



Innovation as a Force Multiplier: Rethinking the Defence Procurement Directive

12th February 2026

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Speakers



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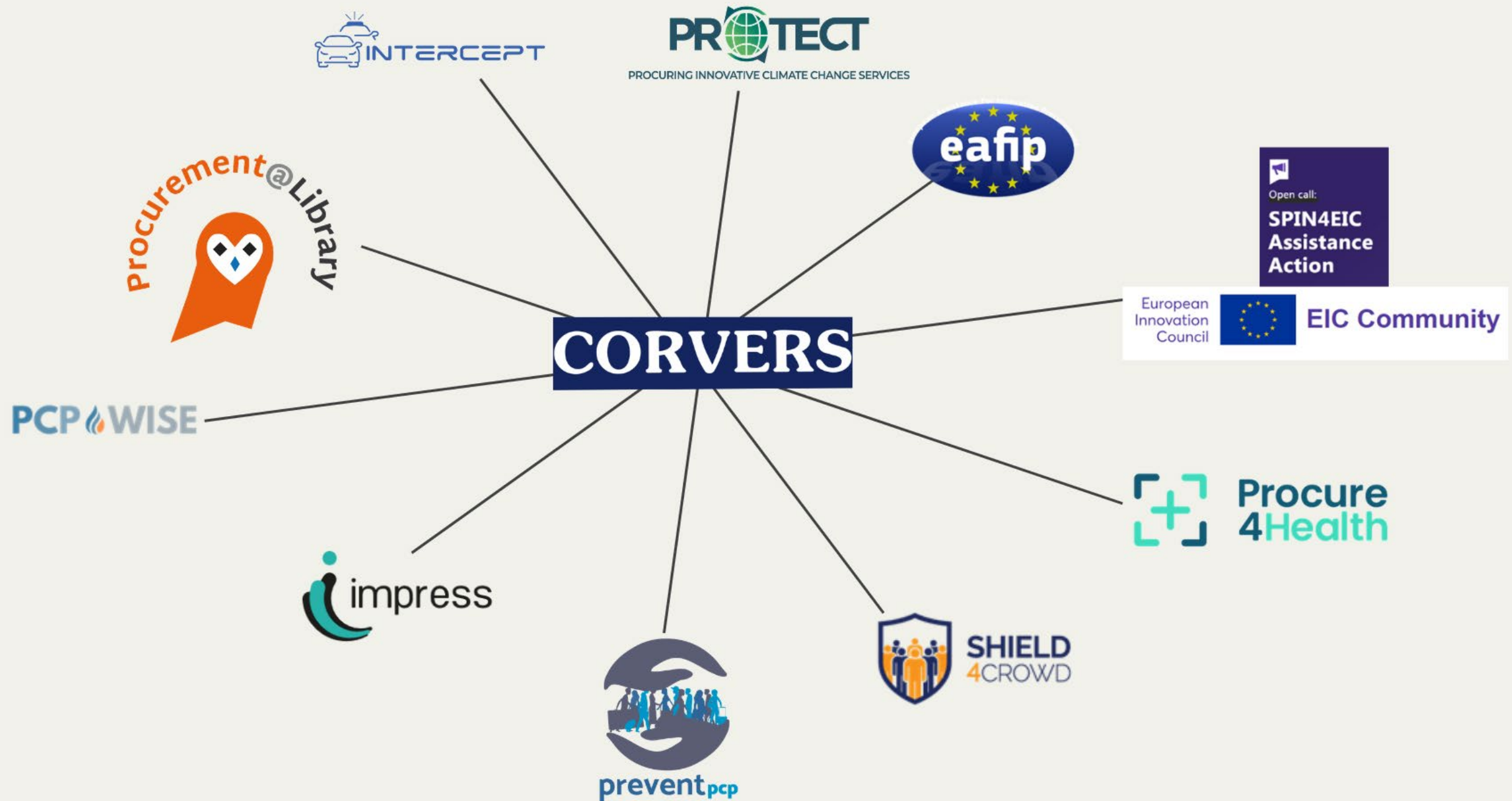
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Agenda

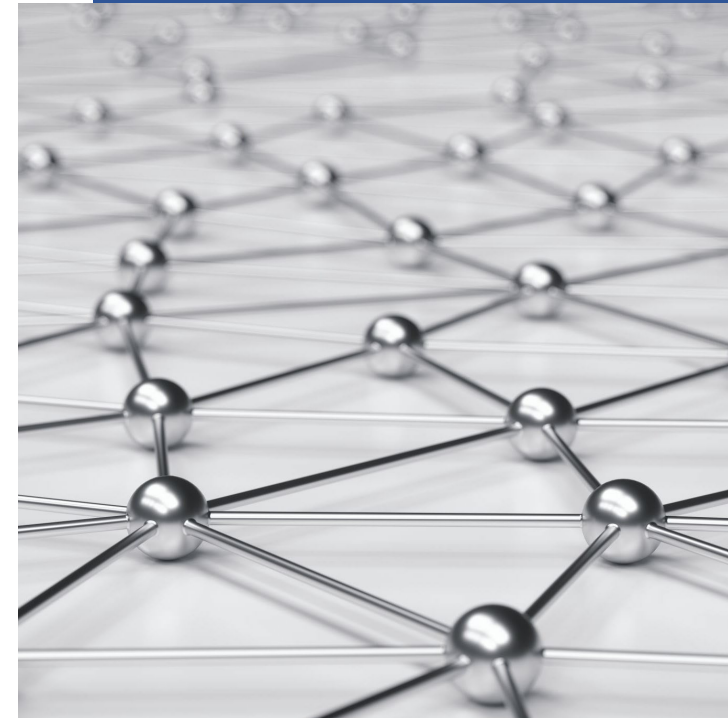
- Strategic context & challenges
- Objectives of the revision initiative
- 12 recommendations
- Academic observations
- Next steps



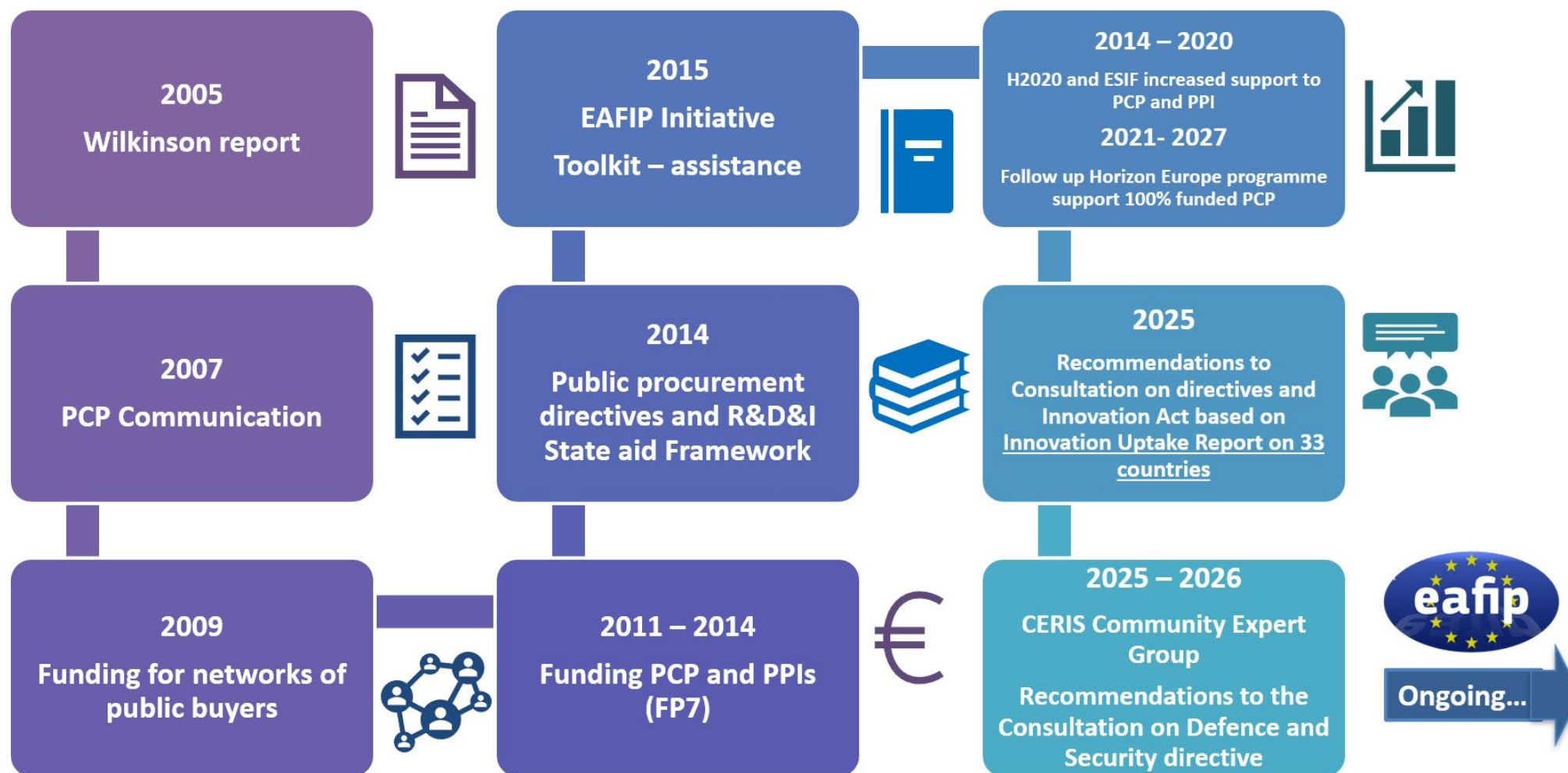
Strategic context & challenges

The European defence and security procurement landscape faces unprecedented pressures:

1. **Geopolitical shifts:** Russia's invasion of Ukraine, hybrid threats, supply chain vulnerabilities.
2. **Technological acceleration:** AI, cybersecurity, autonomous systems, space-based services now critical to defence capability.
3. **Strategic autonomy imperatives:** Reducing dependencies on extra-EU providers in semiconductors, cloud, critical software.
4. **Innovation gaps:** Current Directive does not adequately support innovation procurement, R&D pathways, or new entrants (SMEs, start-ups).



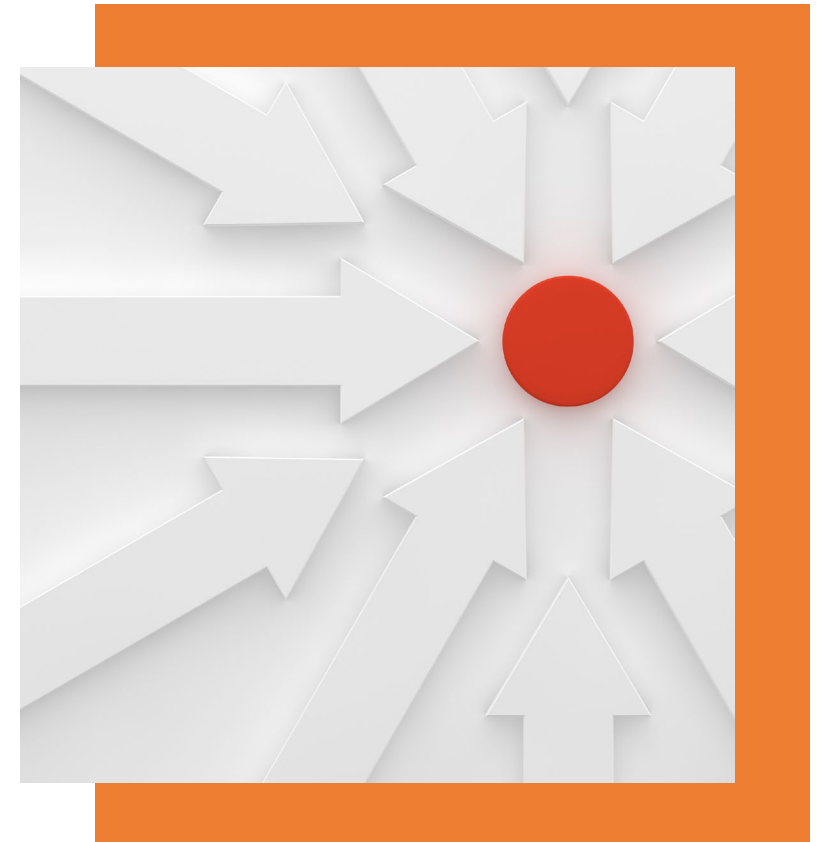
Innovation Procurement in the EU



Objectives of the revision initiative

The revision aims to:

- **Strengthen the European Defence Technological and Industrial Base (EDTIB):** Support EU strategic autonomy, technological sovereignty and operational readiness.
- **Simplify and clarify:** Reduce complexity, align with 2014 directives where appropriate, clarify scope and exemptions.
- **Enable innovation:** Create clear pathways from R&D to deployment, support AI and critical technologies, reduce barriers for SMEs/start-ups.
- **Enhance cooperation:** Facilitate joint and cooperative procurement between Member States.
- **Digitalise:** Introduce secure digital identity, data-sharing and EU defence digital marketplace.



Consultation strategy



The Commission's comprehensive consultation strategy includes:

- Call for evidence & public consultation on Have Your Say (due date 17 February 2026).
- Open to all stakeholders (Member States, industry, SMEs, research, citizens, etc.).
- Feedback will feed into the impact assessment and a public report on the consultation.

How to make the Defence Procurement Directive more Innovation-friendly?

Feedback from Corvers - Overview

Recommendations resulting from earlier evaluations and recent policy initiatives:

1. Clarify scope and relationship with 2014 directives
2. Uniform definition of innovation procurement
3. Innovation principle and value engineering
4. AI, digital infrastructure and critical technologies
5. Defence-specific intellectual property rights (IPR) regime
6. Certifications for research and innovation excellence
7. Market analysis, open market consultation and transparency
8. Cooperative and joint procurement
9. R&D services exemption – simplification and clarity
10. Security-related exemptions, strategic autonomy and critical technologies
11. Digitalisation – secure identity, data sharing and digital marketplace
12. Subcontracting and SME/start-up participation



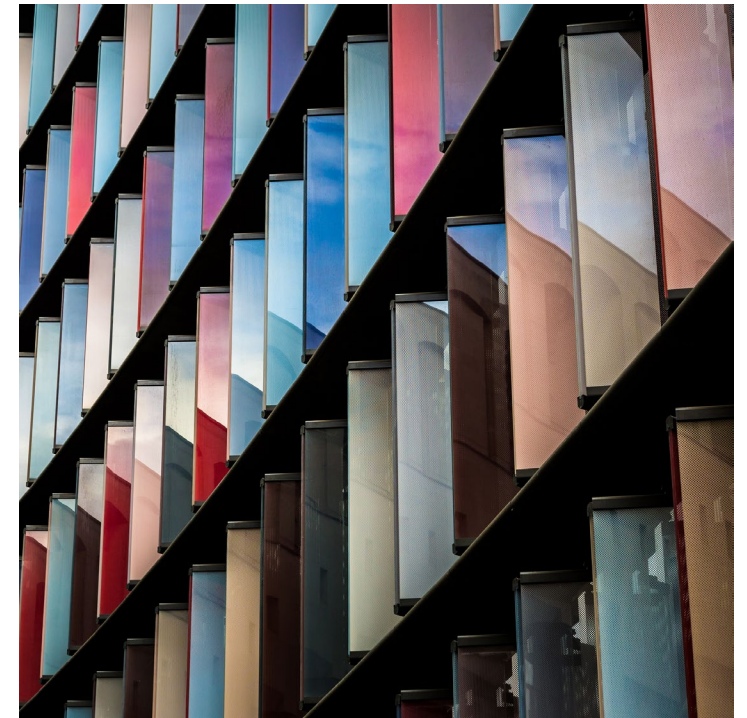
Recommendation 1 - Clarify scope & relationship with 2014 directives

Problem:

Ambiguity on when 2009/81/EC applies v. 2014/24/EU and 2014/25/EU, especially for mixed defence/civil and critical infrastructure contracts treated inconsistently.

Proposed actions:

- Insert new recital: 2009/81/EC is *lex specialis* where defence/security is primary subject-matter and security risks are present.
- Clear conflict-of-laws rule: mixed contracts → 2009/81/EC if principal subject matter is defence/security; critical infrastructure and cybersecurity fall under security scope.
- Commission guidance with worked examples.
- Amend Article 3 to make mixed-contract determination criteria explicit.



Recommendation 2 - Uniform definition of innovation procurement

Problem:

No clear, cross-cutting definition → inconsistent use of flexible procedures for R&D and innovation.

Proposed actions:

- Import a single innovation procurement definition (EU Innovation Act , Corvers' 2026 recommendations for 2014 directives)
- Confirm innovation procurement covers full capacity lifecycle (R&D → deployment → limited production).
- Align with 2014 directive definitions.



Recommendation 3 - Innovation principle & value engineering

Problem:

No explicit “innovation principle”; value engineering (post-award modifications for new innovations) not clearly permitted.

Proposed actions:

- Add recital: innovation-friendly procedures, faster demand-side adaptation for AI and digital.
- Allow value engineering clauses (as in Article 72 of 2014/24/EU)
- Commission guidance on drafting value engineering clauses in defence/security contexts.



Recommendation 4 - AI, digital infrastructure and critical technologies

Problem:

Directive predates AI, cloud, quantum, data sovereignty, space services → no explicit treatment; technological sovereignty and post-quantum resilience now core security concerns.

Proposed actions:

- Add recitals: AI, advanced cyber, quantum, secure cloud/data, space, autonomy as critical.
- Extend definitions of “security of supply” and “security of information” (Arts. 23 and 22) to include
- Clarify security-related exemptions extend to high-risk AI/digital infrastructure where necessary, subject to proportionality.
- Encourage cross-border innovation procurement via cooperative mechanisms, testbeds, regulatory sandboxes, PCP.
- Support R&I excellence certification (Rec. 6) for AI and critical digital service suppliers.



Recommendation 5 - Defence-specific IPR regime

Problem:

Minimal IPR provisions → uncertainty for innovation procurement, especially AI models, training data, derived datasets.

Proposed actions:

- Amend Art. 20 to define default contractor ownership, strong usage and upgrade rights for authorities.
- Exceptional IPR transfers only where justified and documented.
- Apply same principles to subcontractors and provide model clauses.



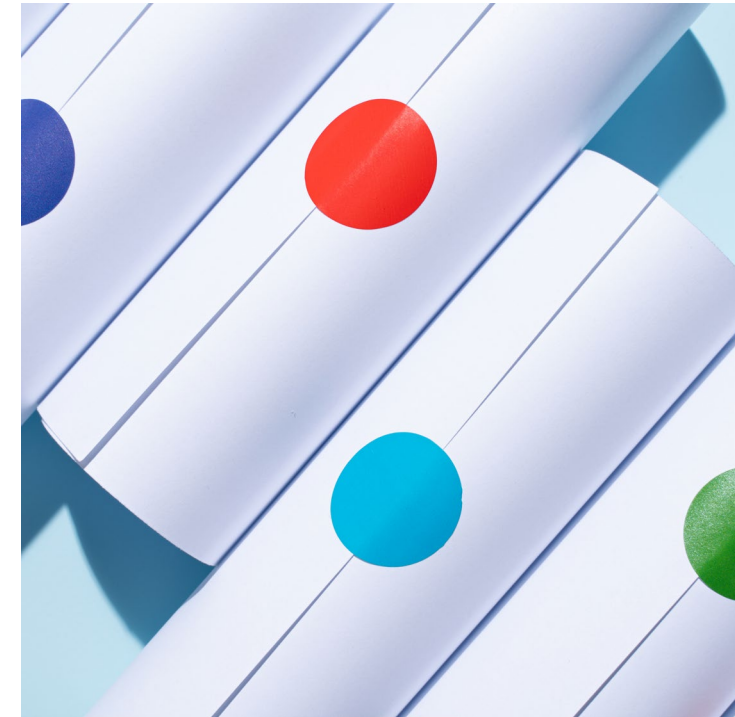
Recommendation 6 - Certifications for R&I excellence

Problem:

No recognition of EU-funded R&I success → barriers for SMEs/start-ups.

Proposed actions:

- Amend Art. 42 (Technical and Professional Ability): recognise successful completion of EU-funded R&I programmes (Horizon Europe, EDF, EU Seal of Excellence, EDA projects) as evidence of R&I capacity .
- Establish defence and security innovation excellence registry (hosted by Commission/EDA) to make SME/start-up performance visible for CAs.
- Allow simplified selection criteria in innovation procurements for contractors with strong R&I credentials (waive/reduce turnover and experience-duration requirements for SMEs/start-ups).



Recommendation 7 - Market analysis, OMC and transparency

Problem:

Limited structured market engagement → weak competitive, innovative supply chains; fragmentation.

Proposed actions:

- Amend procedures chapter: Before major innovation procurements (AI, digital, critical technologies), contracting authorities must:
 - Conduct market research/state-of-the-art analysis
 - Perform preliminary market consultation with industry
- Create TED notice type for preliminary market consultations (as recommended for 2014 directives).
- Market consultation notices available 30-45 days; encourage multi-language where feasible.
- Share findings (without revealing confidential bidder info.) in procurement documentation.



Recommendation 8 - Cooperative and joint procurement

Problem:

No explicit provisions on joint procurement (multiple Member States, single procedure) → sparse guidance; joint procurement vital for innovation, cost-sharing, resilience.

Proposed actions:

- New chapter clarifying cooperative procurement (joint and coordinated procurement defined and allowed for defence/security).
- Enable joint R&D follow-on deployment: align with Corvers' recommendations for 2014 directives on Art. 32(3)(a):
 - *Groups that jointly procured R&D (e.g. PCP) may jointly purchase innovative products/services up to 10x R&D contract value without new full competitive procedure, provided initial R&D was competitive, solutions at TRL 9, pricing does not incur full R&D cost recovery.*
- Provide Commission guidance and template agreements for joint procurement
- Harmonise rules for handling classified information across Member States.
- Create an EU Cooperative Defence Procurement Portal as a TED module



Recommendation 9 - R&D services exemption: simplification and clarity problem

Problem:

Article 13(j) double negation creates ambiguity; Pre-Commercial Procurement (PCP) lacks explicit recognition; EU Treaty principles must apply.

Proposed actions:

- Rewrite Art. 13(j) to clearly exclude genuine R&D service contracts from Directive when specific conditions are met.
- Explicitly state PCP is encompassed within R&D exemption, provided conditions met.
- Affirm EU Treaty principles: R&D exemption does not exempt from non-discrimination, equal treatment, proportionality, transparency; cannot be used to avoid competitive procedures for production-ready goods/services.
- Clarify the boundary between exempted R&D and procurement of innovative products/services (subject to Directive, non-exempt)



Recommendation 10 - Security-related exemptions, strategic autonomy and critical technologies

Problem:

Article 346 TFEU and “essential security interests” lack clarity; new security challenges (supply chain resilience, technological dependencies, hybrid threats) require explicit guidance.

Proposed actions:

- Clarify “essential security interests” in new recital
- Mandate security-justification requirements before using exemptions
- Encourage European preference for critical technologies (where WTO GPA Art. XXIII permits).
- Connect to EU Competitiveness Compass and strategic autonomy objectives.
- Issue guidance: flowcharts, decision trees, examples of proportionate v. disproportionate exemption uses.



Recommendation 11 - Digitalisation: secure identity, data sharing and digital marketplace

Problem:

Defence procurement heavily paper-based, fragmented across Member States; lacks secure digital infrastructure.

Proposed actions:

- Enable EU secure digital identity (eIDAS-compliant) for supplier registration, qualification, tendering, contract performance, with enhanced security for defence classification levels.
- Establish harmonised secure data-sharing infrastructure for transmission of contract documents, submissions, clarifications, awards:
- Develop secure EU defence digital marketplace (building on existing EU-level platform)
- Mandate baseline cybersecurity standards (aligned with NIS2); provide Commission training and support for digital tools.
- Flexible reporting: allow Member States to report via secure digital channels, reduce redundancy in TED v. national reporting.



Recommendation 12 - Subcontracting and SME/start-up participation

Problem:

Articles 50-53 (competitive subcontracting) rarely used, ineffective; SMEs/start-ups face barriers (excessive financial guarantees, lengthy security clearances, complex qualification).

Proposed actions:

- Simplify and incentivise transparent subcontracting:
- SME and start-up friendly selection criteria (amend Arts. 41-42)
- Accelerated security clearance: expedited tracks for SMEs/start-ups, tailored vetting; share security assessments via mutual recognition across Member States.
- EU-supported guidance and matchmaking: Commission and EDA publish matchmaking platforms, training on defence procurement rules, security requirements, contract management.
- Payment & financing (require prompt payment clauses in main contracts, e.g. 30 days, passed down to subcontractors, and support alternative financing (supply chain/pre-financing) to reduce working capital burden.





Academic observations

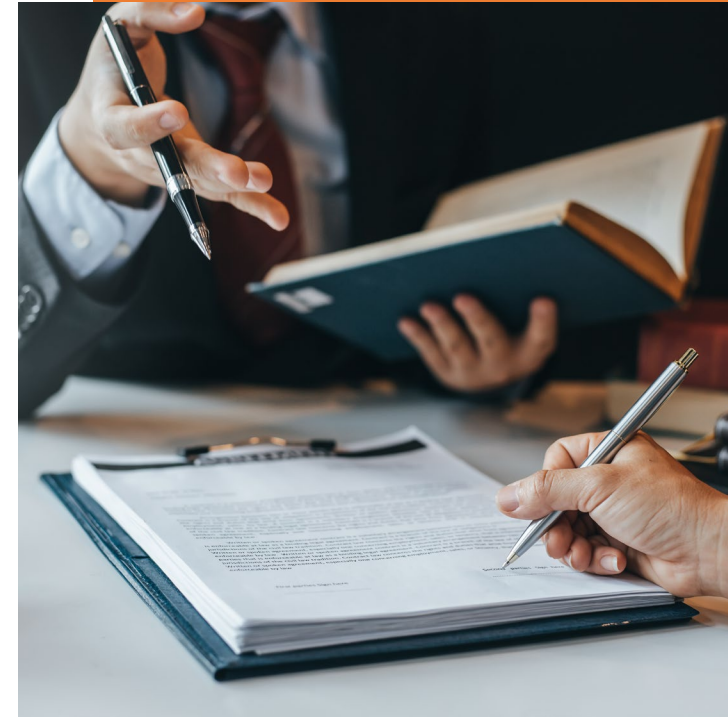


- The Defence and Security Directive reforms provides an excellent opportunity for fine-tuning the regime with the general Procurement regulations and other developments
- It is a part of the jigsaw of defence procurement - not the jigsaw itself.

How Corvers Can Support You

What Corvers Offers:

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Thank you!