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Model Rules on Impact Assessment of Algorithmic Decision-Making Systems Used by Public Administration

ELI-Webinar, 13/04/2022

Европейски институт по право

Evropský právní institut

Europäisches Rechtsinstitut

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L-Istitut Ewropew dwar id-Dritt

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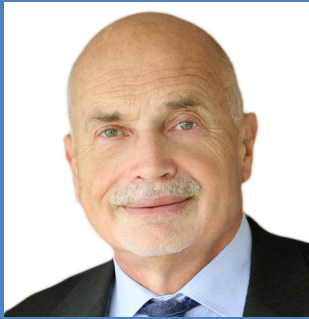
Europeiska rättsinstitutet¹

Agenda of this presentation

- The Project Team
- Outline of the overall Impact Assessment Procedure
 - Impact Assessment Report
 - Expert Audit & Public Participation
- Clarifications responding to common questions and earlier feedback
- Compatibility with the Draft AI Act

The **Project** Team

CHAIR



M Wierzbowski

REPORTERS



M Clément



P Craig



JP Schneider

Drafting Team Members

Franz Merli

Daniel le Métayer

Karolina Wojciechowska

Jonathan Dollinger

Katarzyna Ziółkowska

(18) AC / (45) MCC Members

<https://www.europeanlawinstitute.eu/projects-publications/completed-projects-old/ai-and-public-administration/>

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Impact Assessment Procedure

Design, development, training and testing

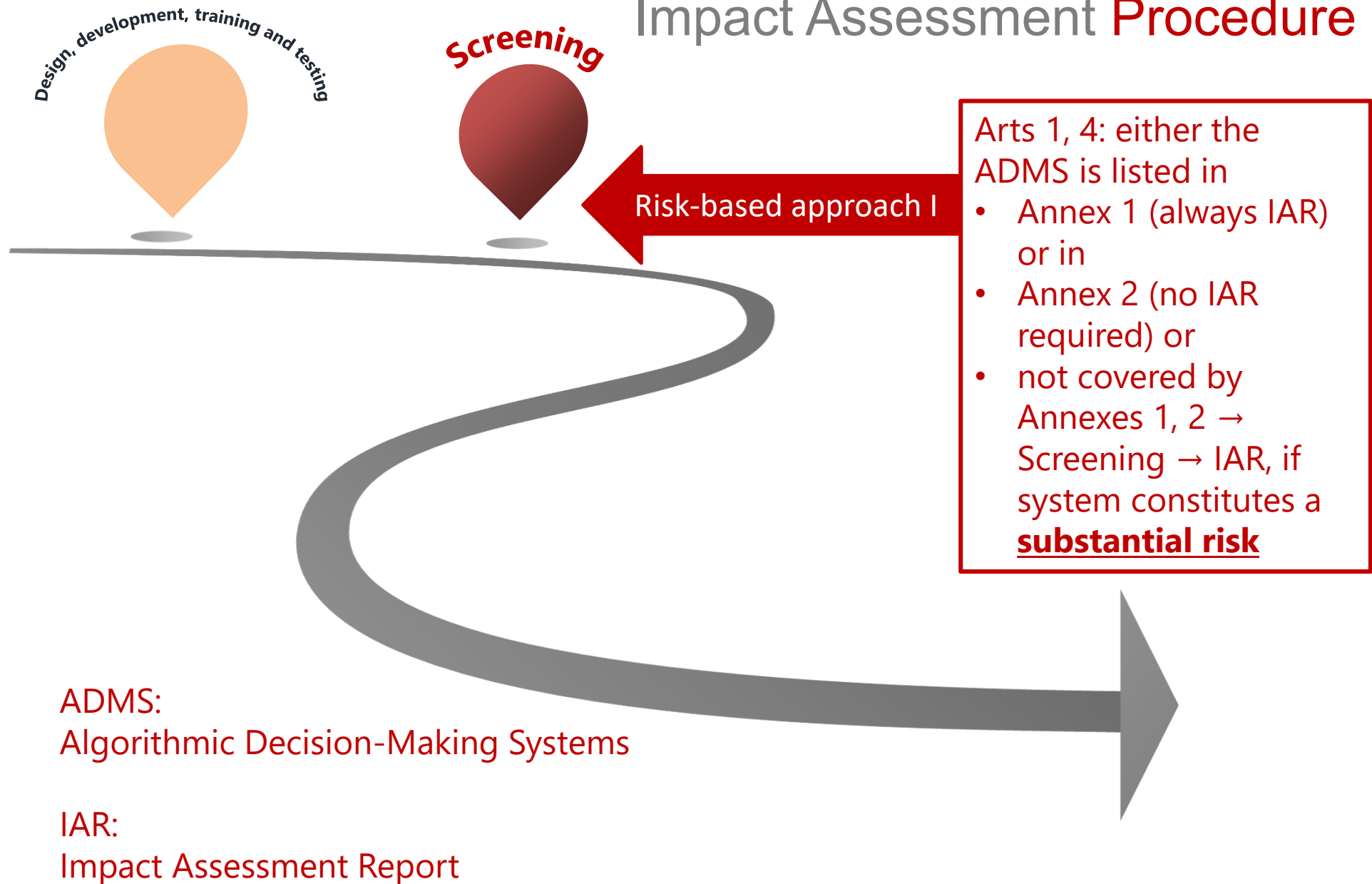


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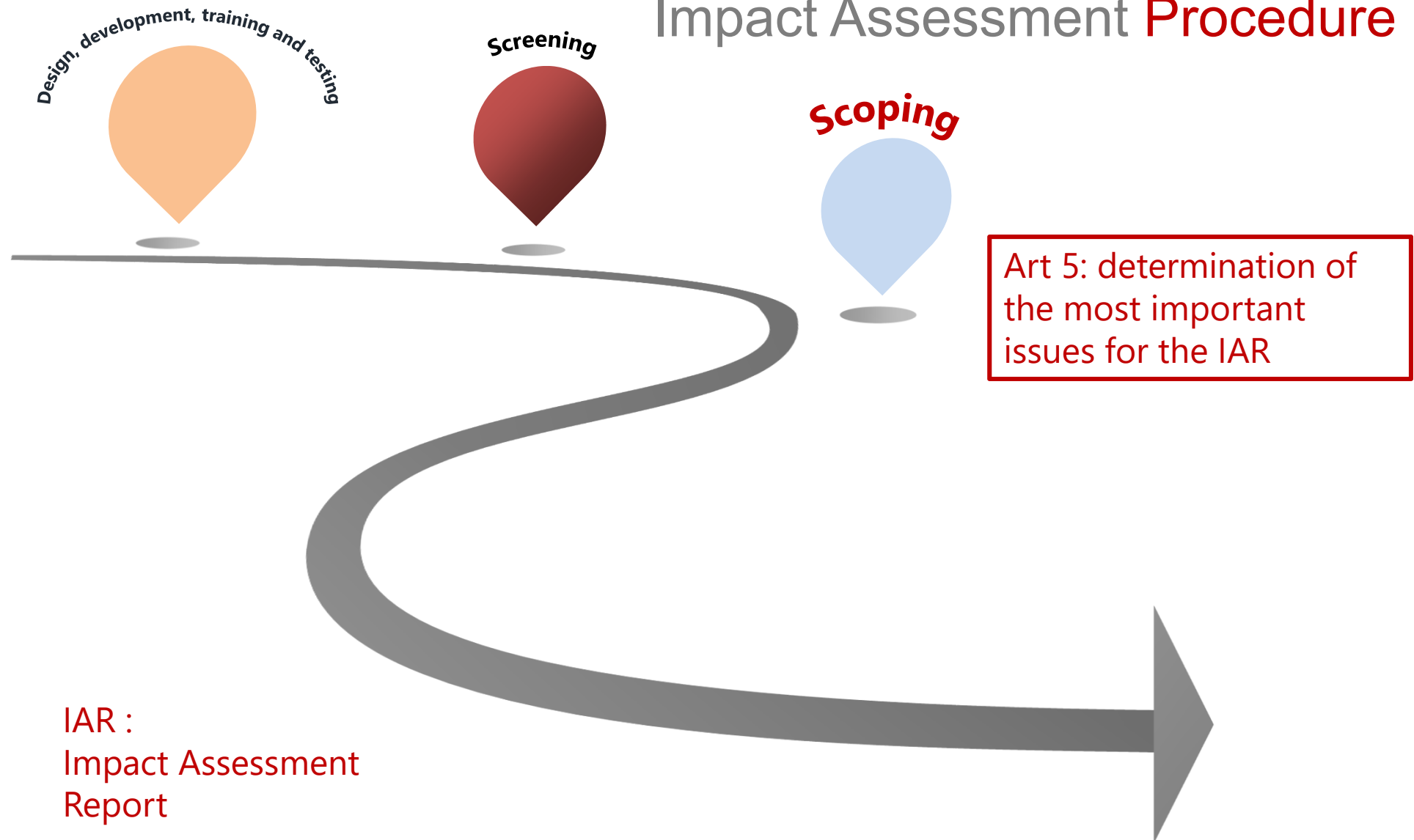
Art 7: obligations to cooperate of

- implementing authority
- system provider
- data provider

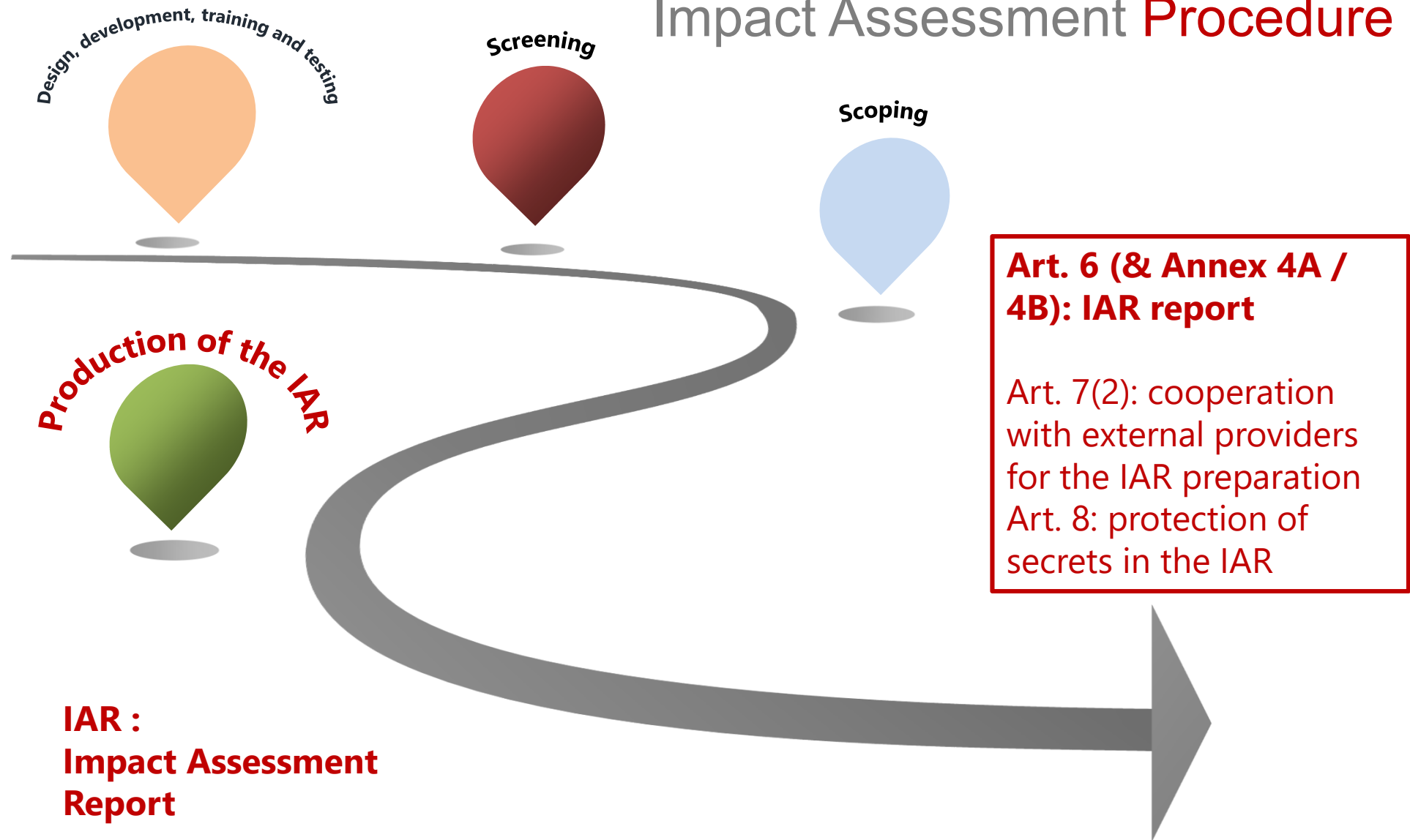
Impact Assessment Procedure



Impact Assessment Procedure



Impact Assessment Procedure



Impact Assessment Report

Article 6:

2. The report shall contain:

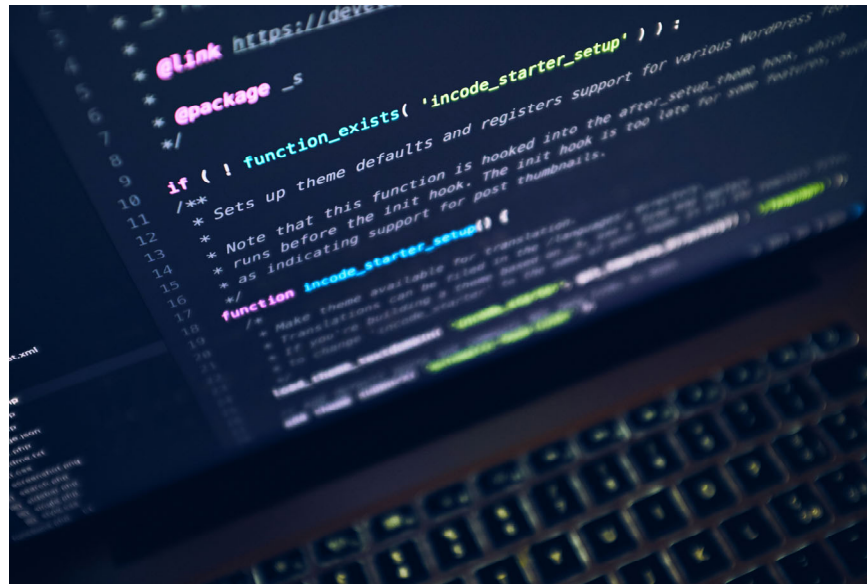
- a. a **description of the purpose and operation** of the system, in particular: (...)
- b. an assessment of the **performance, effectiveness and efficiency** of the system (...);
- c. an assessment of the specific and systemic **impact** of the system **on**:
 - i. fundamental or other individual rights or interests ...
 - ii. democracy, societal and environmental well-being;
 - iii. the administrative authority itself, ...
- d. an assessment of the **measures taken to ensure**:
 - i. maximisation of benefits ...;
 - ii. minimisation of identified risks ...; (...)
- e. (...) a concluding **determination of the risk level**;
 - [low/medium risk ⇔ high risk? ⇒ expert/public participation)
- f. an **overall assessment** of the necessity and proportionality (...) and whether there are reasonable alternatives to the envisaged system;
- g. a reasoned **statement on the legality** of the use of the system (...)

Impact Assessment **Report**

Article 6:

2. The report shall contain:

- a. a **description of the purpose and operation** of the system, in particular: (...)



<https://unsplash.com/>

Impact Assessment **Report**

Article 6:

2. The report shall contain:

- b. an assessment of the **performance, effectiveness and efficiency** of the system (...);



<https://unsplash.com/>

Impact Assessment **Report**

Article 6:

2. The report shall contain:

- c. an assessment of the specific and systemic **impact** of the system **on**:
 - i. fundamental or other **individual rights or interests** ...



<https://unsplash.com/>



<https://unsplash.com/>

Impact Assessment **Report**

Article 6:

2. The report shall contain:

- c. an assessment of the specific and systemic **impact** of the system **on**:
 - ii. **democracy**, societal and **environmental** well-being;



<https://unsplash.com/>



<https://unsplash.com/>

Impact Assessment **Report**

Article 6:

2. The report shall contain:

- c. an assessment of the specific and systemic **impact** of the system **on**:
 - iii. the administrative authority itself, (...)



<https://unsplash.com/>

Impact Assessment **Report**

Article 6:

2. The report shall contain:

- d. an assessment of the measures taken to ensure:
 - i. maximisation of benefits (...);



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Impact Assessment **Report**

Article 6:

2. The report shall contain:

- d. an assessment of the measures taken to ensure:
 - ii. minimisation of identified risks (...);



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Impact Assessment Report

Article 6:

2. The report shall contain:

- e. (...) a concluding **determination of the risk level**;
- *[low/medium risk? ⇔ high risk? → expert/public participation)*



<https://unsplash.com/>

Impact Assessment **Report**

Article 6:

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Impact Assessment **Report**

Article 6:

2. The report shall contain:

- g. a reasoned statement on the **legality** of the use of the system (...)



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Impact Assessment Report

Article 6:

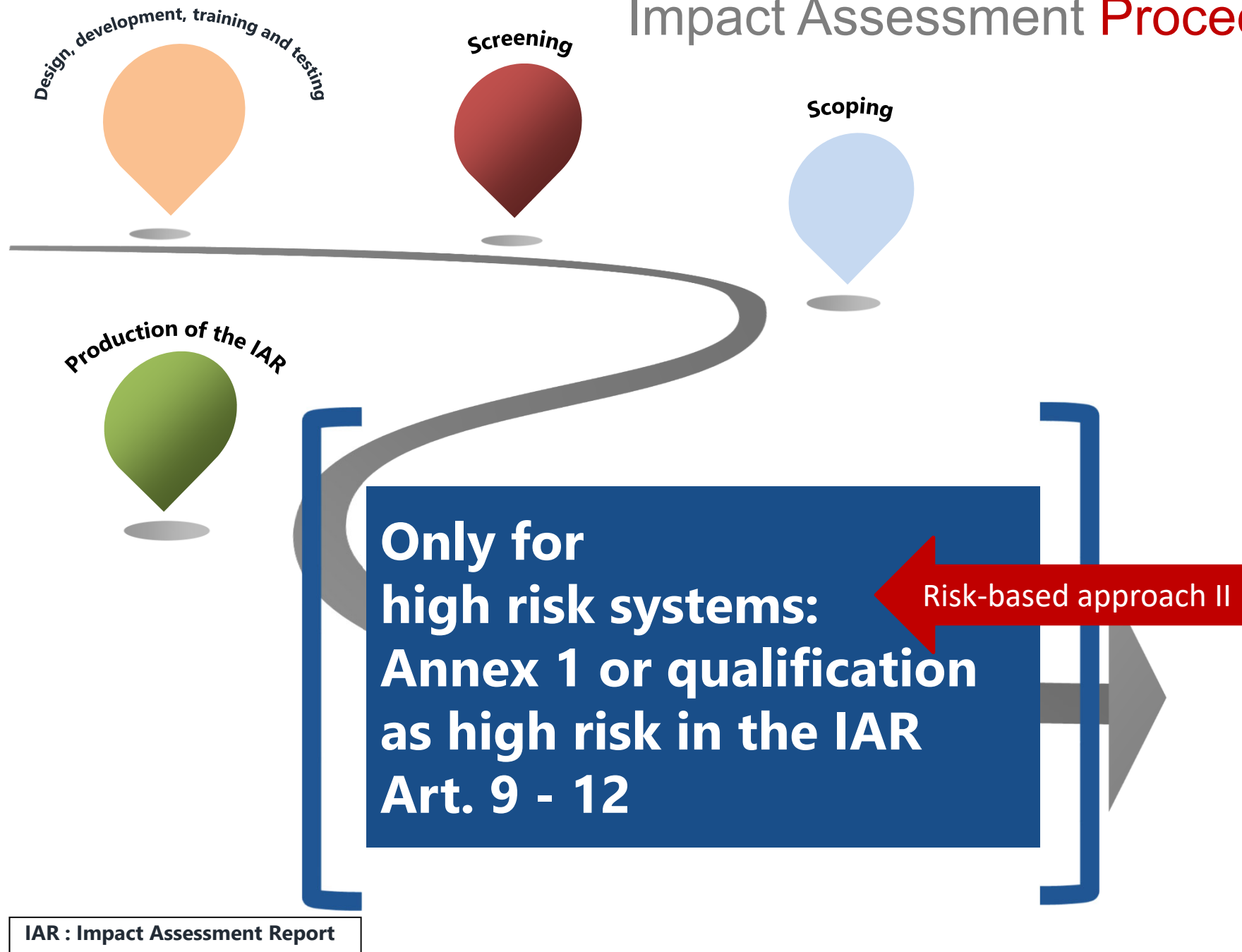
3. The assessment guidelines in Annex 4 provide further details on the structure and content of the report.

Article 6:

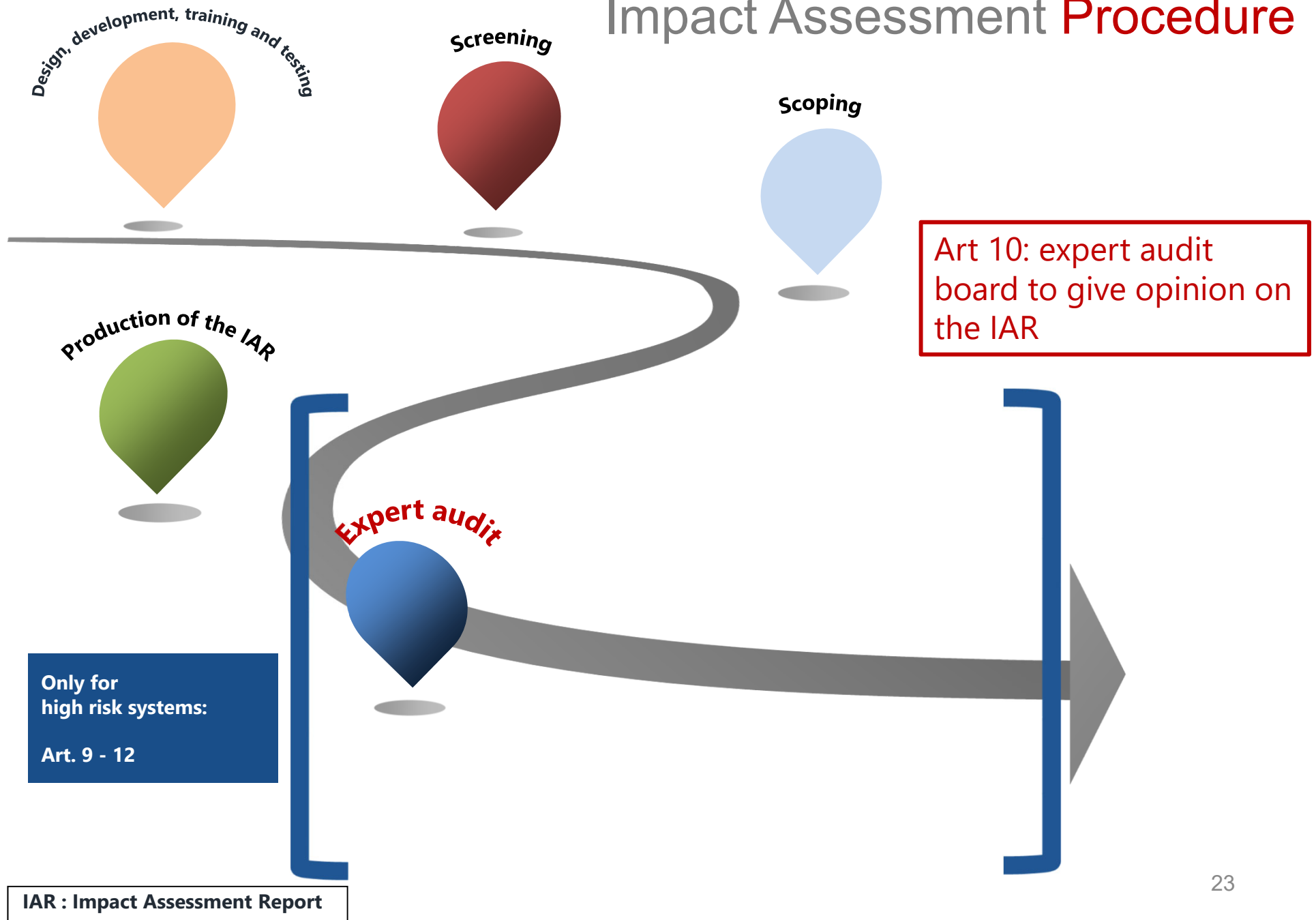
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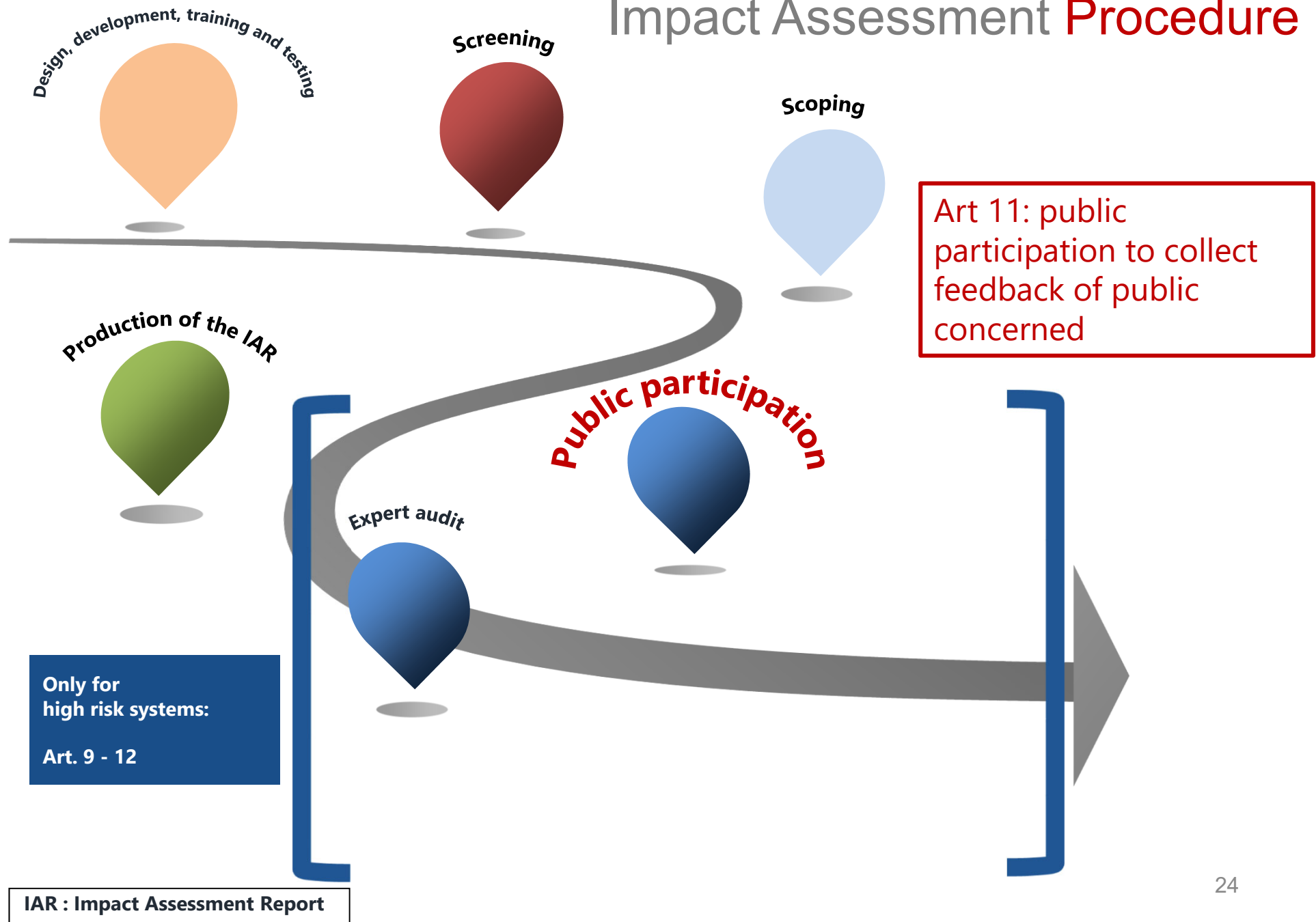
Impact Assessment Procedure



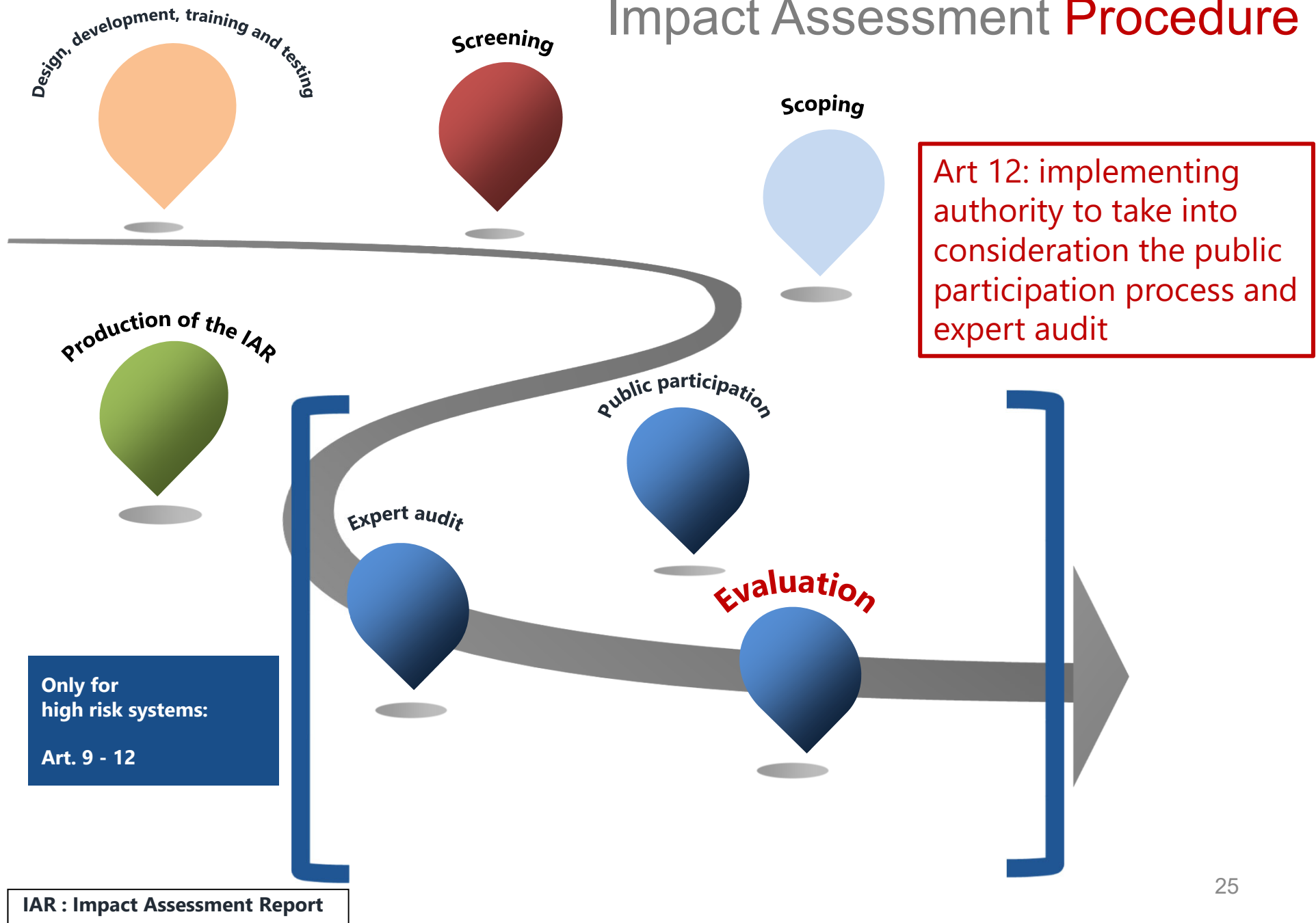
Impact Assessment Procedure



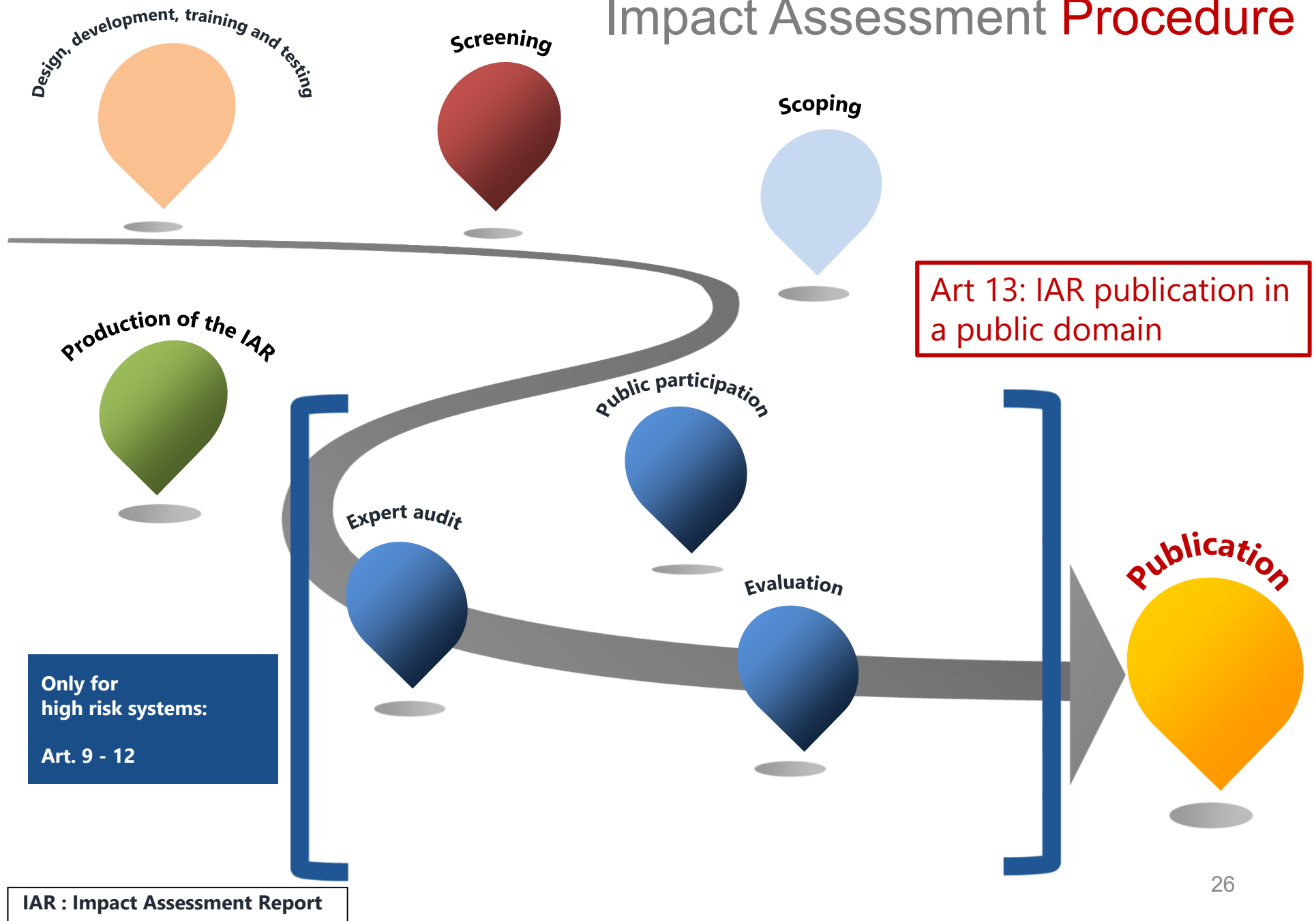
Impact Assessment Procedure



Impact Assessment Procedure



Impact Assessment Procedure



Impact Assessment Procedure

Art. 14

Repetition of Assessment

publication

Evaluation

Public participation

Expert audit

Production of the IAR

Scoping

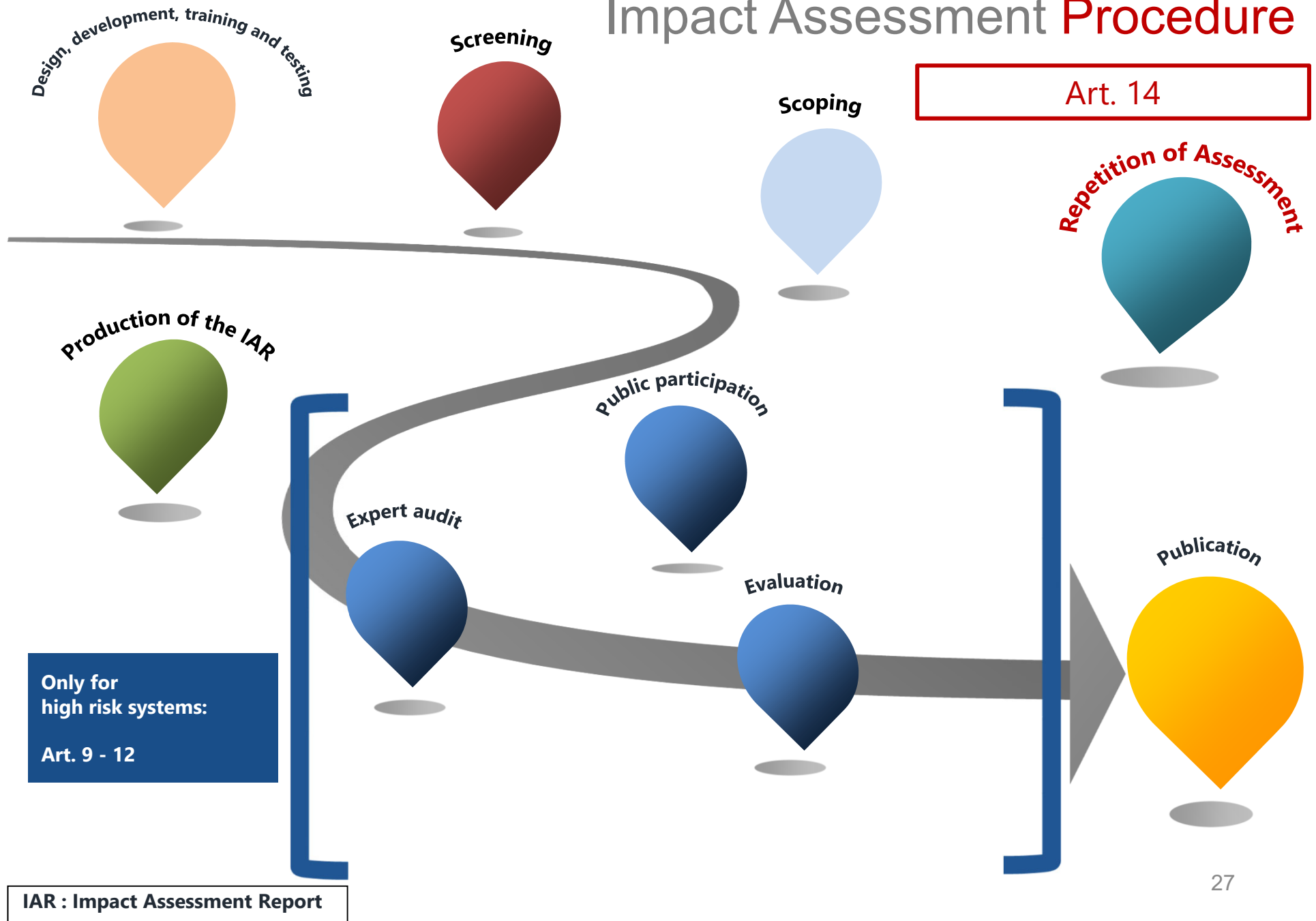
Screening

Design, development, training and testing

Only for
high risk systems:

Art. 9 - 12

IAR : Impact Assessment Report



Clarifications responding to common questions and earlier feedback

- the Model Rules aim to **balance innovation** (i.e. spread of AI in administration) **and risk management** (which means some degree of bureaucracy)
- the **Impact Assessment is not a licensing procedure** and does not impose permit requirements for (private) AI
- independent **supervisory authority** oversees the use of ADMS by public authorities (Art. 15)
 - makes recommendations to implementing authorities based on complaints (Art. 15(5), 16)
 - appoints Expert Board members (Art. 10(6))
 - provides a public online register of Impact Assessment Reports (Art. 15(4), 13(4))
- the Model Rules could be implemented by the **EU**, but also by **Member States** including their subdivisions or **other European or non-European countries**

Compatibility with the Draft AI Act

- The **Model Rules complement the Draft AI Act**, which does not provide for case-specific impact assessments
- Option 1: the **EU could prescribe** impact assessments for public administration
 - but questions of **competence** concerning the use of ADS by national public administration
- Option 2: integrate **opening clauses** into the Draft AI Act **for Member States** to establish impact assessments for the use of ADS by national public administration



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