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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Telecommunications and Information Society
Subject:	Cloud and AI Development Act: Presentation

Delegations will find in the annex the presentation on the Cloud and AI Development Act.

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Cloud and AI Development Act

08.09.2026

[redacted], Head of Unit – E2 Cloud and Software

European Commission

PUBLIC

Cloud computing sovereignty framework - Recap

Union cloud and AI sovereignty framework

PUBLIC

An EU-wide **definition of 4 Union assurance levels** for cloud services

A common **mechanism to recognise the assurance levels** of cloud services

A common **approach to procure** recognised service (for the public sector)

Union cloud and AI sovereignty framework

PUBLIC

Union cloud and AI sovereignty framework - Recap

- CADA establishes a **Union cloud computing sovereignty framework** comprising four Union assurance levels (UAL). The criteria of the Union assurance levels are set out in **Annex II.**

- To be recognised as offering a specific UAL, cloud computing service providers shall submit an **application for recognition** to the **national competent authority** (NCA) **of establishment.**
  - For UAL 2-4, cloud computing service providers shall first undergo at their own expense an independent **third-party audit**.
  - **Annex III** provides audit evidence that auditing organisations should request from the audited provider when assessing the compliance against the applicable audit criteria under Annex II.

- NCAs of other Member States have the possibility to **review the draft recognition decision** before it is taken by the NCA of establishment.

Union cloud and AI sovereignty framework

PUBLIC

Union cloud and AI sovereignty framework - Recap

- Member States shall designate at least one **national competent authority** (NCA). They can **designate existing authorities.**
- The **Member State of establishment** has the exclusive competence for enforcing Chapter I, Title IV of CADA.
- In order to carry out their tasks related to the recognition of CSPs (Article 17), NCAs are granted with investigatory and enforcement powers.
- NCAs and the Commission shall **cooperate closely** and provide each other with **mutual assistance**, including by **exchanging information**.

PUBLIC

A common approach to procure recognised services

Title IV: Procurement (1/5)

Member States and Union entities risk assessments [Art.29]

PUBLIC

- MS and Union entities must carry out **risk assessments** that:

(a) identify **public sector activities** that use or will make use of cloud computing services, that contribute to the **preservation of public order** in **Annex I or II** of the NIS2 Directive and in areas of **national security, internal security, external border management, defence, justice or law enforcement**, including the prevention, investigation, detection and prosecution of criminal offence;

(a) determine which **UAL (2-4) is appropriate** for the identified public sector activities.

Title IV: Procurement (2/5)

PUBLIC

Member States and Union entities risk assessments [Art.29]

- Where Union entities and Member States **share responsibilities**, they must consider carrying out the relevant risk assessment or assessments **jointly**.

- At least the following should be considered:
  - **sensitivity, criticality, and magnitude** of the **non-personal data processed** and the **nature, scope, context and purpose of processing of personal data**, as well as the risk of varying likelihood and severity for the rights and freedoms of data subjects;
  - the **risk and consequent impact** of **unlawful access** under Union law to such data by a third country or a legal entity established in a third country;
  - the **risk and consequent impact** of possible **service disruption**

Title IV: Procurement (3/5)

PUBLIC

Member States and Union entities risk assessments [Art.29]

- The Commission must, by means of **implementing acts**, **specify the methodology** to be applied, the templates to be used and the elements to be considered for the risk assessments
- The methodology must specify **how MS use the highest UAL for the most critical public sectors activities including defence**
- Within **3 months** of carrying out the risk assessment(s) MS must provide the results to the Commission, indicating where they depart from the implementing acts specifying the methodology etc.
- Through **implementing acts**, the Commission may set UALs for public sector activities where it concludes, based on a Member State's risk assessment, that the proposed UAL is inappropriate or does not sufficiently address public order concerns

Title IV: Procurement (4/5)

PUBLIC

Member States and Union entities risk assessments [Art.29]

- Where a risk assessment r**equires migration to another cloud computing service**, MS or Union entities must complete the migration within a **reasonable transition period, not exceeding 12 months**, while considering technical feasibility, service continuity, and data portability requirements

- Member States must **cooperate** with each other and the Commission, and the Commission may require cloud service providers to provide information necessary for risk assessments

- Consider whether a **multi-vendor or multi-cloud strategy** is appropriate in public procurement

Title IV: Procurement (5/5)

PUBLIC

Public procurement [Art.30]

- Article 30 applies to **contracting authorities that procure cloud computing services** for their exclusive use
- Contracting authorities (Union entities and public sector bodies) whose **activities have not been identified** under Article 29(1) **shall use UAL1** cloud computing services
- Contracting authorities whose a**ctivities have been identified** under Article 29(1) s**hall only procure UAL 2-4** cloud computing services
- Article 30(4) provides a **derogation** where contracting authorities may, **in duly justified exceptional cases, choose not to procure cloud computing services** with UALs 1–4 in one or more of the following circumstances:
  - **No suitable recognised service available** (and no reasonable alternative exists)
  - **Previous procurement failed** (no suitable tenders or participants received within the past year)
  - **Disproportionate cost** of complying with the Regulation

PUBLIC

Union added value and Monitoring of procurement of innovation in cloud and AI

Title IV: Union added value(1/3)

PUBLIC

Union added value[Art.32]

- In public procurement procedures for innovative cloud computing services and AI systems, CAs shall include non-price award criteria that evaluate the tenderer's **contribution to the development of a European cloud and AI ecosystem**.

- The non-price award criteria must be **linked to the subject matter of the contract**; **must not confer unrestricted freedom of choice to the CA**; **must be expressly set out in the procurement documents/contract notice**; **must be ancillary and not decisive**.

Title IV: Union added value(2/3)

PUBLIC

Union added value [Art.32]

- Without affecting CAs discretion to apply additional criteria, the CAs to evaluate the extent to which:
  - (a) the tenderer strengthens the Union's digital technology supply chain by using software and hardware designed or manufactured in the Union.
  - (b) the tenderer integrates Union-developed technologies, including R&D results from Union-funded programmes, and uses Union-developed standards, specifications, software, models or other technologies.
  - (c) the innovation required to deliver the service strengthens security of supply and supports the development of a European cloud and AI ecosystem.
  - (d) where feasible, the service uses critical computing, storage and networking hardware designed or manufactured in the Union; where this is not feasible, third-country hardware that contributes to security of supply and the European cloud and AI ecosystem may be used.

Title IV: Monitoring of procurement of innovation (3/3)

PUBLIC

Monitoring of procurement of innovation in cloud and AI [Art.33]

- Member States **shall** monitor and report on their use of procurement of innovation in cloud computing services and AI systems.

- Member States shall use monitoring and reporting **to identify barriers to SME participation**, **improve SME access to procurement markets**, **support simplified and proportionate procurement strategies** (including division into lots), and **promote SME participation in innovation procedures and pre-commercial procurement** of cloud computing services and AI systems.

- Based on this monitoring, Member States shall **inform the Commission, on a yearly basis**, of the size of the economic operators participating in such procurement; SMEs participation trends, including the number of contracts awarded to SMEs, their share of the total contract value, as a percentage, and, where available, the share of cross-border SMEs participation.

- Member States **shall pursue as objective that at least 25%** of their procurement for cloud computing services and AI systems be awarded to innovative SMEs. Member States shall include, in their national strategies referred to in Article 7, plans on how they intend to achieve this objective.

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Common procurement

Title IV: Common procurement (1/9)

PUBLIC

Overview

- The main objective is to conduct "**common procurement**" activities between the Commission, Union entities but also contracting authorities (CAs) of Member States to harness **collective purchasing power** and enabling access to services and supplies on more favourable terms.

- The legal framework applicable to procurement procedures carried out by the Commission is Regulation (EU, Euratom) 2024/2509 ('**Financial Regulation**').
  - Targeted provisions are needed to **extend the possibility for the Commission to act as a central purchasing body** for Member States' contracting authorities, as well as for partner organisations selected by the Commission.

- A **governance framework** is needed to steer these activities (agreement, Steering Committee representing Member States).

Title IV: Common procurement (2/9)

PUBLIC

Procurement activities of the Commission [Art.37]

- The Commission may carry out procurement activities ('**common procurement activities**') to procure data centre services, cloud computing services, software and AI systems.

- The Commission may procure for itself, **Union entities** and **CAs of Member States**, as well as for **partner organisations** selected by the Commission ('participating entities'). Contracting authorities may participate on their own behalf or as central purchasing bodies.

Title IV: Common procurement (3/9)

PUBLIC

Procurement activities of the Commission [Art.37]

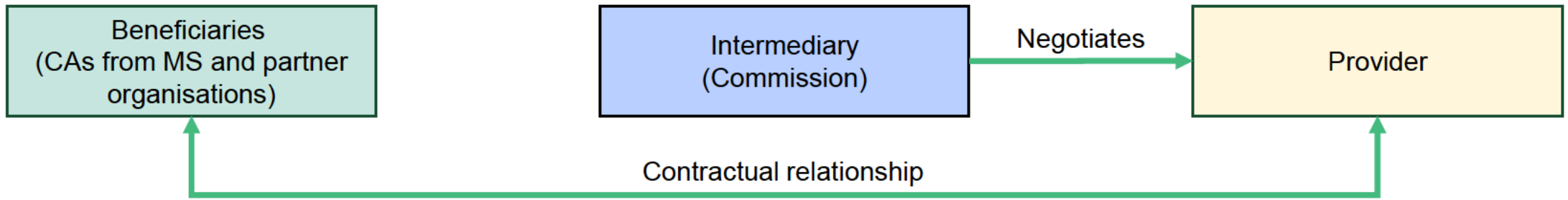
- In addition to the procurement activities referred to in Article 168 of the Financial Regulation, the Commission may:
  - **procure on behalf or in the name of one or more CAs of Member States** and **partner organisations** selected by the Commission (derogation to Article 168.3 first paragraph of the FR);
    - in this case, the Commission acts as an intermediary (i.e.: conducting the procurement procedure, etc.) by providing central purchasing services to the beneficiaries, i.e. CAs of Member States and partner organisations;
  - **act as a wholesaler for one or more CAs of Member States** (derogation to Article 168.3 last paragraph of the FR);
    - in this case, the Commission purchases services, software and systems in its own name, with the possibility of reselling or donating them to CAs of Member States or partner organisations selected by the Commission.

Title IV: Common procurement (4/9)

PUBLIC

Procurement activities of the Commission [Art.37]

Procurement of behalf of other CAs:



Wholesaling activities:



Title IV: Common procurement (5/9)

PUBLIC

Procurement activities of the Commission [Art.37]

- The Commission may, directly or through a subcontractor, or by delegation to Union bodies and agencies, provide **ancillary support** to participating entities, including:
  - **technical infrastructure** to use awarded contracts or award contracts;
  - **advice and support** on preparing and implementing procurement procedures;
  - **preparation and conduct of procurement procedures**;
  - **invoicing** and other administrative services.

- One or more ancillary support services may be made **mandatory** for participating entities.

- The Commission may establish a **common procurement platform** to facilitate common procurement activities.

Title IV: Common procurement (6/9)

PUBLIC

Arrangements for procurement activities of the Commission [Art.38]

- The launch of common procurement activities must be preceded by an **agreement** signed by the **Commission** and at least **two Member States**.

- After entry into force, CAs of Member States, Union entities and partner organisations may accede to the agreement and benefit from it. The agreement may be qualified as a '**contract of adhesion**'.

- The agreement shall cover all the 'common procurement procedures' and be deemed to satisfy the requirements of **joint procurement agreement** and **mandate to procure on behalf or in the name of**, as referred to in Article 168(2) and Article 168(3) of the FR.

- The agreement shall lay down the appropriate **practical arrangements**, including the modalities for the participation of entities, the decision-making process for the choice of procedure, the evaluation of tenders, etc.

Title IV: Common procurement (7/9)

PUBLIC

Arrangements for procurement activities of the Commission [Art.38]

- The agreement shall establish a **Steering Committee** composed of the **Commission** and **one representative from each participating Member States** at national level. The Steering Committee may appoint additional representatives of other participating entities.

- The Steering Committee shall notably:
  - **Be responsible for the strategic oversight** of the procurement activities.
    - The Commission shall remain responsible for the operation and management of the procurement activities. The Commission may decide to launch a procurement procedure without prior specific request from participating entities.
  - **Set transparent and non-discriminatory conditions** for CAs of Member States to accede to the agreement.
    - The participation of a CA shall not be conditional on that Member State's participation.
  - **Adopt its rules of procedure**, following a proposal from the Commission.

Title IV: Common procurement (8/9)

PUBLIC

Applicable public procurement framework [Art.39]

- A participating entity f**ulfils its obligations under Union public procurement law** where it acquires supplies or services by means of contract awarded by the Commission carrying out common procurement activities.

- The **procedural provisions applicable to Union institutions** shall apply to the procedures for the **award of specific contracts** under framework contracts (FC) or dynamic purchasing systems (DPS).

- A CA acting as a **central purchasing body** that has acquired services or supplies may offer those services or supplies to other CAs without applying procurement procedures (Recital 79).

- 'New' participating entities may request the Commission to **join a DPS** launched prior their accession to the agreement, provided that the cumulative requests do not exceed 50% of the estimated quantities.

Title IV: Common procurement (9/9)

PUBLIC

Fees for procurement activities [Art.40]

- The **costs arising from the 'common procurement-related activities'** carried out by the Commission shall be **jointly financed** by the participating entities through fees levied by the Commission.

- The costs may be **initially borne by the general budget of the EU**. They shall be **reimbursed** by the participating entities over **maximum 3 years**. Revenues generated by fees constitute internal assigned revenues within the meaning of Article 21(3), point (a), of the Financial Regulation.

- The fees shall be set in advance, be **proportionate** to the costs and shall reflect practices of **comparable procurement frameworks**.

- Commission shall adopt **implementing acts** to lay down detailed rules for determining the costs, the individual amounts of the fees, and the manner and conditions to pay the fees.

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European public sector cloud federation

Title IV: EuroCloud federation (1/4)

PUBLIC

Establishment of the EuroCloud federation [Art.34]

- The **European public sector cloud federation** (the 'EuroCloud federation') is established. It is open to the participation of Union entities and public sector bodies on a **voluntary basis**.

- The EuroCloud Federation shall **facilitate the sharing of 'public sector data centre services and cloud computing services'** between Union entities and public sector bodies, under the conditions set out in Article 35 and 36 of CADA.

- The Commission shall establish the '**EuroCloud platform'** providing at least:
  - a catalogue for information on available public sector data centre services and cloud computing services;
  - a service platform for the exchange and orchestration of computing, storage and network resources and services.

- **Union entities and public sector bodies** may **request** the Commission **to join the EuroCloud Federation**. The Commission is empowered to adopt implementing acts specifying:
  - the procedure to participate in the EuroCloud Federation;
  - the template concerning the content and other details of the request for participation.

Title IV: EuroCloud federation (2/4)

PUBLIC

Sharing of public sector data centre services and cloud computing services [Art.35]

- **A member of the EuroCloud Federation** (the 'sharing entity') may **share data centre services and cloud computing services with another member** (the 'using entity') where the following conditions are fulfilled:

  1- Article 35.1: The sharing entity, directly or indirectly through an intermediate legal entity, **owns the hardware** through which the service is made available and **provides the service** that is made available.

  - Article 35.1: if the sharing entity indirectly owns the hardware and provides the service through an intermediate legal entity, the sharing entity shall **control** that intermediate legal entity.

  - Recital 71: three cumulative conditions for the sharing entity to **control** the intermediate legal entity: 1) **decisive influence** over both strategic objectives and significant decisions of the intermediate legal entity ; 2) **not any direct private capital participation** in that intermediate legal entity and 3) **more than 80% of the activities** of the intermediate legal entity should be carried out in the **performance of tasks** entrusted to it by the sharing entity.

Title IV: EuroCloud federation (3/4)

PUBLIC

Sharing of public sector data centre services and cloud computing services [Art.35]

2- Article 35.2: The sharing entity shall put in place appropriate **technical, operational and organisational measures** to ensure an effective, secure and resilient provision of services. The Commission is empowered to adopt implementing act to specify these measures.

- The sharing entity shall **demonstrate** to the Commission that these conditions are fulfilled. The Commission shall **assess the information** provided by the sharing entity to allow it to share services within the EuroCloud Federation.

- The sharing entity may charge a **fee** to the using entity. The amount of the fee shall be **limited to the costs** that the sharing entity incurs in relation to the sharing of the service and shall **not constitute a pecuniary interest** within the meaning of Article 2 of Directive 2014/24/EU and the Financial Regulation.

Title IV: EuroCloud federation (4/4)

PUBLIC

Fees for the administration of the EuroCloud Federation [Art.36]

- The **costs arising from the 'EuroCloud-related activities'** carried out by the Commission shall be **jointly financed** by the members through fees levied by the Commission.

- Those costs notably include:
  - establishing the EuroCloud platform;
  - assessing the requests to join the EuroCloud Federation.

- The costs may be **initially borne by the general budget of the EU**. They shall be **reimbursed** by the members over **maximum 3 years**. Revenues generated by fees constitute internal assigned revenues within the meaning of Article 21(3), point (a), of the Financial Regulation.

- The Commission shall adopt **implementing acts** to lay down detailed rules for determining the costs, the individual amounts of the fees, and the manner and conditions to pay the fees.

Title IV: EuroCloud federation - details

PUBLIC

Technical, operational and organisational measures for effective, secure and resilient provision of services [Art.35.2]

- Recital 72: those measures may notably include:
  - **policies on risk analysis** and **information system security,** including **access control policies**;
  - **policies on incident handling and business continuity;** and
  - **policies supporting interoperability and connectivity**.

- The Commission is empowered to adopt **implementing acts** to specify those measures.

- The Commission will:
  - launch a **study** to help determine the relevant technical, operational and organisational measures applicable to EuroCloud members when sharing services;
  - **consult Member States** on these measures, notably **through the Cloud Alliance**.

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Thank you!

