

# CONVENTION INTERNAZIONALE SUGLI APPALTI PUBBLICI INTERNATIONAL CONVENTION ON PUBLIC PROCUREMENT

Roma, 6-7 Novembre 2025  
Roma Eventi  
Centro Conferenze Fontana di Trevi  
Piazza della Pilotta, 4 - Roma

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## Round Table 4 Green Procurement and ESG

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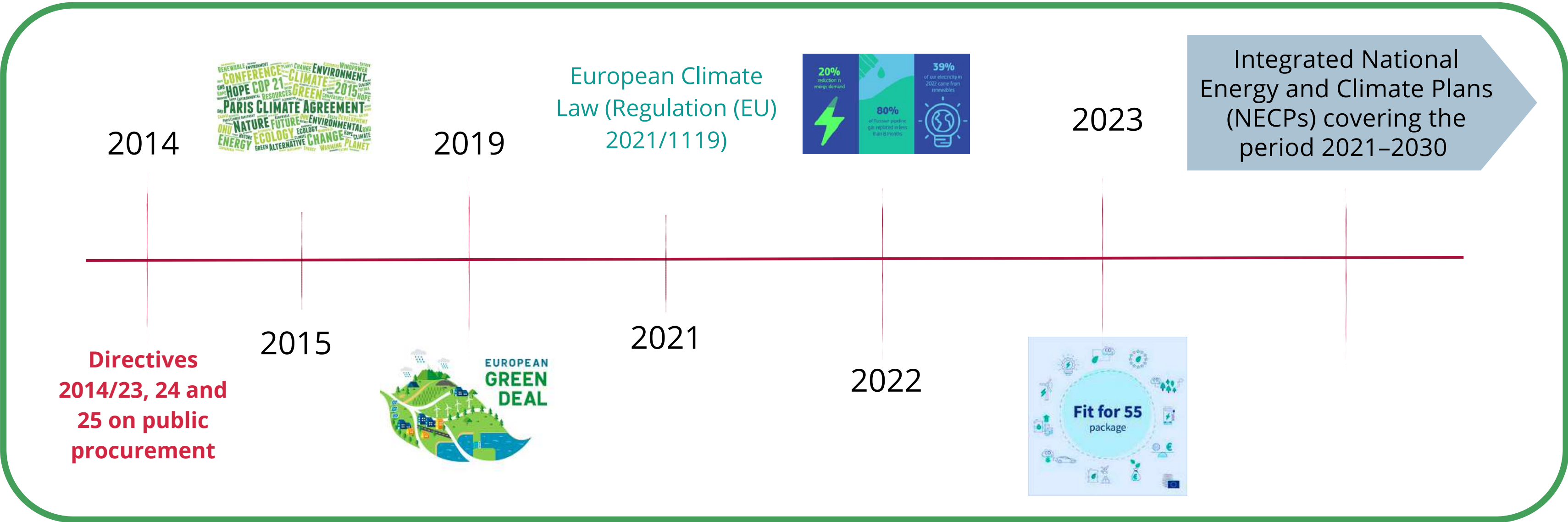
Universidad  
de Alcalá



## Green Procurement and ESG

### NIVEL ESTRATÉGICO

Objetivos de sostenibilidad climática





# Public Procurement Directives 2014 (approach)

## Philosophy behind the 2014 Public Procurement Directives

The 2014 Public Procurement Directives reflect a new philosophy:

Public procurement as a strategic market instrument — not only to ensure open competition and efficiency, but also to promote broader societal goals, including:

- environmental sustainability (Green Public Procurement),
- social inclusion and fair labour conditions,
- innovation and support for SMEs.

This approach seeks to balance market integration with public policy objectives, turning procurement into a driver of sustainable and inclusive growth.

(Aligned with SDG 12 – Target 12.7: Promote sustainable public procurement practices consistent with national policies and priorities.)



## From Philosophy to Legal Principle

This idea is reflected, for example, in Article 18(2) of Directive 2014/24/EU, which embeds social and environmental responsibility directly into EU procurement law:

Article 18(2) – Directive 2014/24/EU:

*“Member States shall take appropriate measures to ensure that, in the performance of public contracts, economic operators comply with applicable obligations in the fields of environmental, social and labour law.”*

 Recognised by the Court of Justice of the European Union (Case C-395/18, TIM SpA v. Ministero dell’Economia e delle Finanze) as a general principle of EU public procurement law.

# What to buy? How to buy?

## **Main ways of using public procurement to promote strategic objectives (European Commission, 2014): “how to buy?” and “what to buy?”**

The approach of the 2014 Public Procurement Directives was to:

- Establish a harmonised framework with procedural rules – **“how to buy?”**
- Leave to the discretion of contracting authorities the definition of the characteristics of the works, supplies and services to be purchased – **“what to buy?”**

# What to buy? How to buy? EU level

The Directives **do not impose direct obligations** on contracting authorities with regard to the environmental integration of contracts. This approach is **voluntary** (not mandatory).

Environmental sustainability obligations are only established through **sector-specific legislation** in **exceptional** cases.

For example:

- Directive (EU) 2019/1161 — Clean Vehicles Directive (revision)
- Directive 2012/27/EU — Energy Efficiency Directive

# What to buy? How to buy? national level (Spain)

## Voluntary Approach Maintained at National Level

At national level, Spain's Public Sector Contracts Law (Law 9/2017), which transposes the 2014 Directives, maintains the same general philosophy:

Contracting authorities retain discretion over **“what to buy”** — that is, they decide whether and how to include environmental or social objectives in their procurement.

The law continues the voluntary and flexible approach of the EU framework, allowing contracting authorities to align their purchasing choices with sustainability goals when relevant.

● However, some provisions go further, introducing partially mandatory environmental requirements.

# What to buy? How to buy? national level (Spain)

Although the general approach remains voluntary, three specific provisions in the Spanish law represent significant advances toward making Green Public Procurement a practical obligation:

## **Technical specifications – Article 126(4)**

Whenever the subject matter of the contract affects or may affect the environment, technical specifications shall apply sustainability and environmental protection criteria.

→ Introduces a presumption that environmental criteria are required.

## **Award criteria – Article 145(3)(h)**

For contracts whose execution may have a significant environmental impact, measurable environmental conditions shall be evaluated.

→ Prevents price-only awards where environmental effects are relevant.

## **Contract performance conditions – Article 202**

Every public contract must include at least one social, ethical, or environmental condition.

→ Embeds sustainability into contract execution.



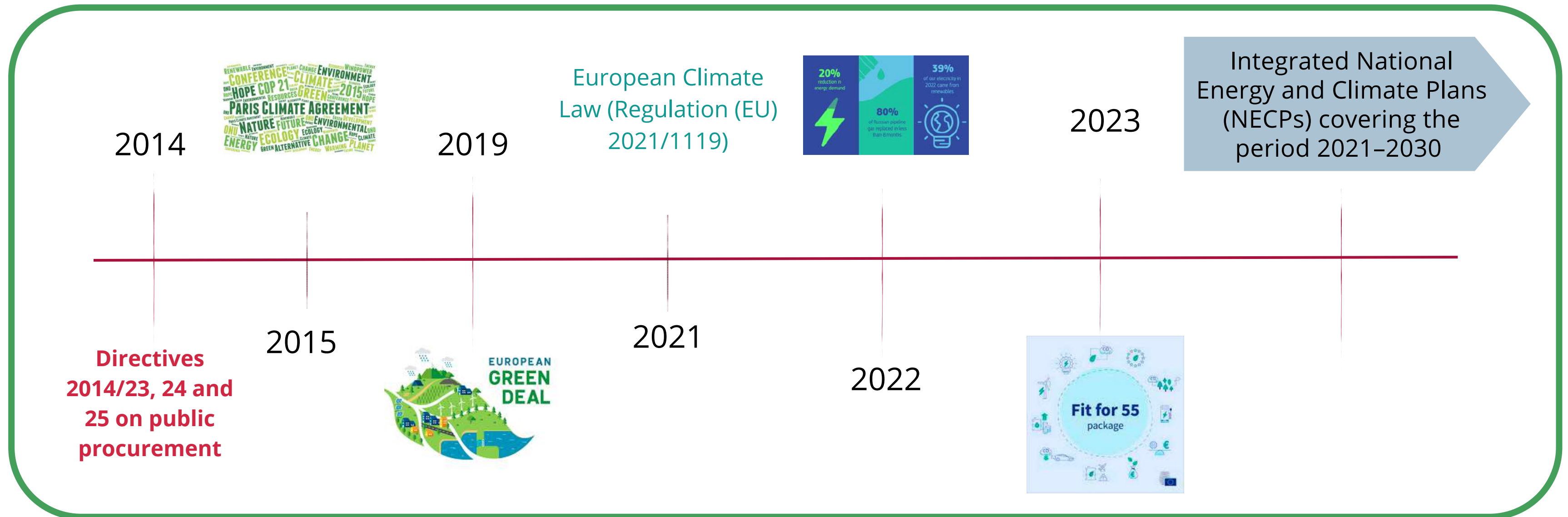
# What to buy? How to buy? national level (Spain)

At the national level, environmental and social obligations can as well be found within sector-specific legislation, although only in an exceptional manner.

For example, **Law 17/2011 of 5 July on Food Safety and Nutrition (Spain):**

## **Article 41. Measures addressed to public administrations.**

*“When tendering concessions for their catering services, public administrations must include in the technical specifications requirements ensuring that the food served is varied, balanced and adapted to the nutritional needs of the users of the service. They must also supervise compliance with these requirements, taking into account the guidelines and nutritional objectives established by the competent health authority. These requirements shall be given special consideration among the award criteria of the contract.”*



## Directives on public procurement 2014



### SECTORS (for example)

**Food sector, Energy, construction, ecological design.....e così via**

**Mandatory**

# Sectoral Regulatory Tsunami

## **A Multi-Level “Regulatory Tsunami” in Public Procurement**

In recent years, public procurement has been engulfed by a regulatory tsunami - a growing wave of environmental and sustainability rules that affect every stage of the contracting process.

### **Different levels of regulation**

Operating simultaneously at European, national, and regional levels, this complex framework shapes how contracts are designed, awarded, and performed.

### **Areas of impact**

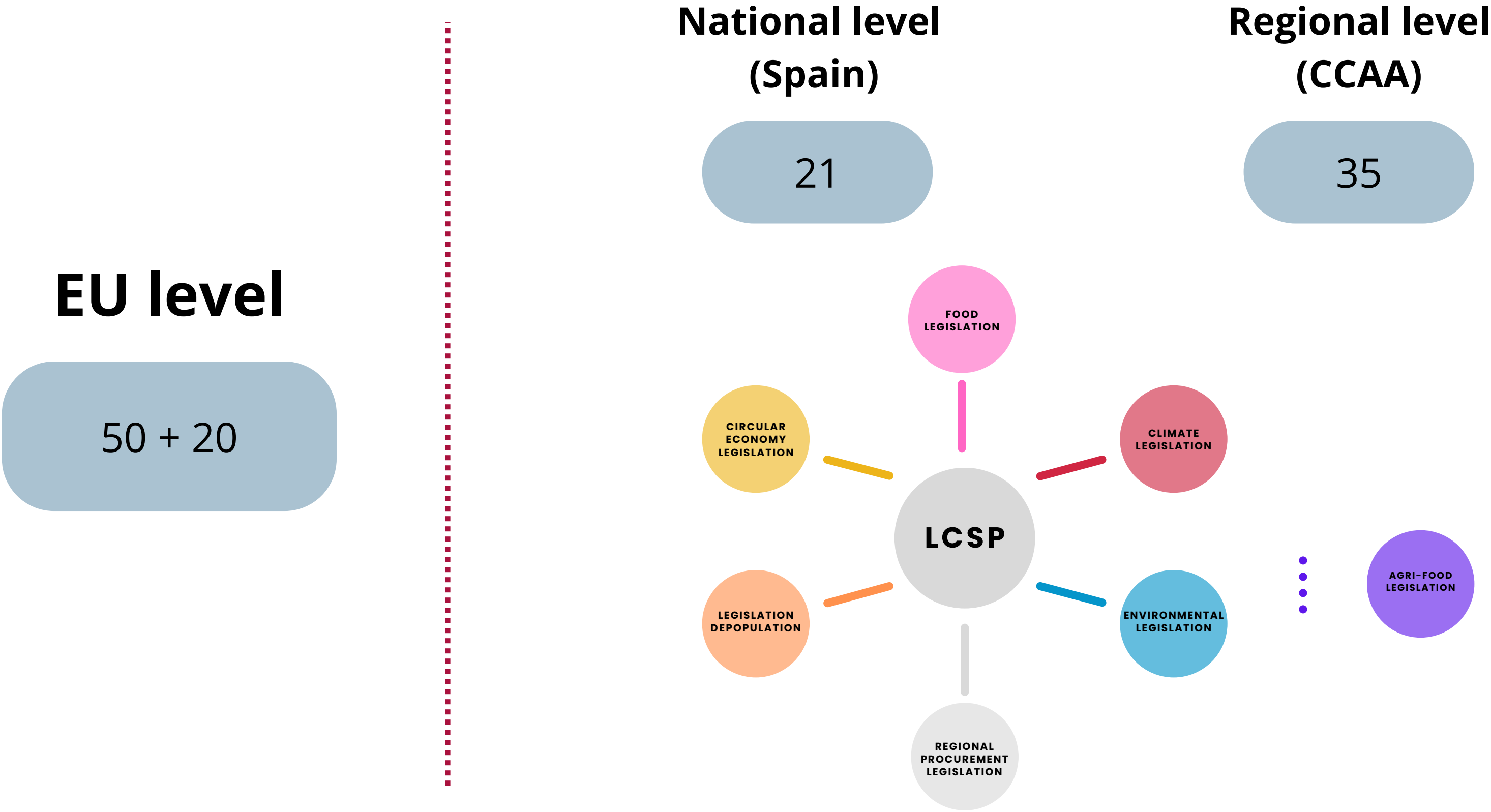
Design → Award → Performance

### **Emerging challenges**

- Increasing regulatory complexity
- Interpretative uncertainty between overlapping rules
- Heavy impact on small and medium-sized enterprises
- The need to ensure coherence and legal certainty while integrating environmental goals



# Sectoral Regulatory Tsunami



**European Commission**


EN

Acceso a los mercados

Hogar > Adquisiciones para compradores

**PROCUREMENT  
FOR BUYERS**



 **Estado miembro / UE**

Indique si la contratación prevista la realiza una institución de la UE o una entidad contratante de un Estado miembro. En este último caso, indique el Estado miembro.

Seleccione la UE o un Estado miem... ▾

Próximo



## Green Public Procurement Report 2025





# Sectoral Regulatory Tsunami

## Charting a course through the regulatory ocean




Contratación pública en la UE  
La competencia en la adjudicación de contratos de obras, bienes o servicios ha disminuido en los diez años anteriores a 2021

# Sectoral Regulatory Tsunami

## Resolución del Parlamento Europeo, de 9 de septiembre de 2025, sobre contratación pública

Parlamento Europeo

2024-2029



TEXTOS APROBADOS

**P10\_TA(2025)0174**  
**Contratación pública**  
**Resolución del Parlamento Europeo, de 9 de septiembre de 2025, sobre contratación pública (2024/2103(INI))**

*El Parlamento Europeo,*

- Visto el Tratado de la Unión Europea, y en particular su artículo 3, apartado 3,
- Visto el Tratado de Funcionamiento de la Unión Europea, y en particular sus artículos 114, 151 y 156,
- Vista la Directiva 2014/24/UE del Parlamento Europeo y del Consejo, de 26 de febrero de 2014, sobre contratación pública y por la que se deroga la Directiva 2004/18/CE<sup>1</sup>,
- Vista la Directiva 2014/25/UE del Parlamento Europeo y del Consejo, de 26 de febrero de 2014, relativa a la contratación por entidades que operan en los sectores del agua, la energía, los transportes y los servicios postales y por la que se deroga la Directiva 2004/17/CE<sup>2</sup>,
- Vista la Directiva 2007/66/CE del Parlamento Europeo y del Consejo, de 11 de diciembre de 2007, por la que se modifican las Directivas 89/665/CEE y 92/13/CEE del Consejo en lo que respecta a la mejora de la eficacia de los procedimientos de recurso en materia de adjudicación de contratos públicos<sup>3</sup> (Directiva sobre Procedimientos de Recurso),
- Visto el Reglamento (UE) 2022/1031 del Parlamento Europeo y del Consejo, de 23 de junio de 2022, sobre el acceso de los operadores económicos, bienes y servicios de terceros países a los mercados de contratos públicos y de concesiones de la Unión, así como sobre los procedimientos de apoyo a las negociaciones para el acceso de los operadores económicos, bienes y servicios de la Unión a los mercados de contratos públicos y de concesiones de terceros países (Instrumento de contratación internacional-ICI)<sup>4</sup>,
- Vista la Directiva (UE) 2019/882 del Parlamento Europeo y del Consejo, de 17 de abril de 2019, sobre los requisitos de accesibilidad de los productos y servicios (Ley Europea

<sup>1</sup>

DO L 94 de 28.3.2014, p. 65, ELI: <http://data.europa.eu/eli/dir/2014/24/oj>.

<sup>2</sup>

DO L 94 de 28.3.2014, p. 243, ELI: <http://data.europa.eu/eli/dir/2014/25/oj>.

<sup>3</sup>

DO L 335 de 20.12.2007, p. 31, ELI: <http://data.europa.eu/eli/dir/2007/66/oj>.

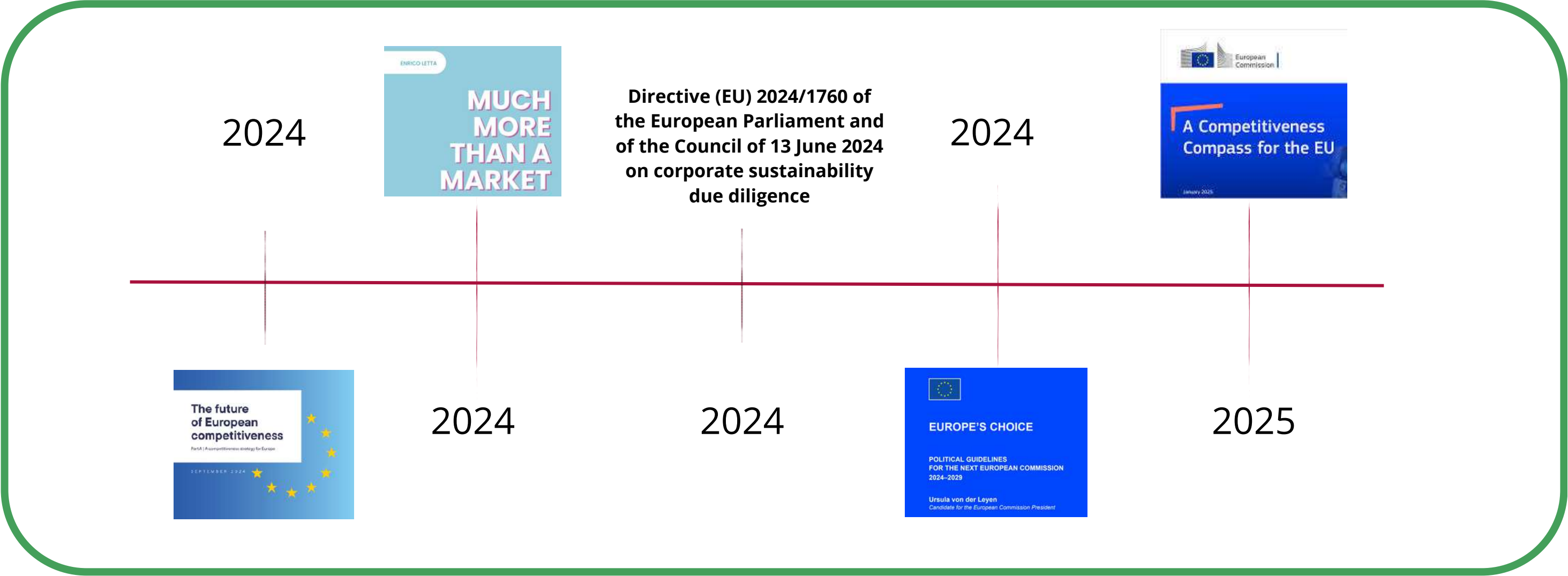
<sup>4</sup>

DO L 173 de 30.6.2022, p. 1, ELI: <http://data.europa.eu/eli/reg/2022/1031/oj>.

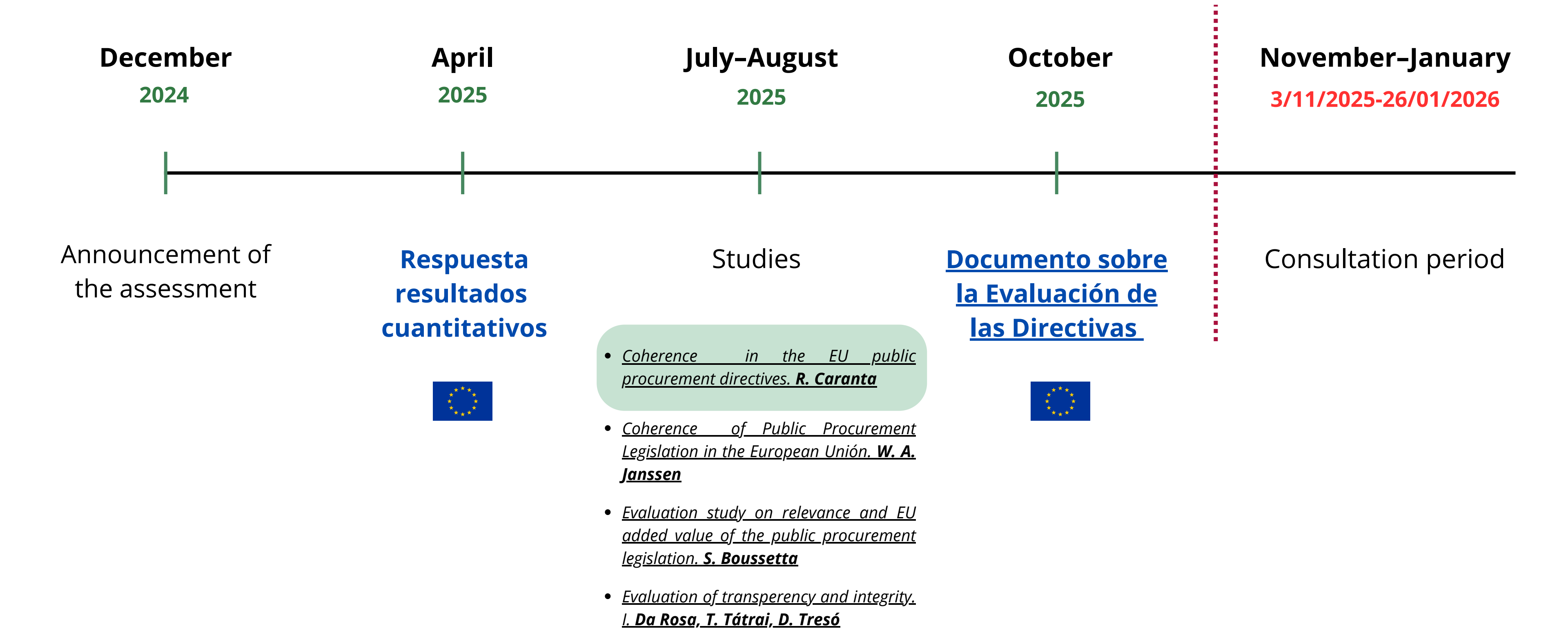
## Green Procurement and ESG

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## Directives review schedule





# The future

## Are environmental targets still a priority? Green Public Procurement - ESG

✅ Yes — they remain at the core of EU policy.

However, recent global crises have prompted a necessary redefinition of priorities.

Environmental targets now coexist with new strategic concerns arising from:

- the COVID-19 pandemic,
- the war in Ukraine,
- ongoing conflicts in the Middle East, and
- new trade barriers and industrial policies in the United States.

These developments have expanded the policy focus to include:

- Resilience and security of supply chains,
- Traceability and strategic autonomy,
- Energy and economic stability.

The agenda is no longer “green only” — it now seeks a balance between sustainability, resilience, and competitiveness.

# ¡Thank you very much!

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