European Commission

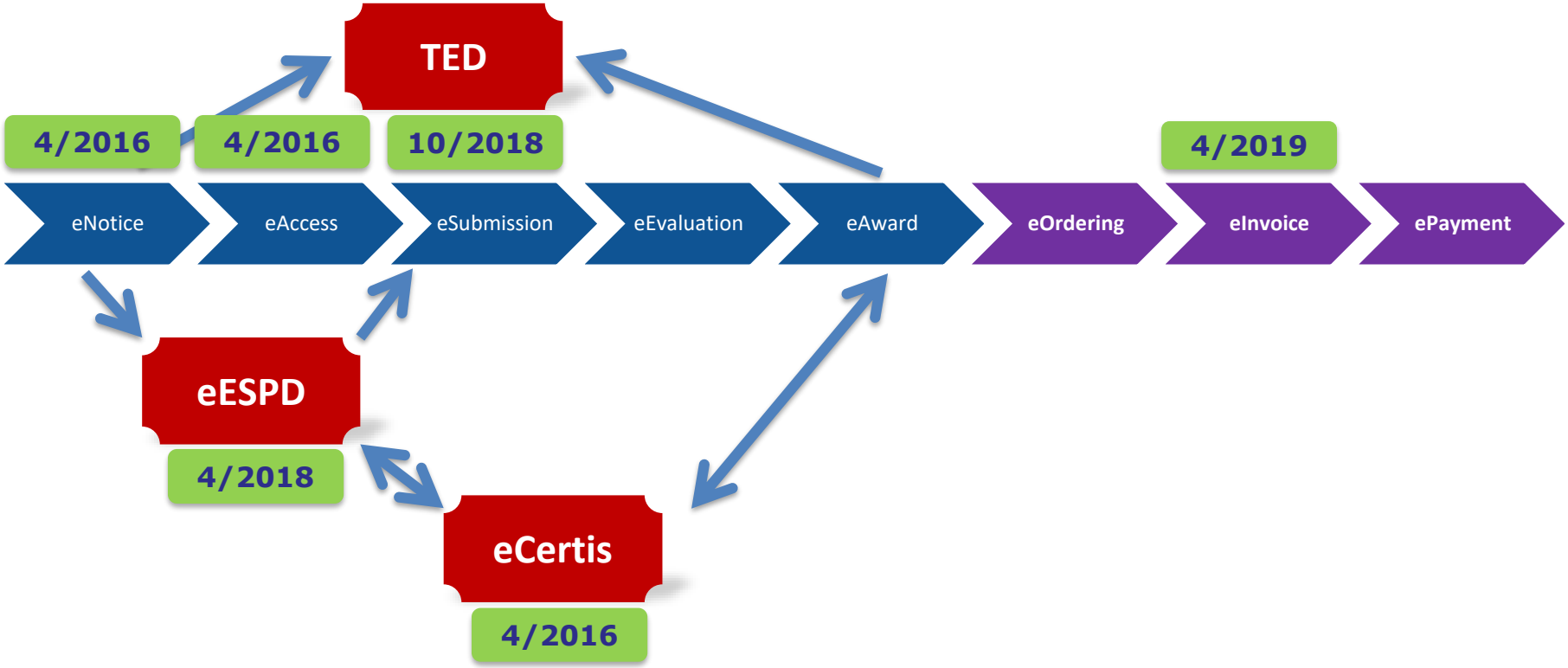
E-procurement in the new Public Procurement Directives

Explanatory meeting
6 December 2018

These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union

Internal Market and Services

Gradual transition to mandatory eProcurement



E-submission

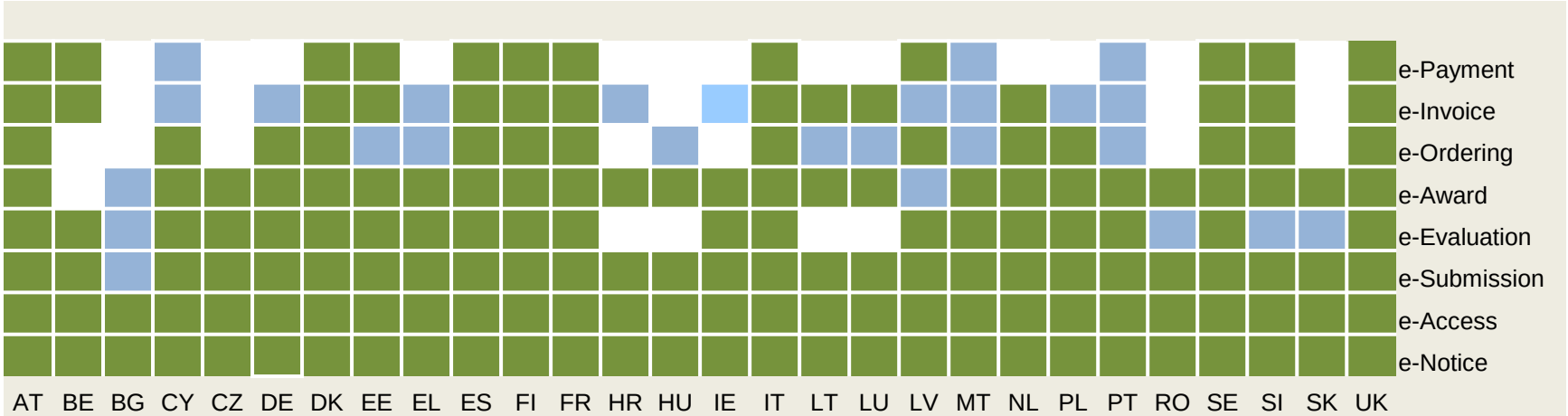
- Six exceptions:
  - Tools, devices, or file formats not generally available
  - IP-related issues
  - Specialised office equipment (e.g. wide-format printers)
  - Submission of a physical or scale model
  - Protection of particularly sensitive information
  - Breach of platform security

- CA can limit to the size of file format

- Oral communications OK for non-essential elements (but sufficiently documented!).

State of Play

Digitised public procurement phases above thresholds



Legend:

- Green = Available
- Blue = In development or partly implemented

How to read this:

- This capability is available
- If there are several solutions, at least one of them offers this capability
- It does not indicate the quality
- It doesn't mean that the capability covers the all county

Internal Market and Services

E-signature

- MS and CA to carry out a risk assessment
  - High level not necessary for access to tender documents, notification, etc
- Mutual recognition of e-signatures on the Trusted Lists
- Other formats: document carrier include link with validation possibilities (CA to validate online, free of charge)

Tools/devices, delegated acts

- Public works: MS may require the use of specific tools (building information modelling tools) but CA to offer alternative means of access until become generally available

- CAs to offer alternative means of access: keep the tool open!
  - If not, provisional tokens
  - Alternative channels for the electronic submission of tenders.

- COM empowered to adopt delegated acts to address interoperability across the EU (technical formats/messaging):

European Single Procurement Document (ESPD)

- Objective: lessen administrative burden
- Commission Implementing Regulation (EU) 2016/7 of 5 January 2016 establishing the standard form for the European Single Procurement Document
- Mandatory for all PP > EU thresholds (concessions excluded)
- Electronic format mandatory since April 2018.
- **https://ec.europa.eu/tools/espd/filter?lang=en**

Consisting of an updated self- declaration as preliminary evidence in replacement of certificates issued by public authorities or third parties confirming that the relevant economic operator fulfils the required conditions (suitability, financial status and abilities.)

ome to the ESPD service

pean Single Procurement Document (ESPD) is a self-declaration of the businesses' financial status, abilities and suitability for a public procurement procedu able in all EU languages and used as a preliminary evidence of fulfilment of the conditions required in public procurement procedures across the EU. Thanks D, the tenderers no longer have to provide full documentary evidence and different forms previously used in the EU procurement, which means a significant ification of access to cross-border tendering opportunities. From October 2018 onwards the ESPD shall be provided exclusively in an electronic form.

European Commission provides a free web service for the buyers, bidders and other parties interested in filling in the ESPD electronically. The online form ca in, printed and then sent to the buyer together with the rest of the bid. If the procedure is run electronically, the ESPD can be exported, stored and submitted onically. The ESPD provided in a previous public procurement procedure can be reused as long as the information remains correct. Bidders may be exclude rocedure or be subject to prosecution if the information in the ESPD is seriously misrepresented, withheld or cannot be complemented with supporting docu

hore information on ESPD, please click here

are interested in the answers to the most frequently asked questions about the ESPD, please have a look at the FAQ leaflet

e you?

ntracting authority

ntracting entity

conomic operator

The Commission established this transitional service to support the uptake of the ESPD and supported EU Member S implementing their own ESPD services. The Commission service will be phased out in April 2019, nevertheless the o to use the ESPD remains into force and can be met by using the national ESPD services. Most Member States alrea provide at least one ESPD service. A non-exhaustive list can be found **here**. The list will be regularly updated.

A list of ESPD contact points in your Member States can be found **here**.

eCertis

(https://ec.europa.eu/tools/ecertis/search)

- EU + EEA + some enlargment countries
- Updating compulsory: MS to constantly keep up-to-date eCertis
- Data extention:
  - European Single Procurement Document - Art. 57b(3)
  - Official declarations at Art. 57a(2)
  - List of databases: Article 57(4)
  - CAs to require primarily types of certificates covered by eCertis
- Time line: updating: entry into force

Online database with the characteristics of the documents requested in the Member States of the European Union during the formation and performance phases of public contracts.

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eCertis Data - State of Play

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IS	IT	LI	LT	LU	LV	MT	NL	NO	PL	PT	RO	SE	SI	SK	UK
Issuers	13	10	23	7	15	21	5	5	11	4	4	15	3	17	3	6	16	4	7	6	6	7	8	3	11	9	11	6	5	17	
Criteria	10	9	62	35	41	105	23	52	41	22	66	69	53	63	22	7	46	48	27	13	71	56	48	28	36	32	52	28	57	47	33
Evidence	7	4	36	13	21	45	32	10	34	8	6	44	5	27	5	7	31	3	11	7	34	9	12	5	23	37	20	10	8	18	35
Total	30	23	121	55	77	171	60	67	86	34	76	128	61	107	30	20	93	55	45	26	111	72	68	36	70	78	83	44	70	82	68

Techniques for electronic procurement
(Art. 32-34)

- Dynamic Purchaising System (DPS): existing procedure streamlined
  - restricted procedure
  - no indicative tenders, no simplified notices, no max. duration
  - evaluation: 10 working days
- Electronic auction: essentially unchanged
- E-catalogue: standardised presentation of tenders, specific for a given procedure

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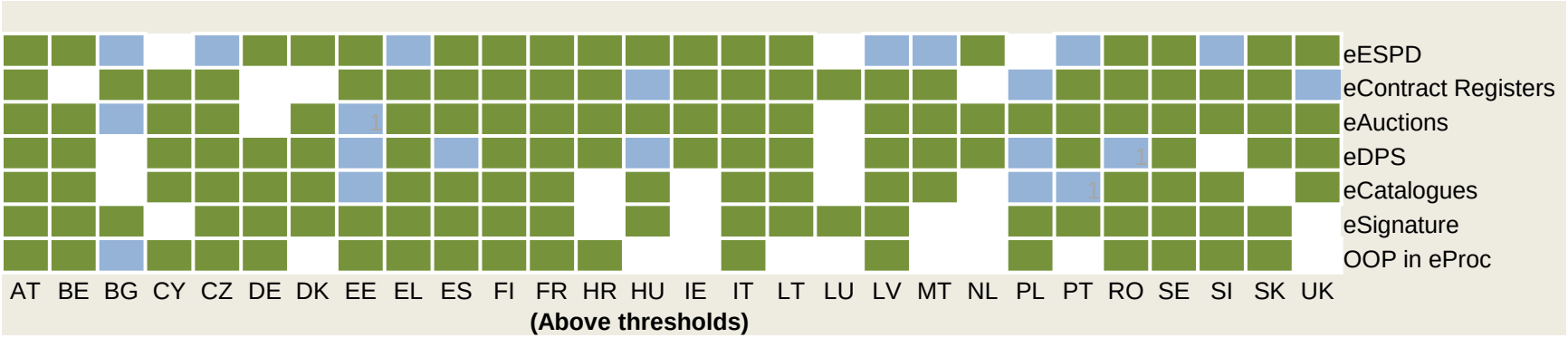
State of Play

Functionalities availability in the MS



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Internal Market and Services

New Standard Forms

- *Objectives:*
  - More accurate information (e.g. definitions)
  - Simpler to use and implement (e.g. harmonized)
  - More flexible (e.g. lots, labels, optional fields)
  - More relevant (e.g. green procurement)
  - More universal (e.g. below threshold, ESPD)
- *Outputs:*
  - A implementing regulation
- *ForeseenTimeline:*
  - ESWG meeting (10 Dec 2018)
  - Adoption (March 2019)
  - Technical files (XSD) available (March 2020)
  - Implemented (March 2022 ?)

Other Directives

- Concessions Directive: "light regime"
  - No mandatory use of e-submission… but
  - E-notification mandatory
  - E-Access still applies (with some restrictions)
  - General principles (generally available, non-discriminatory, not restricting access to the procedure)

- Utilities Directive: same as for classical Directive (except for e-Certis)

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Directive on e-invoicing in public procurement

Key elements:

- Scope: PP invoices only
- Directive mandates standardisation bodies to draw up a new European e-invoicing standard + short list of syntaxes + syntaxe bindings
- 17 October 2017 - Publication of the reference to the EU standard on eInvoicing in the Official Journal of the EU
- Buyers obliged to accept electronic invoices compliant with the new standard
- The new standard will not replace existing e-invoicing standards – national systems can continue to be used
- 18 April 2019 - Deadline for Member States to transpose into national law and implement the Directive (for contracting authorities and entities)
- 18 April 2020 - Extended deadline (upon request) for contracting authorities and entities which are not central government authorities

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Questions?

https://ec.europa.eu/growth/single-market/public-procurement/e-procurement_en