an explanation as to why digital means are not used.

N/A

Otherwise, please list the requirements of digital relevance in the table below:

Reference to the requirement	Requirement description	Actor(s) affected or concerned by the requirement	High-level Processes	Categories
Article 103, Article 104, Article 105, Article 106, Article 107	Publication rules	European Commission Member States eProcurement Service providers	IT specifications	Data Digital Solutions
Article 124	Interoperability network	European Commission Member States eProcurement Service providers	Establishment of a network for data exchange	Data Digital public services Process digitalisation & automation

Article 125, 126	European harmonised standards for public procurement and common specifications	European Commission Member States eProcurement Service providers	Development and implementation of European standards	Data
Article 127	Obligations of eProcurement service providers	Member States eProcurement Service providers	IT specifications	Data Digital solutions Digital public services
Article 128	Commission eProcurement service	European Commission Member States Contracting authorities Economic operators	Development of an eProcurement service by the European Commission	Data Digital solutions Digital public services
Article 129	Electronic Eligibility Service	European Commission Member States Contracting authorities Economic operators	Development of an Electronic Qualification Service by the European Commission	Data Digital solutions Digital public services Process digitalisation & automation
Article 130	National Public Procurement Data Spaces	Member States	IT and data specifications development &	Data Digital solutions Digital public services Process digitalisation & automation

Article 131	Public Procurement Data Space	European Commission	IT and data specifications & development	Data Digital solutions Digital public services Process digitalisation & automation
Article 132	Data network	European Commission Member States	Establishment of a network for data exchange	Data Digital public services Process digitalisation & automation

2.2. Data

High-level description of the data in scope and any related standards/specifications

Type of data	Reference to the requirement(s)	Standard and/or specification (if applicable)
Publication data	Article 104	The published information will contain information listed in Article 104. As stipulated also by Article 104 the Commission shall establish rules for the publication of information by means of implementing acts.
General Procurement Data	Article 137, Article 139(2)	The information will contain information listed in Article 130. As stipulated by Article 137 and Article 139(2) the Commission shall further define this by

		means of delegated and implementing acts.
Exclusion Ground evidence	Article 129	The exclusion ground evidence should be made available in the digital business credential tool and sharable to buyers through the Electronic Eligibility Service.
Selection Criteria	Article 129	The selection criteria evidence should be sharable to buyers through the Electronic Eligibility Service.
Company information	Article 129	The company information should be sharable to buyers through the Electronic Eligibility Service.

Alignment with the European Data Strategy

Explain how the requirement(s) are aligned with the European Data Strategy

The proposal is aligned with the European Data Strategy as it will mandate the sharing of data towards the Public Procurement Data Space by also introducing National Public Procurement Data Space in each Member States. Thanks to this reinforcement, the transparency and accountability of public spending, fighting corruption and improving spending quality will be reinforced.

Alignment with the once-only principle

Explain how the once-only principle has been considered and how the possibility to reuse existing data has been explored

The proposal put the once-only principle as a central principle. Thanks to the use of the Electronic Qualification Service, and the Digital Business Credential Tool, economic operator will have the possibility to only share once the evidence to participate in a public procurement procedure.

Explain how newly created data is findable, accessible, interoperable and reusable, and meets high-quality standards

Newly created data respects the FAIR principles as the Public Procurement Data Space will securely gather, clean and align all data received from each Member States. This data will be available, with some restrictions applying on sensitive data, in order for each European citizens to have access to procurement data and get a complete overview of the European market.

Data flows

For each data flow, please fill the table below:

Type of data	Reference(s) to the requirement(s)	Actor who provides the data	Actor who receives the data	Trigger for the data exchange	Frequency (if applicable)
Publication data	Article 97; Article 124; Article 127	Contracting authorities	Economic operators	Publication of tender	//
General procurement data	Article 130	eProcurement service	NPPDS		//
General procurement data	Article 126	NPPDS	PPDS		Every 20 days max
Publication of data	Article 124; Article 127	Economic operators	Contracting authorities	Submission for a tender	//
Exclusion Ground evidence	Article 129	Economic operators	Contracting authorities	Submission for a tender	//
Selection Criteria	Article 129	Economic operators	Contracting authorities	Submission for a tender	//
Company information	Article 129	Economic operators	Contracting authorities	Submission for a tender	//

1.4. Interoperability assessment

Describe the digital public service(s) affected by the requirements

Digital public service or category of digital public services	Description	Reference(s) to the requirement(s)	Interoperable Europe Solution(s)(NOT APPLICABLE)	Other interoperability solution(s)
Interoperability network	Interoperability network will be used by eProcurement services to exchange data to all other connected eProcurement services.	Article 124; Article 125		//
eProcurement services	All services around the European Union will be interconnected by implementing the standards and exchanging data through the interoperability network.	Article 127; Article 128		//
Electronic Eligibility Service	The Electronic Eligibility Service will be interconnected to digital business credential tools for economic operators to prove their compliance with exclusion grounds.	Article 129		//
Public Procurement Data Space	The Public Procurement Data Space will gather	Article 130; Article 131; Article 132		//

	notice information from every National Public Procurement Data Spaces through the data network.			
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Assess the impact of the requirement(s) on cross-border interoperability

Digital public service #1: Interoperability network

Assessment	Measure(s)	Potential remaining barriers (if applicable)
Alignment with existing digital and sectorial policies. Please list the applicable digital and sectorial policies identified	Implementing Act will provide detailed further information and will deal with sectorial files.	The alignment with several sectorial policies, such as Directive (EU) 2023/1791, Regulation (EU) 2019/1242, Regulation (EU) 2023/1542, Regulation (EU) 2024/1781, Directive 2009/33/EC
Organisational measures for a smooth cross-border digital public services delivery. Please list the governance measures foreseen	The main legal act foresees governance for interoperability network and data network.	Uncertainty on the network technology choice. Uneven digital maturity of Member States.
Measures taken to ensure a shared understanding of the data. Please list such measures	The validation service will be used for collection of data and for the publication of information, in the official journal and in the PPDS.	Large unstructured tender files. National differences. National reluctance to share non-public procurement data. Data quality gaps.

Assessment	Measure(s)	Potential remaining barriers (if applicable)
Use of commonly agreed open technical specifications and standards. Please list such measures	Standards for the interoperability network and the Public Procurement Documentations will be developed and implemented.	Heterogeneous national eProcurement platforms.

Digital public service #2: Electronic eligibility service

Assessment	Measure(s)	Potential remaining barriers (if applicable)
Alignment with existing digital and sectorial policies. Please list the applicable digital and sectorial policies identified	Implementing Act will provide detailed further information and will deal with sectorial files.	The alignment with several sectorial policies, such as Directive (EU) 2023/1791, Regulation (EU) 2019/1242, Regulation (EU) 2023/1542, Regulation (EU) 2024/1781, Directive 2009/33/EC
Organisational measures for a smooth cross-border digital public services delivery. Please list the governance measures foreseen	The main legal act foresees governance for interoperability network and data network.	Uncertainty on the network technology choice. Uneven digital maturity of Member States.
Measures taken to ensure a shared understanding of the data. Please list such measures	The validation service will be used for collection of data and for the publication of information, in the official journal and in the PPDS.	Large unstructured tender files. National differences. National reluctance to share non-public procurement data. Data quality gaps.

Assessment	Measure(s)	Potential remaining barriers (if applicable)
Use of commonly agreed open technical specifications and standards. Please list such measures	Standards for the interoperability network and the Public Procurement Documentations will be developed and implemented.	Heterogeneous national eProcurement platforms.

Digital public service #3: eProcurement services

Assessment	Measure(s)	Potential remaining barriers (if applicable)
Alignment with existing digital and sectorial policies. Please list the applicable digital and sectorial policies identified	Implementing Act will provide detailed further information and will deal with sectorial files.	The alignment with several sectorial policies, such as Directive (EU) 2023/1791, Regulation (EU) 2019/1242, Regulation (EU) 2023/1542, Regulation (EU) 2024/1781, Directive 2009/33/EC
Organisational measures for a smooth cross-border digital public services delivery. Please list the governance measures foreseen	The main legal act foresees governance for interoperability network and data network.	Uncertainty on the network technology choice. Uneven digital maturity of Member States.
Measures taken to ensure a shared understanding of the data. Please list such measures	The validation service will be used for collection of data and for the publication of information, in the official journal and in the PPDS.	Large unstructured tender files. National differences. National reluctance to share non-public procurement data. Data quality gaps.

Assessment	Measure(s)	Potential remaining barriers (if applicable)
Use of commonly agreed open technical specifications and standards. Please list such measures	Standards for the interoperability network and the Public Procurement Documentations will be developed and implemented.	Heterogeneous national eProcurement platforms.

Digital public service #4: Public Procurement Data Space

Assessment	Measure(s)	Potential remaining barriers (if applicable)
Alignment with existing digital and sectorial policies. Please list the applicable digital and sectorial policies identified	Implementing Act will provide detailed further information and will deal with sectorial files.	The alignment with several sectorial policies, such as Directive (EU) 2023/1791 , Regulation (EU) 2019/1242 , Regulation (EU) 2023/1542 , Regulation (EU) 2024/1781 , Directive 2009/33/EC
Organisational measures for a smooth cross-border digital public services delivery. Please list the governance measures foreseen	The main legal act foresees governance for interoperability network and data network.	Uncertainty on the network technology choice. Uneven digital maturity of Member States.
Measures taken to ensure a shared understanding of the data. Please list such measures	The validation service will be used for collection of data and for the publication of information, in the official journal and in the PPDS.	Large unstructured tender files. National differences. National reluctance to share non-public procurement data. Data quality gaps.

Use of commonly agreed open technical specifications and standards. Please list such measures	Standards for the interoperability network and the Public Procurement Documentations will be developed and implemented.	Heterogeneous national eProcurement platforms.
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1.5. **Measures to support digital implementation**

For each measure to support digital implementation, please fill in the table below

Description of the measure	Reference(s) to the requirement(s)	Commission role (if applicable)	Actors to be involved (if applicable)	Expected timeline (if applicable)

				c a b l e)
The Commission shall adopt a delegated act designating a secure network for the interoperability network.	Article 124	The Commission may adopt such acts	Member States; eProcurement service providers	N / A
The Commission may adopt an implementing act specifying the implementation arrangements of the interoperability network.	Article 124	The Commission may adopt such acts	Member States; eProcurement service providers	N / A
The Commission may adopt an implementing act establishing common specifications covering the essential requirements for the semantic data model of the core elements of the procurement procedures.	Article 125	The Commission may adopt such acts	Member States; eProcurement service providers	N / A
The Commission shall adopt a delegated act designating the digital business credential tool and the related network.	Article 129	The Commission may adopt such acts	Member States	N / A

The Commission may adopt an implementing act specifying the technical arrangements for the electronic qualification service	Article 129	The Commission may adopt such acts	Member States	N / A
The Commission may adopt a delegated act specifying further data categories to be provided at national level through the NPPDS.	Article 130	The Commission may adopt such acts	Member States	N / A
The Commission may adopt an implementing act specifying data elements which shall be made available to the NPPDS as well as the designation of specific data elements as publicly available data in the NPPDS.	Article 130	The Commission may adopt such acts	Member States	N / A
The Commission may adopt a delegated act specifying further data categories to be provided to the PPDS.	Article 131	The Commission may adopt such acts	Member States	N / A
The Commission shall adopt an implementing act specifying the data elements which shall be provided by the Member State to the PPDS as well as the designation of specific data elements as publicly available data.	Article 131	The Commission may adopt such acts	Member States	N / A

The Commission may adopt an implementing act specifying the implementation arrangements of the data network	Article 132	The Commission may adopt such acts	Member States	N / A
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Agence Europe