

EN

E-002236/2024

Answer given by Executive Vice-President Séjourné
on behalf of the European Commission
(14.2.2025)

1. Public procurement is decentralised and each contracting authority or entity is responsible for its own purchases. Proper application of the rules is controlled by appropriate administrative and juridical mechanisms of Member States and later by the Commission within its enforcement powers. In parallel, Member States and the Commission have a possibility of organising joint procurement¹. During the COVID-19 pandemic, the Commission and participating countries jointly procured² several types of supplies, including personal protective masks³. The Commission managed joint procurement procedures with countries, while the latter made individual purchases under the joint contract⁴. The Commission also procured masks using EU funds under the Emergency Support Instrument and donated them to EU Member States⁵.

2. The direct budgetary consequences of irregularities in the procurement of protective face masks do not appear to significantly contribute to non-compliance with the EU fiscal rules by Member States in a situation of excessive deficit, i.e. with deficits above the 3% of gross domestic product reference value⁶.

3. One of the key elements of effective functioning of public procurement is the procurement remedies system. The newly adopted Internal Market Emergency and Resilience Act⁷, the Regulation on serious cross-border threats to health⁸, the Regulation on supply of crisis-relevant medical countermeasures⁹ as well as the recast of the EU Financial Regulation¹⁰ provide possibilities of more adequate procurement reaction to a crisis, reducing risk of disfunction or abuse.

¹ Pursuant to Article 168(2) of Regulation (EU, Euratom) 2024/2509 on the financial rules applicable to the general budget of the Union (recast), OJ L 2024/2509, 26.9.2024.

² In accordance with a voluntary Joint Procurement Agreement for medical countermeasures established pursuant to Article 5 of Decision No 1082/2013/EU that has been repealed and replaced by Article 12 of Regulation (EU) 2022/2371, OJ L 314, 6.12.2022.

³ https://commission.europa.eu/strategy-and-policy/coronavirus-response/public-health/ensuring-availability-supplies-and-equipment_en#public-procurement-of-medical-and-protective-equipment

⁴ The Joint Procurement Agreement determining the practical arrangements governing the joint procurement procedure can be found here: https://health.ec.europa.eu/health-security-and-infectious-diseases/preparedness-and-response-planning_en#joint-procurement-of-medical-countermeasures-ensuring-proper-preparedness.

A flowchart of its implementation can be found here: https://health.ec.europa.eu/publications/flowchart-implementation-joint-procurement-agreement-different-steering-committees_en

The decision process of the Steering Committees managing the joint procurement mechanism can be found here: https://health.ec.europa.eu/publications/decision-process-steering-committees-managing-joint-procurement-mechanism_en

⁵ <https://ted.europa.eu/en/notice/-/detail/221190-2020>

⁶ On 26 November 2024, the Commission came forward with recommendations for the Council to set the fiscal paths to correct the excessive deficits of eight Member States under an excessive deficit procedure.

⁷ Regulation (EU) 2024/2747 of the European Parliament and of the Council of 9 October 2024 establishing a framework of measures related to an internal market emergency and to the resilience of the internal market and amending Council Regulation (EC) No 2679/98.

⁸ In particular Article 12 (3) d), see also: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32022R2371>

⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32022R2372>

¹⁰ <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32024R2509>

