



**Hitchhiker's Guide on  
Procurement  
opportunities for  
Startups**  
*2019*

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# 1 Table of Content

- 1 Executive summary ..... 3
  - 1.1 What is the aim of the guide?..... 3
- 2 What is Procurement? ..... 4
  - 2.1 What is Public Procurement? ..... 4
  - 2.2 What is Private Procurement? ..... 4
  - 2.3 The main distinction between Public and Private Procurement..... 4
  - 2.4 Public procurement procedures in the EU..... 5
- 3 Procurement opportunities for startups ..... 6
  - 3.1 Public Procurement opportunities ..... 6
    - 3.1.1 European level ..... 6
    - 3.1.2 The national level – Slovenia..... 12
    - 3.1.3 The national level – Romania ..... 14
    - 3.1.4 The national level – Czech Republic ..... 20
  - 3.2 Private procurement opportunities..... 23
    - 3.2.1 Startups – corporate collaboration opportunities – Slovenia ..... 23
    - 3.2.2 Startups – corporate collaboration opportunities – Romania..... 23
    - 3.2.3 Startups – corporate collaboration opportunities – Czech Republic..... 24
- 4 Barriers to startups benefiting from procurement opportunities..... 24
  - 4.1 European Level ..... 24
  - 4.2 Slovenia ..... 24
  - 4.3 Romania..... 25
  - 4.4 Czech Republic..... 26
    - 4.4.1 For domestic firms ..... 26
    - 4.4.2 For International suppliers ..... 27
- 5 How to benefit from public opportunities? ..... 27
  - 5.1 Slovenia ..... 27
    - 5.1.1 Available training and workshops ..... 28
    - 5.1.2 Contact point in Slovenia ..... 28
  - 5.2 Romania..... 29
    - 5.2.1 E- procurement Romania..... 30

5.2.2	Available trainings and workshops.....	30
5.3	Czech Republic.....	30
6	Main trends .....	33
7	Recommendations based on startups’ experiences .....	33
8	References .....	34
	Appendix – Example of outcomes from the interviews (Romania) .....	36

## 2 Executive summary

### 2.1 What is the aim of the guide?

The goal of this document is to provide the reader with information on public and private procurement, and on the available possibilities for startups. The information was collected on both European and national level, especially in the countries of the Central and East Europe such as the Czech Republic, Slovenia and Romania. This guide was developed to help startups orienting in the field of public procurement and offer them the appropriate support. It also contains recommendations on where to find information, how to access support if needed, how to look for the actual public tenders, who to contact and how to proceed in case startups are interested in public procurement. This guide also offers an overview of the difficulties and some barriers which startups might face on their way to the public tender.

The “Hitchhiker’s Guide on Procurement Opportunities for Startups” explores the existing opportunities that public and private procurements provide in the countries of the Central and East Europe. These financial means are often missed, and the reasons range from the overwhelming administration and bureaucracy to the often-mentioned disadvantageous conditions for startups which are amplified by certain “myths” connected to public procurement.

Indeed, procurement opportunities, due to their administrative and regulatory barriers, are not being fully utilised by startups. The startups that see potential in their local market and have a solid expansion strategy (city by city or country by country), may benefit from public procurement and procurement contracts that, in turn, may stimulate their growth phase. One of the reasons why procurement is not being fully utilised is that procuring from public entities (local and international) is often long and very complicated. Furthermore, startups do not have the necessary knowledge and resources to pursue these opportunities; authorities may also find procuring from startups more challenging than from established companies. As concern corporate procurement opportunities, startups often have difficulties in accessing them.

Lastly, the information collected in this guide will be used at the later stage of the project implementation and transformed into digestible materials for startups such as posts, videos, series of blog posts and infographics.

### 3 What is Procurement?

Procurement is a process of gaining services and goods from an external source. The procurement process includes the preparation and processing of demand as well as the end receipt and approval of payment. It involves purchase planning, standards determination, development of specifications, supplier research and selection, value analysis, financing, price negotiation, making the purchase, supply contract administration, inventory control and stores, disposals and other related functions<sup>1</sup>.

#### 3.1 What is Public Procurement?

Every year, over 250 000 public authorities in the EU spend around 14% of GDP on the purchase of services, works and supplies. Public procurement refers to the process by which public authorities, such as government departments or local authorities, purchase work, goods or services from companies. Examples include the building of a state school, purchasing furniture for a public prosecutor's office and contracting cleaning services for a public university<sup>2</sup>.

#### 3.2 What is Private Procurement?

The private sector comprises privately run organisations. Private procurement is completed within the context of for-profit organisations (FP's). Private procurement happens within privately owned companies.

#### 3.3 The main distinction between Public and Private Procurement

The public and private sector are fundamentally different areas with unlike goals. Whereas the public institutions' purpose is the effective organisation of public good, the aim of private companies and corporates is gaining profit for their owners. Regarding the topic of procurement, however, both the sectors share the same requirements, responsibilities and barriers such as proving the value for money, responsible decision making regarding the expenses and meeting the rules of public procurement and financial policies.

The main differences are:

- Financing and the ability to react

The private companies are more flexible in the sense of transferring money between the departments or divisions in case the business conditions change. On the contrary, the public institutions cannot be this flexible as the budgets are strictly assigned to the departments for a specific (usually longer) period of time. In case the price increases

<sup>1</sup> <https://www.thebalancesmb.com/procurement-2948316>

<sup>2</sup> [https://ec.europa.eu/growth/single-market/public-procurement\\_en](https://ec.europa.eu/growth/single-market/public-procurement_en)

or if another supplier pushes the prices down, the public institutions can react only very slowly.

- Number of stakeholders

The public sector is, with regards to public procurement, under the pressure of a big number of stakeholders (superior institutions, governments, Parliaments or their clients) who require information and regular reports.

- Bureaucracy

The work in the public sector involves a greater accent on the rules and procedures that need to be met. The process is lengthy and under higher control than it is in the private sector.

### 3.4 Public procurement procedures in the EU

EU public procurement accounts for approximately €2 trillion every year (14% of EU GDP). There are several types of public procurement procedures on the European level<sup>3</sup>:

#### Open procedure:

- Open to any business
- Time limit for submission: 35 days from the publication date of the contract notice or 15 days if prior information notice was published previously

#### Restricted procedure:

- Restricted procedure may be submitted by any business. Of those, only pre-selected businesses are invited to submit a tender
- Contracting authorities must select at least 5 candidates
- Time limit for submission: 37 days from the publication date of the contract notice, 36 days if prior notice was previously published, 40 days if 5 candidates are selected, 15 days only for urgent cases and 10 days for urgent cases where the notice is sent electronically

#### Negotiated procedure:

- Contracting authority shall invite at least 3 businesses with whom start the contract negotiation
- This procedure is used only for a restricted number of cases (e.g. supplies intended exclusively for research or testing purposes) and specific sectors (e.g. water, energy, transport or postal services)

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<sup>3</sup> [https://europa.eu/youreurope/business/selling-in-eu/public-contracts/rules-procedures/index\\_en.htm](https://europa.eu/youreurope/business/selling-in-eu/public-contracts/rules-procedures/index_en.htm)

- Time limit for submission: 37 days from the publication of the contract notice, 15 days in the event of urgent cases, or 10 days if the notice is sent electronically. No publication may occur when a) no tenders were submitted in an open or restricted procedure, b) extremely urgent cases arise, c) the contract can be carried out only by a single business due to technical reasons

### Competitive dialogue:

- Employed for complex contracts
- Contracting authority must invite at least 3 candidates to the dialogue stage which is sought to define technical, legal and economic aspects. After the dialogue, candidates must submit the final tender
- Time limit for submission: 37 days from the publication of the contract notice
- This procedure cannot be used in the water, energy, transport and postal services sectors

## 4 Procurement opportunities for startups

### 4.1 Public Procurement opportunities

#### 4.1.1 European level

The EU declares that public procurement allows to increase employment, growth and investment, and it contributes to creating innovative, resource and energy efficient, socially-inclusive economies. However, it is estimated that further efforts to increase collaboration with public authorities and other stakeholders might lead to 1% of efficiency gain (€20 billion per year).

Two pillars of the EU procurement's landscape are the **Pre-Commercial Procurement (PCP)** and the **Public Procurement of Innovative solutions (PPI)**<sup>4</sup>. These two instruments are both implemented by the Innovation Procurement and, when coupled, can sustain public procurers to drive innovation from the demand side and enable the public sector to modernize public services faster while creating opportunities for companies in Europe to gain leadership in new markets. PCP can go up to the development, and possibly also the purchase of the limited volume of first products developed in the PCP. However, PCP does not cover large scale commercialisation, which is the remit of PPI. On the other hand, PPI enable larger scale deployment of solutions that were developed in small quantity in a preceding PCP. PPI can also be used independently, to bring to the market innovative solutions that do not result from R&D but for example from organisational or process.

<sup>4</sup> <https://ec.europa.eu/digital-single-market/en/innovation-procurement>

Therefore, these two instruments are complementary and create synergies among each other. Currently, compared to other parts of the world, PCP and PPI are underutilized in Europe.

Criticisms of the actual EU public procurement system include<sup>5</sup>:

- About 55% of procurement procedures still use the lowest price as the only award criterion. Whereas tenders which include social, environmental, innovative, accessibility or similar qualitative criteria are not widespread yet
- 5% of public awarded contracts do not have a published call of tenders
- SMEs ability to win public tenders' calls are well below their weight in the economy (46%)
- Digital transformation of the public procurement process is limited to only 4 EU member states
- Contracting authorities are rarely buying together, as only 11 % of procedures are carried out by cooperative procurement

### **Pre-Commercial Procurement (PCP)<sup>6</sup>**

The PCP challenges industry from the demand side to develop innovative solutions for public sector needs and it provides a first customer reference that enables companies to create competitive advantage on the market. PCP enables public procurers to compare potential alternative solution approaches and filter out the best possible solutions that the market can deliver to address the public need.

In PCP, public procurers buy R&D from several competing suppliers in parallel to compare alternative solution approaches and identify the best value for money solutions that the market can deliver to address their needs. R&D is split into phases (solution design, prototyping, original development and validation/testing of a limited set of first products) with the number of competing R&D providers being reduced after each R&D phase. Here, procurers share the benefits and risks related to the IPRs resulting from the research and development (R&D) with suppliers at market price. Suppliers retain IPR ownership rights, while procurers keep some usage and licensing rights.

Moreover, PCP can be used when there are no near-to-the-market solutions yet and new R&D is needed. This instrument can then compare the pros and cons of alternative competing solutions approaches. This will, in turn, enable to de-risk the most promising innovations step-by-step via solution design, prototyping, development and first product testing.

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<sup>5</sup> [https://ec.europa.eu/growth/single-market/public-procurement\\_en](https://ec.europa.eu/growth/single-market/public-procurement_en)

<sup>6</sup> <https://ec.europa.eu/digital-single-market/en/pre-commercial-procurement>



## Public Procurement of Innovative solutions (PPI)<sup>7</sup>

PPI is used when challenges can be addressed by innovative solutions that are nearly or already in small quantity in the market and do not need new R&D. This instrument facilitates wide diffusion of innovative solutions on the market and it provides enough demand to incentivise industry to invest in wide commercialisation and bring innovative solutions to the market with the quality and price needed for mass market deployment. This enables the public sector to modernize public services with better value for money solutions and provides growth opportunities for companies.

PPI happens when the public sector uses its purchasing power to act as early adopter of innovative solutions which are not yet available on large scale commercial basis. The first step is to form a critical mass of purchasing power on the demand side (one large enough buyers or several smaller buyers in a buyers group). One that can incentivise industry to scale up the production to bring solutions to the market with the price and quality requirements for large scale deployment.

For the second step, the procurer(s) make an early announcement of the innovation needs (with the required functionality/performance and possibly also price requirements). They express the intention to buy a critical mass of innovative products if industry can bring them to the market with the predefined price/quality requirements by a specific date. The procurers may wish to perform a conformance testing of solutions of suppliers that have come forward with potential solutions by the target date. This is done to verify that there are indeed solutions that can meet their needs, before actually procuring the innovative solutions.

The third step is the actual public procurement of the innovative solutions through one of the existing public procurement procedures (e.g. open/negotiated procedure, competitive dialogue etc).

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<sup>7</sup> <https://ec.europa.eu/digital-single-market/en/public-procurement-innovative-solutions>

## Projects implementing PCP and PPI<sup>8</sup>

PCP and PPI are also implemented via FP7, CIP and Horizon 2020 fund projects. Here several examples of EU co-financed projects that are implementing PCP and PPI<sup>9</sup>:

### PCP:

- [FABULOS](#) - Consortium that focuses on how cities can use automated buses in a systematic way, aiming ultimately for the operations of an autonomous bus line as part of the public transportation ecosystem.
- [SELECTforcities](#) - Consortium of cities that is working towards a standardized, open, data-driven, service-oriented & user-centric platform enabling large scale co-creation, testing & validation of IoE services for Cities.
- [MAGIC](#) - Consortium of health care providers that aims to improve care delivery systems that empower patients in optimising their recovery from a stroke together with healthcare professionals.
- [EMPATTICS](#) - Consortium of health care providers that focuses on new ICT solutions that can empower chronic patients as decision makers in the treatment of their disease.
- [STARS](#) - Consortium of healthcare procurers that aim for smart solutions that provide patients with individualized avoidance and reduction of unnecessary healthcare related stress factors, across the preclinical, hospitalisation and aftercare periods. Technical challenges to overcome for suppliers relate to vital signs measuring, wireless real-time transfer of large data amounts and big data analysis and decision making.
- [SILVER](#) (completed) - Consortium of local and regional authorities that identified robotics solutions which enable care-givers to reach 10% more of elderly persons who can live independently by 2020. First solutions are currently being commercialised.

### PPI:

- [PPI<sub>4</sub>HPC](#) - Consortium of leading supercomputing centers that is implementing for the first time in Europe a joint Public Procurement of Innovative solutions for High Performance Computing. This 73 EUR million procurement enables a significant enhancement of the planned pre-exascale HPC infrastructure and paves the path for future joint investments in Europe in the context of the EUROHPC.
- [THALEA II](#) - Consortium of hospitals that is preparing to start a PPI after the [THALEA](#) PCP to deploy highly interoperable telemedicine-platforms that detect increased risk ICU-patients.

<sup>8</sup> <https://ec.europa.eu/digital-single-market/en/eu-funded-projects>

<sup>9</sup> <https://ec.europa.eu/digital-single-market/en/eu-funded-projects>

- [RITMOCORE](#) - Consortium of hospitals that is preparing a PPI to procure innovative solutions for the treatment of elderly patients with arrhythmias. This includes a support center for remote monitoring of pacemakers, delivering pre-defined information sets to all stakeholders in the care path, integration and quality labelling of vital signs home monitoring devices and wearables and support for patient activation.
- [STOP AND GO](#) - Consortium that procured innovative ICT based telecare services for elderly that suffer from multiple conditions such as heart failure, diabetes, etc. In Barcelona for example newly procured implantable cardioverter defibrillators led to a 9,8% reduction in hospital visits, reduced the risk of death by 29% and the implants were successful in 98,12% cases, compared to 90% under the old approach.

### Why does the EU believe in public procurement?

To create a level playing field for all businesses across Europe, the EU law sets out minimum harmonised public procurement rules. These rules organise the way public authorities and certain public utility operators purchase goods, work and services. They are transposed into national legislations and apply to tenders in which monetary value exceeds a certain amount. For tenders of lower value, national rules apply. Nevertheless, these national rules must also respect the general principles of EU law<sup>10</sup>.

The European Commission's [public procurement strategy](#) adopted in October 2017, focuses on six strategic policy priorities:

- Ensuring wider uptake of innovative, green, and social procurement
- Professionalising public buyers
- Increasing access to procurement markets
- Improving transparency, integrity and data
- Boosting the digital transformation of procurement
- Cooperating to procure together

### For who do the rules apply?

Every business registered in the EU has the right to compete for public contracts in other EU countries. The EU law sets minimum harmonised rules that apply to tenders above a certain value (see thresholds below)<sup>11</sup>.

<sup>10</sup> [https://ec.europa.eu/growth/single-market/public-procurement\\_en](https://ec.europa.eu/growth/single-market/public-procurement_en)

<sup>11</sup> [https://europa.eu/youreurope/business/selling-in-eu/public-contracts/rules-procedures/index\\_en.htm](https://europa.eu/youreurope/business/selling-in-eu/public-contracts/rules-procedures/index_en.htm)

As mentioned above, for lower value tenders national rules apply, yet they need to respect the general principles of the EU law. Below threshold, procedures may be simplified compared to EU-wide tenders.

For all the tenders, public authorities:

- May not discriminate against businesses registered in another EU country
- May not refer to specific brands, trademarks or patents when describing the characteristics of products and services they wish to purchase
- May not refuse to accept supporting documents (certificates, diplomas, etc.) issued by another EU country, as long as they provide the same level of guarantee
- Must make all information regarding tenders available to all interested companies, regardless of the EU country they are registered in<sup>12</sup>

For more rules, please consult the following website: [link](#).

### What does the EU do to make it easier?

- Increasing the impact of public investment through efficient and professional procurement<sup>13</sup>.
- Making procurement better through PEPPOL<sup>14</sup>. Open PEPPOL is a non-profit association of both public sector and private members. Its purpose is to enable European businesses to easily communicate electronically with any European public sector buyer during their procurement processes, thereby increasing opportunities for greater competition for government contracts and providing better value for taxpayers' money.

### Public procurement in EU countries

Below, a list of websites providing information on the existing tenders in the EU countries:

- Practical information, guidance and good practice on the websites of national administrations in EU countries (in native languages unless otherwise indicated): [https://ec.europa.eu/info/policies/public-procurement/support-tools-public-buyers/public-procurement-eu-countries\\_en](https://ec.europa.eu/info/policies/public-procurement/support-tools-public-buyers/public-procurement-eu-countries_en)
- Tenders: [https://ec.europa.eu/info/funding-tenders\\_en](https://ec.europa.eu/info/funding-tenders_en)
- Tender opportunities – by department: [https://ec.europa.eu/info/funding-tenders/tenders/tender-opportunities-department\\_en](https://ec.europa.eu/info/funding-tenders/tenders/tender-opportunities-department_en)

<sup>12</sup> [https://europa.eu/youreurope/business/selling-in-eu/public-contracts/rules-procedures/index\\_en.htm](https://europa.eu/youreurope/business/selling-in-eu/public-contracts/rules-procedures/index_en.htm)

<sup>13</sup> [https://europa.eu/youreurope/business/index\\_en.htm](https://europa.eu/youreurope/business/index_en.htm)

<sup>14</sup> <https://peppol.eu/>

- (Tenders Electronic Daily) is the online version of the 'Supplement to the Official Journal' of the EU, dedicated to European public procurement  
<https://ted.europa.eu/TED/main/HomePage.do>
- Open tender: platform allows you to search and analyse tender data from 33 jurisdictions:  
<https://www.opentender.eu/start>
- Business Europe: <https://www.businesseurope.eu/policies/eu-single-market/public-contracts>

#### 4.1.2 The national level – Slovenia

##### National opportunities in the startup areas of interest

In 2016, Slovenian public procurement accounted for 13% of total GDP (4.45 trillion EUR). With more than 40% of contracts by value and 70% in the number being awarded to SMEs, which compares well to the EU average, SME participation in procurement, in general, is rather strong<sup>15</sup>. The majority of contracts are awarded to domestic bidders (80%). In addition, payment for the implementation of public procurement in Slovenia is faster than in other EU countries.

##### Strengths:

- Most contracts are awarded to domestic bidders (80%), whereas only 5.58% of the overall PP are foreigners<sup>16</sup>
- The participation of SMEs in national public procurement calls is strong and above EU average. It accounts for more than 40% of contract by value and 70% of total awarded contracts
- Payment for the implementation of public procurement is faster than in other EU countries

##### Weaknesses<sup>17,18</sup>:

- Compared to the other EU Member States, the Slovenian public procurement is more centralised and with a lower economic relevance
- Speed up the procurement procedure especially in the stage from decision until the awarding and the conclusion of the contract. In this regard, digitalisation may give a substantial contribution

<sup>15</sup> [https://ec.europa.eu/regional\\_policy/sources/policy/how/improving-investment/public-procurement/study/country\\_profile/si.pdf](https://ec.europa.eu/regional_policy/sources/policy/how/improving-investment/public-procurement/study/country_profile/si.pdf)

<sup>16</sup> Strategy for Public Administration 2015/2020.

<sup>17</sup> Strategy for Public Administration 2015/2020.

<sup>18</sup> [https://ec.europa.eu/regional\\_policy/sources/policy/how/improving-investment/public-procurement/study/country\\_profile/si.pdf](https://ec.europa.eu/regional_policy/sources/policy/how/improving-investment/public-procurement/study/country_profile/si.pdf)

- Penetration of foreign bidders into the Slovenian procurement procedures is low. This might be related to the high fragmentation of the market
- Contracting authorities are too small to allocate specialised staff only for public procurement

The Slovenian public procurement portal eNaročanje<sup>19</sup> is the centralized online information portal of the Ministry of Public Administration in which all the necessary documentations related to public procurement and other documentation are sent for publication directly by the contracting authorities or entities – as the Slovenian law governing public procurement requires the publication of these documentation on the public procurement portal (e.g. decisions on the public procurement).

By browsing through publications on the public procurement portal, domestic and foreign startups may find business opportunities in the Slovenian public procurement market. The portal has a relatively advanced search tool which allows filtering of published procurement opportunities by keywords, type of procurement (e.g. products, services), type of procedure, contracting authority or entity and their key activities.

The portal is only available in Slovenian language which means that the foreign startups may need a Slovenian partner to help them tap into these public procurement opportunities.

### Local opportunities

Slovenia is divided into 212 municipalities which are classified as "local administrative unit 2" (LAU 2) in the EU statistics. With the Slovenian public procurement being centralised, all municipalities must use the centralised online public procurement portal, eNaročanje.

### Key players and documents

#### Key Players:

- [Public Procurement Directorate](#) that is responsible for the public procurement system which, in addition to the preparation of the regulatory framework of the public procurement system (e.g. preparation of regulations, coordination of the Slovenian public procurement legislation with the European acquis, and systemic monitoring and participation in coordinating the public procurement regulations of the European Union and World Trade Organisation), also provides user support for the public procurement system<sup>20</sup>

<sup>19</sup> <https://www.enarocanje.si/>

<sup>20</sup> [http://www.mju.gov.si/en/areas\\_of\\_work/public\\_procurement\\_directorate/](http://www.mju.gov.si/en/areas_of_work/public_procurement_directorate/)

- [National Review Commission for Reviewing Public Procurement Award Procedures \(DKOM\)](#) that monitors compliance with procurement legislation and provide legal protection to tenderers at any stage of the awarding process
- [Court of Audit](#) that supervises public spending
- [Commission for the Prevention of Corruption](#) that is an autonomous and independent state body responsible for reinforcing the rule of law, transparency and integrity

#### Key documents:

- Public Procurement Act (ZJN-3) adopted by the National Assembly and published in the Official Gazette of the Republic of Slovenia No. 91/2015. An amended version came into force in November 2018 (NOS 91/15, NOS 14/18) and is identified as the Public Procurement Act (PPA-3). The Act establishes rules on the procedures for procurement by contracting authorities with respect to contracts and design contests.
- Strategy for Public Administration 2015/2020: the general objective is to increase quality management of the Slovenian public administration and through this to directly contribute to fostering the efficiency and effectiveness of the government and its apparatus. Regarding public procurement, the document defines that the strategic goal is to achieve a “responsible, open and transparent operation of public administration, the project for the construction of national infrastructure which will facilitate electronic submission of bids, e-auctions, verification of bids in one place (the so-called e-file of the bidder), e-procurement of successive deliveries via e-catalogue”, and also the strategic objective of “efficient IT, increase the use of e-services, digitalization, interoperability of IT solutions”.
- “Law on Public procurement – Study on administrative capacity in the EU Slovenia Country Profile”<sup>21</sup>. The study describes the key facts and figures of the Slovenian public procurement system, its features, analyses its strengths and weaknesses and includes recommendations for improvement.
- Public Procurement for Defence and Security Act (ZJNPOV). The Act governs the conduct of contracting authorities and tenderers in the public procurement of goods, services and constructions in the field of the national defence and security.
- Legal Protection in Public Procurement Procedures Act (ZPVPJN). The Act governs the legal protection of tenderers, candidates, contracting authorities in public procurement procedures and defines the bodies competent for the legal protection under this Act.

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<sup>21</sup> [https://ec.europa.eu/regional\\_policy/sources/policy/how/improving-investment/public-procurement/study/country\\_profile/si.pdf](https://ec.europa.eu/regional_policy/sources/policy/how/improving-investment/public-procurement/study/country_profile/si.pdf)

### 4.1.3 The national level – Romania

Due to its relatively low level of economic development (in terms of GDP per capita), Romania relies on a high level of funding from the EU. In 2016, the Romanian public procurement accounted for 11% of total GDP (15.9 bn EUR)<sup>22</sup>. SMEs currently win 59% of public contracts above thresholds and thus do not seem to be significantly disadvantaged during the Romanian public procurement procedures. Over 90% of contracts are awarded to domestic bidders.

#### Strengths:

- Central authorities offer training and guides in the matter of national law for public procurement
- Lately, the procurement system has been re-organized. Positive changes are visible in terms of commitments and efforts to improve the national procurement system (e.g. National Public Procurement Strategy 2015/2020, Green Procurement Action Plan) and to limit corruption and conflict of interest over public procurement procedures
- The positive response from the use of e-procurement platform

#### Weaknesses:

- Public procurement is strongly centralized, and it is challenged by the limitations of the country administrative capacity which results in insufficiency of staff and restricted provision of training on public procurement. As a result, public procurement procedures may vary strongly in terms of time and application practices according to the contracting authority
- Corruption, conflicts and fraud are strongly impacting the country
- Budget constraints

### National opportunities in the startup areas of interest

The Romanian public procurement portal (SEAP) is the centralized online information portal of the Agency for the Digital Agenda of Romania (ADAR) (belonging to the Ministry of Communications and Information Society), to which the contracting authorities or entities directly send for publication all the necessary documentation related to public procurement, and other documentation for which the Romanian law governing public procurement requires the publication on the public procurement portal (e.g. decisions on the public procurement).

<sup>22</sup> [https://ec.europa.eu/regional\\_policy/sources/policy/how/improving-investment/public-procurement/study/country\\_profile/ro.pdf](https://ec.europa.eu/regional_policy/sources/policy/how/improving-investment/public-procurement/study/country_profile/ro.pdf).



Through publications on the public procurement portal, both domestic and foreign companies may find business opportunities in the Romanian public procurement market. The portal offers 2 main searching tools, which allow filtering of published procurement by Activity Sector (12 categories) and by an advanced Applied Filtering (<http://sicap-prod.e-licitatie.ro/pub/notices/contract-notices/list/o/o>), through which users can search the awarded contracts or the ongoing public contracts.

The portal is available in both Romanian and English language, which means that foreign companies can access directly the public procurement opportunities.

For easier evidence of published contracts and to receive alerts / notifications about public auctioned bids, economic operators also have a site offering these features consult: <https://www.licitatie-publica.ro/>.

### Local opportunities

According to the Law of Public Administration, Romania has 3 major types of territorial divisions: Regional level, County Level and Local Level.

Regional level	County Level	Local Level
8 development regions division	the city of Bucharest + 41 counties	Metropolitan areas 103 municipalities (including Bucharest) 320 cities 2859 communes

Therefore, Romania is divided into 8 development regions, 103 municipalities, and 41(+1) counties, 320 cities and 2859 communes, all classified as local administrative units. With the public procurement platform being centralized, all municipalities must use the centralized online public procurement portal SEAP.

### Key players and documents

#### A.N.A.P. - National Agency for Public Procurement<sup>23</sup>

A.N.A.P. is in charge of designing and implementing public procurement policies, the establishment and implementation of the verification and control systems for the unitary application of the legal and procedural provisions in the field of public procurement as well as the monitoring of the efficient functioning of the public procurement system.

<sup>23</sup> <http://anap.gov.ro/web/prezentare-valori-obiective-misiune>

ANAPP fulfils the following responsibilities and functions:

- Make the Strategy, which ensures the elaboration and implementation of the National Strategy in the field of public procurement as well as the action plans, in accordance with the obligations assumed by the Romanian Government and the European Union
- Regulation, which ensures the development, promotion and implementation of public procurement policy
- Establishing and implementing the system for verification and control of the unitary application by contracting authorities of the legal and procedural provisions in the field of public procurement
- Monitoring the efficient functioning of the public procurement system
- Ex-ante control of the procurement process and public procurement framework agreements, sectoral framework contracts and agreements and works concession and service concession contracts and, respectively, amendments to those framework contracts and agreements
- Providing operational support to contracting authorities, through the implementation of dedicated tools for dissemination, including by means of IT, of good practices related to the implementation of the public procurement process

This agency offers the most comprehensive Guide for Access to Public Procurement for all the companies interested: <https://www.achizitiipublice.gov.ro/workflows/view>

### **N.C.S.C. – National Council for solving complaints<sup>24</sup>**

Starting with 01 January 2007, N.C.S.C. obtained the status of Romanian legal person, and thus Romania complied with one more commitment assumed in the process of cohesion to the European structures.

Through its specialized chambers, the Council is competent to resolve the complaints lodged within the awarding procedure, before the contract is concluded. In order to perform its responsibilities, the Council issues decisions.

In its activity, the agency is guided both by the national legislation in force and by the European legislation.

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<sup>24</sup> <http://www.cnsc.ro/en/>

### **N.A.C. - The National Authority for Qualifications<sup>25</sup>**

The National Authority for Qualifications (NAC) regulates and coordinates the general framework of adult education and training. The NAC develops the National Qualifications Framework and manages the National Register of Qualifications, the National Register of Approved Vocational Training Providers, the National Register of Graduates of Adult Training Authorization Programs. The NAC also coordinates and controls the authorization and licensing process of adult vocational training providers and professional competence assessment centres, as well as the certification of professional competence assessors.

Under this authority, all the organized courses and training on Public Procurement Specialist title are awarded national and European recognized certificates.

### **R.C.A. – Romanian Court of Accounts<sup>26</sup>**

The institution controls the performance of public procurement contracts, respecting the law and eligibility of expenditure.

Its function is to exert control over the way the state and public sector's financial resources are established, managed and used; it subsequently provides the Parliament, authorities, public institutions and taxpayers reports on their sound use and management, to ensure efficiency and effectiveness. It promotes accountability, correctness and best practices in the operations involving public funds, by providing quality services in the field of control and external public audit. The aim is to obtain and supply realistic and objective information on the legality, efficiency and transparency of public and external funds. It continuously improves the control and external public audit mechanisms, and by the mean of Reports, it supports the Parliament in the performance of its constitutional powers and duties. The R.C.A is committed to enhancing the implementation of the legislation in the field of public money expenditure and, by means of actions, to promote a high professional level, so that the external public audit in Romania is in line with the European and international good practice.

### **Other relevant actors/institutions:**

- The Department for Fighting Fraud (DLAF)<sup>27</sup>
- National Office for the Prevention and Combating of Money Laundering (ONPCSB)<sup>28</sup>
- National Agency for Fiscal Administration<sup>29</sup>

<sup>25</sup> <https://www.edu.ro/ANC>

<sup>26</sup> <http://www.curteadeconturi.ro/DefaultEN.aspx>

<sup>27</sup> <http://www.antifrauda.gov.ro/new/>

<sup>28</sup> <http://www.onpcsb.ro/>

<sup>29</sup> <https://www.anaf.ro>

- The National Integrity Agency (ANI)<sup>30</sup>
- Competition Council<sup>31</sup>
- The Chamber of Financial Auditors of Romania<sup>32</sup>
- The National Association of Public Procurement Specialists<sup>33</sup>

### Key documents:

As a European Union Member State, Romania's legislation on public procurement reflects the transposition of the European directives in public procurement, namely European Directives 2014/23/EU regarding the Award of Concession Contracts, 2014/24/EU regarding Public Procurement and 2014/25/EU regarding Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors<sup>34</sup>.

### The relevant Romanian public procurement laws and regulations:

- **Law no. 98 of 2016** on Public Procurement ("Public Procurement Law"), amended by the Government Emergency Ordinance no. 107 of 2017 on the Amendment and Supplementation of Several Legal Norms having Impact on the Public Procurement Sector („GEO no. 107")
- **Law no. 99 of 2016** on Sectorial Procurement ("Sectorial Law"), it regulates the way in which contracting entities implement sectoral procurement, the procedures for the award of sectoral contracts and the organization of competitions, the specific instruments and techniques that may be used for the award of sectoral contracts, as well as certain specific aspects relating to the execution of the contracts sector
- **Law no. 100 of 2016** on Works and Services Concessions ("Concessions Law") regulates the award of work concession contracts and service concession contracts, the legal arrangements applicable to such contracts, as well as specific aspects of their execution
- **Law no. 101 of 2016** on Remedies and Appeals Concerning the award of public procurement contracts, sectorial contracts and of work concession contracts and service concession contracts, and for the organization and functioning of the National Council for Solving Complaints ("Remedies Law")<sup>35</sup>

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<sup>30</sup> <https://www.integritate.eu/>

<sup>31</sup> <http://www.consiliulconcurrentei.ro/en/about-us.html>

<sup>32</sup> <https://www.cafrr.ro/>

<sup>33</sup> <http://www.ansar.ro/>

<sup>34</sup> <https://www.buzescu.com/romanian-public-procurement-laws/>

<sup>35</sup> <https://www.buzescu.com/romanian-public-procurement-laws/>

## Public Procurement Law

The provisions of the Public Procurement Law entered into effect on May 26, 2016, and they will replace the provisions of the Government Emergency Ordinance no. 34 of 2006 regarding the Award of Public Contracts, Public Works Concession Contracts and Services Concession Contracts ("GEO no. 34") and any other contrary provisions stipulated by other legal norms.

The Public Procurement Laws implemented the European Directives 2014/23/EU regarding the Award of Concession Contracts, 2014/24/EU regarding Public Procurement and 2014/25/EU regarding Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors<sup>36</sup>.

### 4.1.4 The national level – Czech Republic

Public procurement plays an above average role in the Czech economy. Responsibilities are decentralised, with contracting authorities processing their own procurement at all levels of government without central coordination. Also, while there is no central purchasing body at the national level, there is a move to increase the aggregation of procurement demand through joint purchasing, e.g. at the Ministry level.

The Czech Parliament passed a comprehensive procurement reform law in 2012 in an effort to boost transparency and efficiency and improve public confidence in the process. The reforms were substantial and wide-ranging, but there were implementation issues with a number of the core provisions and substantial portions of the law were therefore subsequently repealed<sup>37</sup>.

#### Strengths:

- Information on public tenders is centralised in the national Journal of Public Procurement and hosted online by the Ministry of Regional Development
- Intensive cooperation among anti-corruption bodies

#### Weaknesses:

- Still existing significant issues with corruption. Perception of corruption by the public is substantially higher than the EU average
- Lack of practical and up to date methodology and guidance materials for contracting authorities, particularly for inexperienced procurers

<sup>36</sup> <https://www.buzescu.com/romanian-public-procurement-laws/>

<sup>37</sup> [https://ec.europa.eu/regional\\_policy/sources/policy/how/improving-investment/public-procurement/study/country\\_profile/cz.pdf](https://ec.europa.eu/regional_policy/sources/policy/how/improving-investment/public-procurement/study/country_profile/cz.pdf)

- Frequent use of negotiated procedures without publication of a tender notice reduces competition and provides substantial discretion for contracting authorities<sup>38</sup>

### National opportunities in the startups' areas of interest

Public contracts are often a topic of discussions, mainly because significant financial resources are being spent through them. The basic rule which regulates the issue of public contracts is Law No. 134/2016 Coll. about public contracts.

Under public contracts, suppliers can make large-scale deliveries under relatively stable business relationships and with secured financing. For the entrepreneur who obtains the contract, the risk of not receiving the agreed remuneration is minimised. New EU directives and their follow-up national efforts are sought to contribute to the procurement process in a transparent and non-discriminatory way.

It should also be pointed out that many government contracts feature contractors and subcontractors which are often smaller companies hired by the primary contractors to do certain parts of the job. In short, there are ways for the startup can "get in".

While startups and SMEs are warmly welcome in the world of public procurement, there are several obstacles that complicate the whole process.

Startups usually offer a product or service that could win a public contract and their area of expertise could be a precious contribution to the government. Cybersecurity is a good example. Considering that government contracts are often about services and products that have been in place for decades, including the startups and SMEs into the ecosystem could be beneficial for all the parties.

In the Czech Republic there is not one but several Czech Public Procurement electronic tools, e.g.:

NEN Portal – since 01/07/2018 – a complex electronic tool for administration public procurements and concessions in all categories of public procurement and in all categories of contacting authorities, including the sectoral ones – <https://nen.nipez.cz>

- EZAK – <https://www.ezak.cz/verejne-zakazky>
- Veřejná soutěž – <https://www.verejna-soutez.cz/>
- Veřejné zakázky Brno – <https://zakazky.brno.cz/>
- FEN – <https://fen.cz/>
- TED – <https://ted.europa.eu/TED/main/HomePage.do>
- ISVZ – <https://www.isvz.cz/ISVZ/Podpora/ISVZ.aspx>

<sup>38</sup> [https://ec.europa.eu/regional\\_policy/sources/policy/how/improving-investment/public-procurement/study/country\\_profile/cz.pdf](https://ec.europa.eu/regional_policy/sources/policy/how/improving-investment/public-procurement/study/country_profile/cz.pdf)

- Tender Market – <https://www.tendersystems.cz/tendermarket.html>
- Gemin – <https://www.gemin.cz/index.php>

## Key players and documents

### The Ministry for Regional Development<sup>39</sup>

The Ministry provides practical guidance for the process of awarding public contracts and co-ensures the development of related legal norms. In addition, the Ministry participates in devising a national concept for the field of cooperation between the public and private sector (PPP – Public Private Partnership). The Ministry administers “Information System on Public Contracts” and Public Procurement and Concessions Portal.

### The Office for the Protection of Competition<sup>40</sup>

The Office is mainly responsible for creating conditions that favour and protect competition, supervision over public procurement and consultation and monitoring in relation to the provision of state aid<sup>41</sup>.

### Main contracting authorities in the Czech Republic are:

- Organisational units of the state, considered independent contracting authorities
- The Czech National bank
- Partially state budget-funded organisations
- Territorial self-governed units or their partially budget-funded organisations
- Another legal person provided that:
  - a) They are founded to satisfy public needs that are not of industrial or commercial in nature
  - b) They are mainly founded by different authorities that may exercise their decisive influence over them, or such public authority elects more than half of the members of its governing or controlling body

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<sup>39</sup> <https://mmr.cz/en/Homepage>

<sup>40</sup> <http://www.uohs.cz/en/homepage.html>

<sup>41</sup> <http://www.uohs.cz/en/homepage.html>

## Key document: Act 134/2016 Coll. on Public Procurement

- Implements and regulates the relevant legislation of the European Union
- The public procurement rules including specific procedures preceding the award of public contracts
- The obligations of economic operators with regard to public procurement and specific procedures preceding the award of public contracts
- The publication of public procurement information
- The special requirements for invoicing the performance of public contracts
- The special grounds for termination of contractual obligations arising from public contracts
- The information system on Public Contracts
- The qualified economic operator's system
- The certified economic operator's system
- The supervision over compliance with this act<sup>42</sup>

## 4.2 Private procurement opportunities

### 4.2.1 Startups – corporate collaboration opportunities – Slovenia

More and more Slovenian corporations recognise the importance of working with startups and the opportunities that stem from such collaborations. Working with startups either as their clients or partners, allows corporations to modernize and implement innovative solutions in key areas such as digitalisation of business processes. With the help of external facilitators, more and more Slovenian corporations decide to organise hackathons and similar events to find innovative solutions for their challenges and problems and to establish long-lasting collaborations with startups. While these collaborations present a viable go-to-market strategy for startups, they also allow permeating of the startup methods (e.g. lean innovation and agile development) into the corporate culture, thus making corporations more susceptible to changes by fostering new products, services, business models and market segments.

### 4.2.2 Startups – corporate collaboration opportunities – Romania

Unfortunately, there is no similar platform to support contracting between Corporate, Startups and SMEs in Romania (only one virtuous case: <https://www.licitatie-publica.ro>). Instead, there are a lot of programs, fairs, events (organized both by Public authorities and corporative sector), social media groups (LinkedIn and Facebook) that bring together

<sup>42</sup> [http://sozv.cz/wp-content/uploads/2017/08/act-no.-134\\_2016-coll.-on-public-procurement.pdf](http://sozv.cz/wp-content/uploads/2017/08/act-no.-134_2016-coll.-on-public-procurement.pdf)



entrepreneurs, startup representatives and decision-makers from large national and multinational companies and create the space for discussions and pre-contracting.

Moreover, there are many examples of good practices and collaborations between start-ups, SMEs and corporations through **acceleration and pre-acceleration** programs, collaboration and **funding programs** between these two sectors, and through **cluster activities** in major cities (gathering all the relevant actors of the local and regional ecosystem).

#### 4.2.3 Startups – corporate collaboration opportunities – Czech Republic

Faster innovation, cheaper acquisition of new customers and the ability to attract the best talents make startups the new economic units providing services to more and more corporates in the Czech Republic. What big companies can learn from startups is the problem-solving ability: if there is an issue, the average startup needs about two weeks to fix it compared to half a year in case of a corporate. However, there is an innovation tendency within big corporates. For instance, T-Mobile employs a person responsible for innovations, and AXA has a whole innovation department. These employees are supposed to create a strategy for further development, and, for this reason, they often connect with startups. SAP is a progressive company in this respect as it cooperates with more than 2 thousand startups worldwide.

The cooperation with startups also contributes to the innovative environment inside of the companies by raising competitiveness and motivation of the employees. This can be supported by several tools such as the organization of innovation competitions or hackathons. In this way, IBM organized Smart Camps through which it could access developers who during a single weekend can familiarize with its platform and create prototypes of new products.

## 5 Barriers to startups benefiting from procurement opportunities

### 5.1 European Level

- The public procurement law favours well-established companies, for example through the so-called qualitative selection procedure.
- The scale of the contract in question.
- The way in which technical specifications are described, in other words, the purpose of the contract, is also decisive in enabling SMEs, especially innovative SMEs, to take part.
- Very few contracting authorities make an effort to envisage innovative procurement. This is particularly the case when there are experimental solutions for which a specific need has not yet been identified by the authorities.

### 5.2 Slovenia

Startups and SMEs, in general, may find it difficult to apply for public tenders due to rigorous requirements and conditions in the tender documentation which is too demanding for SMEs. Thus, SMEs often cannot meet the requirements such as references, high deposits and financial guarantees to prove their offer seriously. Therefore, SMEs can cooperate only as subcontractors in public tenders.

The additional barrier can be attributed to the fact that some procurement practitioners may not have sufficient awareness or knowledge to prepare tenders that are suitable for startups and do not fully embrace their particularities.

Penetration of foreign bidders into the Slovenian public procurement procedure is relatively low, which can be attributed both to the fact that most tenders are only available in the Slovenian language and the fact that there is a high fragmentation of the market.

### 5.3 Romania

In Romania, the following issues were identified:

- A lot of bureaucracy and many time-consuming processes and actions that require additional human time and resources.
- Payment delays, which can lead to cash flow bottlenecks (especially for companies with lower social capital yet accessing large contracts).
- The authorities are forcing new contractual clauses during the process of delivering products or services which are already contracted. These may cause disruption of the production process or may lead to additional unforeseen costs for an already signed contract.
- There are cases where the reception of the services or products stipulated in the contract takes a long time, which can block the activity of the companies and SMEs.
- Frustration from the inequality of treating the delays: the authorities are less responsive to their own delays than that of the companies in the situation of being overdue in delivering of a product or service.
- The risk of not falling within the contractual period, given different situations of delay by the authorities in making the authorizations, decisions, approvals, etc. available to the contractor.
- Sometimes there are errors and mistakes in the technical papers and illogical or unnecessary technical characteristics. It is probably the "copy-paste" system or the non-existent specialists having expertise in the specific domain.
- Some of the contracting authorities prefer a specific equipment from manufacturers and, implicitly, traders, without always having a real and credible technical justification for these preferences. The reason for those preferences is often missing in the official documents.

- Fake auctions: there are some previous agreements between certain contracting authorities and some of the beneficiaries before the publication in the SEAP platform. This explains the very short time between the date and time of publication and the date and time limit for the submission of bids. It is not usual to put in 10-12 hours, or even 1-3 days for complex, expensive supplies (tens / hundreds of thousands of euros) or less common materials that companies usually do not stock – apart from those notified in advance. In addition, delivery periods are very short in these cases (a few days or a maximum of one week). The import of goods takes 15-25 days with truck and 45 days by shipping which makes it impossible to respond with a public offer to that requirement.

## 5.4 Czech Republic

### 5.4.1 For domestic firms

Significant barriers and obstacles in the public procurement hold back the innovation, and the main reason is the way the government delivers services. The main goal should be to provide services that are as accessible as ordering a taxi or using online banking. However, to achieve this goal, it is necessary to make it easier for innovative businesses to partner with government.

Procurement barriers can be expensive for all businesses, for small ones and big ones as well. However, it applies even more for startups and SMEs who may find it difficult to orient into the bureaucratic schemes and the world associated with difficult procurement processes.

Current barriers can inhibit or completely suppress innovations and complicate the development of a new product or service instead of creating innovation and producing new ways of doing things.

Even government agencies face serious issues: they must lead startups and SMEs through the legislative and policy requirements and also internal processes. All these situations put pressure on resources and make it difficult to be flexible.

The ideal state is when suppliers have only one place to go to offer their services and, governments, in turn, have just one place to find all the help they need to build world-class digital services. In such case, contracts would be more comfortable, simpler and faster to execute.

The government would benefit from the brand-new ideas and innovations that the competition brings. It means more opportunities for the government, as it could be useful in the startup sector and helping startups into an even playing field.

### 5.4.2 For International suppliers

According to the experience of the foreign small consulting firms, incubators etc. in the Czech Republic, which has limited human resources, it is a big problem for them to provide a basic competence in the country of origin as well as in the Czech Republic.

The process of obtaining the necessary documents (e.g. documents from The Czech Social Security Administration, Tax Office and their international format) is so demotivating that a lot of potential and even high-quality suppliers are discouraged from placing the offer in the Czech Republic.

The law regarding public tenders usually does not mention international suppliers. After a supplier wins competitive tendering in the scope of public tender, which for the supplier is administratively difficult, a new and complicated process involving other documents and confirmations begins before the closure of the contact.

## 6 How to benefit from public opportunities?

### 6.1 Slovenia

One of the main ways through which startups can benefit from participating in Public procurement, is the following:

- Using developed tools: startups can accelerate their development by using the e-procurement modules and functionalities
- New legislative solutions offer a simplified procedure for the contracting authorities due to several new procedures that are now available, and by improving the thresholds for small value procurements and shortening the deadlines for the submission of tenders. Simplifications were also sought for tenderers. From now on, tenderers will be able to use a single European form for establishing grounds for exclusion, i.e. ESPD. The maximum yearly turnover which may be requested by the contracting authority is also limited, which will probably enhance competition in the relevant markets.
- Fundamental Concepts and Principles: the new Procurement Act departs from the existing definition of an 'incomplete tender', and rather defines an 'admissible tender'. An admissible tender eliminates the grounds for exclusion, fulfils all relevant conditions, is technically appropriate and offers a greater time-frame. It is also absent of proven cartel agreements and corruption and offers prices that are not abnormally low or exceeding the guaranteed funds<sup>43</sup>.

<sup>43</sup> <https://www.karanovicpartners.com/knviews/Pages/2016/03/31/Slovenia-Reforms-Public-Procurement-System.aspx>

- SMEs/startups that have been successful in public procurement in the past, noted that the public procurement tenders yield better financial results than what they are usually able to negotiate on the market. Indeed, it is believed that the private entities have a better understanding of what the market prices are, and they are better at negotiating prices than public entities.
- Although public procurement is often out of reach for micro SMEs and early-stage startups with little or no track record, it may still provide a valuable insight into who is who in a particular industry as all public procurement deals are published. This makes browsing public procurement portals a viable strategy for identifying potential partners, customers and users.
- Hackathons and similar events (co-)organized by corporations can serve as a great opportunity for startups to get corporations' attention and start the potential collaboration with corporations being either their partners, customers or investors.
- Since preparing a bid for a public procurement tender can be quite a time-consuming process and, due to the fact that startups are often operating with very limited resources, it makes sense for a startup to thoroughly estimate the required time and the chances of winning the bid before starting to work on the actual documentation. As with any other activity of a startup that does not directly result in generating income (e.g. product development), the startup should use "bootstrapping" or "self-funding" approaches through selling its products and services when applying for the public procurement tenders.
- The EU projects, with their considerable budgets and the fact that their project partners need to follow the public procurement rules, pose an additional opportunity for startups. Startups may consider identifying key actors involved in EU projects in their respective countries and industries. This can be beneficial also because EU projects and their project partners may provide various incentives, support measures and other activities that a startup can benefit from.

### 6.1.1 Available training and workshops

There are no training opportunities dedicated to raising awareness of startups about the public or private procurement opportunities. Different training providers offer only training on the public procurement regulatory compliance.

### 6.1.2 Contact point in Slovenia

#### **Public Procurement Directorate (Ministry of Public Administration)<sup>44</sup>**

Within the Directorate, the following departments are active: the Public Procurement System Sector, Public Procurement Sector and E-Business, Consultation, and Analysis Sector.

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<sup>44</sup> <http://www.mju.gov.si/>

The Directorate is responsible for the public procurement system which, in addition to the preparation of the regulatory framework of the public procurement system (e.g. preparation of regulations, coordination of the Slovenian public procurement legislation with the European acquis, and systemic monitoring and participation in coordinating the public procurement regulations of the European Union and World Trade Organisation), also provides user support for the public procurement system<sup>45</sup>.

## 6.2 Romania

In Romania, there are no real examples of good practice of startups getting access to public procurement contracts. Indeed, to have a broader understanding of the level of understanding that Romanian startups may have on procurement and their first-hand experiences, an interview with different stakeholders has been conducted (Appendix). This was an additional task, but extremely relevant for the purposes of this report, has shown that 9 out of 11 interviewed startups were involved in public procurement at least once in their existence. However, their impressions are mainly negative, as accessing a public procurement contract is difficult due to the limitations imposed by the contract specifications and the conditions of participating in the public auctions. None of the respondents participated in public auctions in other countries, thus demonstrating that startups are not aware of the possibilities they may have or do not see the potential to offer their services or goods in other countries via public procurement.

Furthermore, there here have been cases where associations between medium or large companies (already established on the market) and SMEs/startups have won public procurement contracts. There are also cases where startups became part of the consortium that made a public offer in order to win public procurement contracts. Yet, there seem to be no startups that would access such contracts by relying only on their own powers.

### Instruments:

For easier evidence of published contracts and to receive alerts / notifications about public auctioned bids, economic operators also have a site offering these features: <https://www.licitatie-publica.ro/>

### Identifying opportunities:

Any company interested in the up-to-date public auction contracts can directly consult the public procurement platform and, with the help of filters, identify exactly the interest-related contingencies according to the field of the business interest and the **CAEN** code (national index/code of economic activity) of the economic operators. The contract identification tool can be found on the public procurement platform: <http://sicap-prod.e-licitatie.ro/pub/notices/contract-notices/list/o/o>

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<sup>45</sup> [http://www.mju.gov.si/en/areas\\_of\\_work/public\\_procurement\\_directorate/](http://www.mju.gov.si/en/areas_of_work/public_procurement_directorate/)

### Public Procurement Guide:

Perhaps the most useful tool available to startups and SMEs is the **Guide for Access to Public Procurement**, published on the government website of the **National Agency for Public Procurement** (belonging to the Ministry of Public Finance), which offers any interested company all the necessary information and walking steps:

<https://www.achizitiipublice.gov.ro/workflows/view>

(for the **English version**: <https://www.achizitiipublice.gov.ro/workflows/view/o>)

#### 6.2.1 E-procurement Romania

<a href="http://www.anap.gov.ro">www.anap.gov.ro</a>	Site of National Agency for Public Procurements (ANAP) in RO language
<a href="http://www.e-licitatie.ro">www.e-licitatie.ro</a> <a href="http://www.sicap-prod-e-licitatie.ro/pub">www.sicap-prod-e-licitatie.ro/pub</a>	e-Platform of the Electronic System of Public Procurements Both in EN and RO language
<a href="http://www.cnsc.ro">www.cnsc.ro</a>	Site of National Council for Solving Complaints Both in EN and RO language
<a href="http://www.simap.europa.eu">www.simap.europa.eu</a>	Site of European Commission for Information related to European Public Procurements In all EU languages language
<a href="http://www.achizitiipublice.gov.ro">www.achizitiipublice.gov.ro</a>	Site of the National Public Procurements Guide Both in EN and RO language
<a href="https://www.achizitiipublice.gov.ro/workflows/view">https://www.achizitiipublice.gov.ro/workflows/view</a>	National Agency for Public Procurement Both in EN and RO language

#### 6.2.2 Available trainings and workshops

With the support of government funding through ANAP programs (National Agency for Public Procurements) and European funding (ex-POSDRU Programme and the current PODCA structural funds programme), in Romania a lot of training programmes have been implemented and are still under implementation for *Public Acquisition Specialists* (training or specialization at work type of learning process). Those who complete these courses are certified to the National Agency for Qualifications (ANC), and the certification is recognized at European level, as most of the courses include modules to access the European public procurement market.

Most of the trainees are representatives of public institutions (local, regional and national public authorities), as well as representatives of large companies, startups and SMEs.

### 6.3 Czech Republic

Public tenders are not only the big and well-known tenders that are being publicly discussed. Instead, very often they focus on much simpler requests such as the purchase of computer screens or the reparation of a machine. Therefore, this guide focuses on the ways how small and medium enterprises can benefit from public tenders.

### **Small public tenders**

Small public tenders such as the ones with a threshold of 6 000 000 CZK excl. VAT in case of construction works and 2 000 000 CZK excl. VAT in case of service or goods delivery is more accessible for small and medium enterprises.

The ordering parties publish these tenders on the public tenders' portals, often they are also to be found on their websites. In the Czech Republic, there are over 21 000 sources that inform about the new tenders of small size every day.

### **Attendance in tenders separated into parts**

The new law about public tenders from the year 2016 requires dividing the tenders into more parts whenever it is technically and economically possible. The change in the law was a big part of the European Union initiative attempting to involve small and medium enterprises into public tenders.

### **Become a sub-supplier**

The model of sub-suppliers enables startups to identify winners of the big tenders and to contact them with their offer as an expert on a certain part of the order. Alternatively, they may contact a company that participates in the tenders focused on their sector and persuade them to take part in the tender – and take the startup as a sub-supplier.

### **Be addressed with direct ordering**

Public tenders may be won even without long formal process if their value is lower than 500 000 CZK excl. VAT. In these cases, the public institution contacts different companies with its order request and then it decides for one of them. The public institution needs to consider the startup a reliable supplier in order to start a cooperation with it.

The startup needs to identify its potential customers, contact them and demonstrate why they should choose them in the next tender. In the first part, the identification of customers and the necessary contact information, can be obtained by using many different services. The startup can investigate the archive and search for tenders from its region and industry field and find necessary contacts.



## Available trainings and workshops

There are no training opportunities dedicated to raising awareness of startups about the public or private procurement opportunities. The available trainings only offer advisory regarding the public procurement regulatory compliance.

## Contact point in the Czech Republic

### **The Ministry for Regional Development<sup>46</sup>**

The Ministry provides practical guidance for the process of awarding the public contracts and co-ensures the development of related legal norms. In addition, the Ministry participates in devising a national concept for the field of cooperation between public and private sectors (PPP – Public Private Partnership). The Ministry administers the “Information System on Public Contracts” and the Public Procurement and Concessions Portal.

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<sup>46</sup> <https://mmr.cz/en/Uvod>

## 7 Main trends

- Emphasising value for money through procurement
- Public procurement for innovative solutions (PPI)
- Smaller and younger companies are more successful in the local government procurement
- Increase of the procurement collaboration across the public sector
- Enhancement of the central procurement capabilities while simplifying processes and empowering departmental decision makers
- Innovate sourcing approaches, including full use of available tools and approaches (e.g. negotiation, piggyback contracts, e-Procurement, e-Sourcing)
- Strategic public procurement and Circular economy
- The strategic perspective of public procurement
- Public procurement will remain a crucial instrument of policy delivery
- Strategic public procurement: buying green, socially responsible and innovative services and products. Prioritised sectors for which targeted efforts on strategic procurement uptake are needed are construction, healthcare and IT, security and defence

## 8 Recommendations based on startups' experiences

- To familiarise themselves with the electronic tools and to learn using them so the startups can enter the field of public procurement
- To create new contacts and partnerships with other (bigger and/or more experienced) suppliers in order to apply for the public tenders collectively
- To gain the necessary qualification and experience
- To employ a person whose agenda will be specifically the public procurement
- Show the contracting authority that the startup offers the best solution to their problem. Effective representation and art to sell are the abilities that will help in the competition.

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## Appendix – Example of outcomes from the interviews (Romania)

Below is the outcome of 1 interview with a public institution's representative, 7 interviews with SMEs and 3 interviews with startups.

### 1. What area are you active in?

The startups were from different areas of business (optic fibres, automotive products, software, digitalization, industrial operationalization etc.) and the representative of the public institution was from the Regional Development Agency (North-West Agency).

### 2. Do you have any experience with public procurement? If you do, what would you recommend to startups and SMEs interested in public procurement? If you do not, can you explain why?

9 out of 11 interviewed startups were involved in public procurement at least once in their existence. Some the most common answers were:

- To be armed with patience, because many of the contracting conditions are led by non-specialists. In addition, some of the terms in the task books only encourage a certain profile of bidder (which may be exclusive)
- To have a good understanding of the public procurement processes, and if they decide to submit a public offer, to know their rights (including the ones to challenge a possible rejection)
- To be patient with the authorities because they will bust with much bureaucracy and sometimes, they will have to do with absurd processes
- To seek to form associations and consortiums where the contract specifications require competencies and services that their company alone cannot offer
- To denote any single aspect that may raise suspicion of corruption, illegality or unfairness in the process of analysing and contracting public offers

### 3. What is your opinion about public procurement?

Generally, the opinion is positive. There are companies among the respondents who say that in 2018 they had even 34% of the turnover coming from public procurement contracts but all these figures come on the backdrop of consistent work and perseverance manifested in many years.

There are yet many other voices that point to the suspicion of a system being corrupted and distrustful, but respondents are optimistic about what they are looking at now and for the future.

Some other answers we consider relevant:

- The bidder after contracting finds himself with many obligations and much less rights

- Some contractual obligations denote obsolete or irrelevant working methods (for example the correspondence via regular post instead of using e-mails as official communication between the 2 contracting entities)
- Sometimes there are large delays in the authorities paying the bills

#### **4. What is your opinion on using public procurement as a powerful tool to boost innovation?**

There are companies and SMEs that see in public procurement the opportunity to grow their business, but most respondents do not consider building business plans or company development strategies on public contracts realistic, simply because procurement contracts do not provide predictability and safety.

As for boosting innovation, most of the respondents are rather sceptical. That is because most of the SMEs consider that very few authorities (local or regional) are interested of having a focus on innovation.

#### **5. Do you know the conditions for awarding the public tenders in other EU countries? In which ones? Would you be able to recommend specific rules and measures that could be applied in your state?**

None of the respondents participated (or at least intended to take part) in public auctions in other countries. They all worked only at the national or regional level.

This leads us to the conclusion that most of the startups do not know about the possibility or do not see the potential to offer their services or goods in other countries via public procurement.

#### **6. How do you see the importance of startups and SMEs applying for the public tenders in regard to the economy of your country?**

All the respondents answered with "Very important" and "Important".

Most of them believe that a healthy economy is based on an ecosystem with a large number of companies, SMEs and startups that can provide a wide range of services and products that the state needs.

#### **7. Do you know which institutions inside and outside your country help the startups and SMEs with the research and administration of the public tenders? Where, in what areas?**

The majority responses indicated the knowledge of the national auction platform but not all of them knew how to indicate and which are the institutions that coordinate and subordinate this public procurement platform. However, some of them knew to name the relevant actors in the field of national public procurement. Yet many respondents said they did not rely on authorities and institutions, but rather on hired consultants to identify opportunities for public procurement and the return of public offerings.

As far as the knowledge of the European actors and their role is concerned, only the public authority interviewed knew how to respond.

The bottom line is that very few companies and businesses know about the European opportunities.

### **8. What do you think could be done to make it easier for the startups and SMEs to get involved in the public procurement?**

Most of the responses indicated the need for information campaigns organized periodically by the public institutions. This could be ideally done as effectively as the European funding when the auctions are announced early and linked to the authorities that are organizing the information sessions.

### **9. What would you say are the main pros and cons of business based on public procurement?**

#### Benefits:

- The security of the payments „on time“ (in most of the public procurement contracts)
- Diversification of the company's funding sources
- Predictability of contracted terms and incomes
- Creating new jobs and implicitly increasing the effectiveness of the company
- The new SEAP system works well, with real progress over the old one

#### Disadvantages:

- Too low prices applied by authorities in the design of contracts, which undermines the quality of products and services
- Numerous and cumbersome bureaucratic procedures, many unnecessary – too much time and money consuming for bidders
- Bottlenecks in the company's workflow due to delays in contracts or payments by authorities
- Irregularity in accessing public contracts and lack of predictability of funds needed for business development
- The anathema of the "contracts with the state", seen as negative and often associated with underground agreements, payments of unlawful “fee” for attribution, corruption and agreements between authorities and politically recommended companies

**10. Do you know any startups/SMEs that apply for public tenders within their business?**

Here the answers were mostly "NO" (just 2 answered "YES"). Only some respondents related cases when startups and SMEs were involved in consortiums that got access to public contracts. However, no startups or SMEs on their own.

**11. Do you think there is an absence of a unified platform collecting information about public procurement at the national level in your country? Alternatively, do you miss a similar platform at the EU level?**

All the respondents were aware of the existence and the functionality of the e-Platform for public procurement and just few of them had acknowledged the European one.

**13. Are there dedicated employees in your institution who only deal with the public procurement? (If so, what is their agenda and the type of their contract?)**

Only the public authority interviewed answered "YES", as in they have got dedicated employees and a dedicated department for public procurement. The SMEs usually work with consultancy companies or independent (sometimes freelance) consultants.

**14. Do you use external contractors in relation to public procurement?**

Some of the interviewed companies answered "YES", but the general answer was "It depends on the specification of the contracts". As a trend, we observed that more and more companies are interested in associating with others in order to get public procurement contracts or at least in contracting a consultancy company to provide them with updates on the opportunities for public contracts.



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