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Electronic Public Procurement - Innovation guideline - Part 2-3: Legislation and regulations to enable and support innovative developments in procurement

Elektronische öffentliche Beschaffung - Innovationsleitfaden - Teil 2-3: Gesetze und Vorschriften zur Ermöglichung und Unterstützung innovativer Entwicklungen im Beschaffungswesen

Marchés publics électroniques - Lignes directrices sur l'innovation - Partie 2-3: Législation et réglementation pour permettre et soutenir les développements innovants en matière de marchés publics

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TECHNICAL REPORT
RAPPORT TECHNIQUE
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FINAL DRAFT
FprCEN/TR 17011-2-3

April 2026

ICS 03.100.10; 03.160; 35.240.63

English Version

**Electronic Public Procurement - Innovation guideline -
Part 2-3: Legislation and regulations to enable and support
innovative developments in procurement**

Marchés publics électroniques - Lignes directrices sur
l'innovation - Partie 2-3: Législation et réglementation
pour permettre et soutenir les développements
innovants en matière de marchés publics

Elektronische öffentliche Beschaffung -
Innovationsleitfaden - Teil 2-3: Gesetze und
Vorschriften zur Ermöglichung und Unterstützung
innovativer Entwicklungen im Beschaffungswesen

This draft Technical Report is submitted to CEN members for Vote. It has been drawn up by the Technical Committee CEN/TC 440.

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Recipients of this draft are invited to submit, with their comments, notification of any relevant patent rights of which they are aware and to provide supporting documentation.

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European foreword

This document (FprCEN/TR 17011-2-3:2026) has been prepared by Technical Committee CEN/TC 440 “Electronic Public Procurement”, the secretariat of which is held by DIN.

This document is currently submitted to the Vote on TR.

This document is part of a series of multi-part documents prepared, or under preparation, by CEN/TC 440 establishing the Strategic Trilogy for innovation procurement transformation:

- 17011-series: **eProcurement Architecture**, providing a set of specifications outlining different aspects of the eProcurement architecture for Business Interoperability Specifications.
- 17014-series: **eTendering Business Interoperability Specifications**, providing a set of specifications outlining business choreography, transaction, syntax binding specifications and guidelines required to support the eTendering processes.
- 17015-series: **eCatalogue Business Interoperability Specifications**, providing a set of specifications outlining business choreography, transaction, syntax binding specifications and guidelines required to support the eCatalogue processes.
- 17016-series: **eOrdering Business Interoperability Specifications**, providing a set of specifications outlining business choreography, transaction, syntax binding specifications and guidelines required to support the eOrdering processes.
- 17017-series: **eFulfilment Business Interoperability Specifications**, providing a set of specifications outlining business choreography, transaction, syntax binding specifications and guidelines required to support the eDelivery processes.

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Introduction

This Technical Report (TR) forms the third part of the CEN/TC 440 Strategic Trilogy for innovation procurement transformation, establishing the legal facilitation foundation that enables the development and implementation of the 87 standards identified in [FprCEN/TR 17011-2-2 \[1\]](#). While [FprCEN/TR 17011-2-2 \[1\]](#) defined the four-dimensional innovation framework and [FprCEN/TR 17011-2-1 \[2\]](#) provided the strategic implementation roadmap, this document addresses the critical legal infrastructure required to support cross-sector innovation procurement across both public and private organizations.

The European procurement landscape faces unprecedented challenges in adapting legal frameworks originally designed for traditional goods and services acquisition to support breakthrough innovation across organizational boundaries. Current legal structures, primarily focused on sector-specific compliance and risk aversion, create significant barriers to the collaborative, experimental, and cross-dimensional innovation approaches required for the 21st century economy.

This Technical Report demonstrates how enhanced legal frameworks can transform these barriers into enablers, creating safe harbours for innovation experimentation while maintaining democratic accountability and commercial competitiveness. The legal facilitation approach extends far beyond traditional Pre-Commercial Procurement (PCP) and Public Procurement of Innovation (PPI) boundaries to encompass comprehensive cross-sector innovation ecosystems.

The document establishes the legal foundation for managing the System-of-Systems (SoS) orchestration of 342 cross-dimensional dependencies identified in the INNOV49 framework, enabling unprecedented coordination between public agencies, private corporations, research institutions, and civil society organizations in joint innovation development.

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1 Scope

This document applies to:

Organisations:

- public sector procurement authorities at local, regional, national, and European levels;
- private sector organizations engaging in innovation partnerships with public entities;
- research and development institutions participating in cross-sector innovation;
- SMEs and large enterprises involved in public-private innovation ecosystems;
- international organizations seeking to implement European innovation procurement approaches.

Innovation Dimensions:

- dimension A: Business Model Innovation (Strategic and Tactical) - 13 innovations across circular economy, product-as-service, and collaborative models;
- dimension B: Innovative Operational Procurement - 12 innovations including enhanced PCP/PPI integration and seven-procedure frameworks;
- dimension C: Innovation Sourcing Infrastructure - 5 high-impact innovations encompassing digital portfolios, AI-driven analytics, and federated intelligence;
- dimension D: Technological Innovation - 20 innovations covering IoT, blockchain, AI, quantum computing, and emerging technologies.

Legal Framework Coverage:

- cross-sector innovation authorization beyond traditional PCP/PPI scope;
- innovation sandbox and safe harbor mechanisms for experimental approaches;
- cross-border legal harmonization for international standards development;
- system-of-Systems legal orchestration for complex multi-organizational coordination;
- liability limitation and risk protection frameworks for good faith innovation.

Scope Exclusions

This document does not cover:

- traditional procurement of standard goods and services without innovation components;
- sector-specific legal frameworks that do not involve cross-sector collaboration;
- emergency procurement procedures where innovation is not the primary objective;
- military and defense procurement subject to specific security classifications;
- legal frameworks for routine administrative procurement below innovation thresholds.

2 Normative references

There are no normative references in this document.

3 Terms and definitions

For the purposes of this document, the following terms and definitions apply.

- ISO Online browsing platform: available at <http://www.iso.org/obp>
- IEC Electropedia: available at <http://www.electropedia.org/>

3.1

Cross-Border Legal Harmonization

standardization of legal interpretations and requirements across EU member states through technical standards, enabling consistent innovation procurement approaches and reducing compliance complexity for international projects

3.2

Cross-Dimensional Dependencies

interconnections between innovations across the four dimensions requiring coordinated legal, technical, and organizational management, totalling 342 specific dependency relationships within the INNOV framework

3.3

Cross-Sector Innovation Partnership

legal framework enabling joint development of innovative solutions between public and private organizations with shared intellectual property rights, risk distribution, and performance accountability across organizational boundaries

3.4

Enhanced Article 31bis Framework

extended legal authorization mechanism based on Article 31 of Directive 2014/24/EU, enabling multi-stakeholder innovation partnerships for technical standards development with experimental implementation protection

3.5

Federated Analytics

GDPR-compliant approach to cross-organizational data analysis enabling collective intelligence development while maintaining data privacy and competitive information protection across public and private sector boundary

3.6

Four-Dimensional Innovation Framework

comprehensive innovation taxonomy comprising: (A) Business Model Innovation, (B) Innovative Operational Procurement, (C) Innovation Sourcing Infrastructure, and (D) Technological Innovation, with 50 INNOV innovations generating 87 technical standards

3.7

Graduated Liability Protection

risk management approach providing different levels of legal protection based on innovation development phase: maximum protection (90%) during concept/design, moderate protection (70%) during pilot/testing, and standard protection (50%) during deployment

3.8

Innovation Sandbox

specific innovation capability identified within the four-dimensional framework, numbered INNOV01 through INNOV50, each generating multiple technical standards and addressing specific cross-sector innovation challenges

3.9

INNOV Innovation

specific innovation capability identified within the four-dimensional framework, numbered INNOV01 through INNOV50, each generating multiple technical standards and addressing specific cross-sector innovation challenges

3.10

Legal Safe Harbor

protective legal mechanism limiting liability for organizations engaged in standards-compliant innovation experimentation, providing immunity from prosecution or penalty for good faith innovation attempts that meet specified performance criteria

3.11

Multi-Stakeholder Governance

legal and organizational framework enabling decision-making participation by public agencies, private companies, research institutions, and civil society organizations in collaborative innovation development with balanced representation and accountability

3.12

Pre-commercial Procurement (PCP)

procurement of research and development services involving risk-benefit sharing under market conditions, typically excluded from full application of public procurement directives under Article 14 of Directive 2014/24/EU

3.13

Public Procurement of Innovative solutions (PPI)

procurement where public authorities act as early customers for innovative solutions that are not yet available on a large-scale commercial basis, driving market development through demand-side innovation support

3.14

Performance-Based Legal Compliance

legal framework emphasizing outcome achievement rather than process adherence, enabling flexible approaches to regulatory requirements provided specified performance targets and accountability measures are maintained

3.15

System-of-Systems (SoS) Legal Orchestration

legal framework enabling coordination and management of complex multi-organizational innovation ecosystems with interdependent components, managing 342 cross-dimensional dependencies through integrated legal governance structures

4 Executive Summary

This Technical Report establishes the legal facilitation pillar of the **CEN/TC 440 Strategic Trilogy**, demonstrating how legal frameworks enable and accelerate the development of the **87 standards across four innovation dimensions** identified in [FprCEN/TR 17011-2-2 \[1\]](#). As the legal enablement foundation, this report shows how legal certainty, authorization, and harmonization facilitate standards development while creating safe environments for innovation experimentation **across both public and private sectors**, extending far beyond traditional PCP & PPI boundaries.

This report is based and/or related to a various number of resources. A curated list of these resources can be found in [Annex A](#).

Strategic Legal Facilitation Value Proposition

- **Cross-Sector Standards Development Enablement:** Legal frameworks facilitating development of 87 standards across four dimensions for all organizational types;