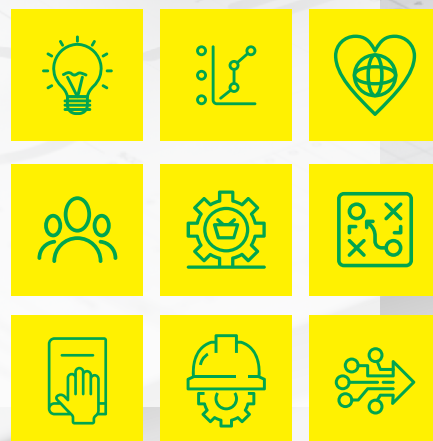


NATIONAL PUBLIC PROCUREMENT STRATEGY

in the Czech Republic

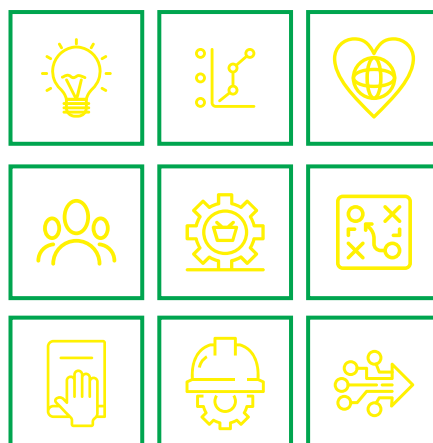
for the period
2024 to 2028



NATIONAL PUBLIC PROCUREMENT STRATEGY

in the Czech Republic

for the period
2024 to 2028



Ladies and gentlemen,

You have received in your hands the document of the National Strategy for Public Procurement for the period 2024-2028, which the Government has committed itself to develop and implement in the Programme Declaration.

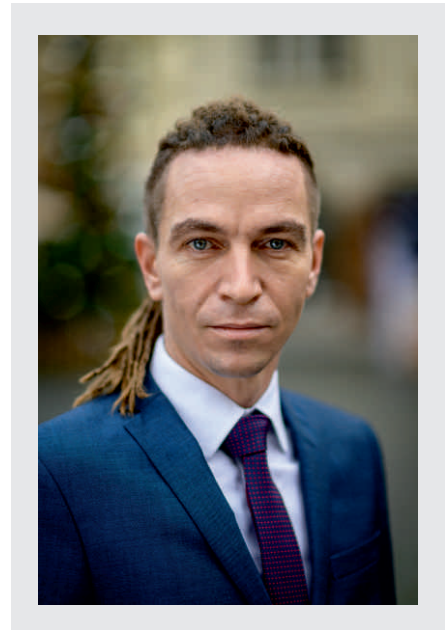
In terms of scope and complexity, this is the first truly conceptual material in the Czech Republic in the area of public procurement.

Public sector purchases amount to almost a trillion crowns annually. From the perspective of the non-mandatory inputs of the government and local governments, it is the most important instrument for the implementation of public policies.

Public purchases and investments fundamentally shape the national economy, prosperity and quality of life in the Czech Republic. We need to harness this power, responding in a timely manner to European and global trends and their associated economic, social, digital and environmental challenges.

The Strategy is based on economic efficiency, sustainability of public procurement and full digitisation. Procurers will appreciate simplification and greater predictability in the area of public procurement, which will bring them maximum effect. The key point is that the way public procurement is prepared and the procurement process already motivates the market to make better offers. With high-quality, secure and innovative solutions, we will exploit the full potential of public procurement.

When we created the Strategy, our motto was „Let's buy what we really need. Fast, quality and fair. And let's think about the future.”



Ivan Bartos

Minister for Regional Development
and Deputy Prime Minister Petr Fiala for Digitalisation

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1

Basic information about the strategy

Strategy name	National Public Procurement Strategy in the Czech Republic for the period 2024 to 2028
Strategy Categories	National, medium-term, with societal impact
The Strategy Sponsor	Government of the Czech Republic
Gestor of strategy development	Minister for Regional Development
Strategy Development Coordinator	Ministry for Regional Development
Year of preparation of the strategy	2023
Strategy Approver	Government of the Czech Republic
Date of approval	21. 2. 2024
Forem of approval	Resolution No. 117 of the Government of the Czech Republic of 21 February 2024
Last update	-
Strategy implementation period	1 January 2024 to 31 December 2028
Responsibility for implementation	Ministry for Regional Development

1. Basic information about the strategy

2

Context of the strategy's development

Public sector purchases amount to more than CZK 990 billion annually¹, i.e. approximately 15% of the Czech GDP. Public purchases and investments thus represent a crucial driving and shaping force for the national economy and the Czech market. From the perspective of the non-mandatory input of the Czech government and local authorities, it is the most important instrument for the implementation of public policies.

This purchasing power can be used strategically in response to pan-European and global trends and the associated **challenges of economic, social, digital, environmental and energy-climate transformation as a lever for achieving visions and goals in priority national policy areas**. The current economy and the functioning of markets are changing fundamentally and on a large scale, both in Europe and globally. There are new expectations from the financial community about the sustainability and resilience of investments, and we are experiencing the advent of ubiquitous digitisation and harnessing the power of data. The ability to manage a variety of risks and threats is becoming a new imperative in resource allocation decisions. Therefore, if Czech society is to be successful, prosperous and functional in the future, it will have to respond adequately to these new formative phenomena.

¹ Ministry of Regional Development (2023). Annual Report on the Electronicisation and Status of Public Procurement in the Czech Republic for 2022. Available from <https://portal-vz.cz/vyrocní-zpráva-a-souhrnné-údaje-o-verejnych-zakazkach/vyrocní-zpráva-o-stavu-verejnych-zakazek/>.

2. Kontext vzniku strategie

Well-managed public procurement can deliver strong societal impacts and effects in this transition process. In particular, they can foster innovation, including energy, climate, environmental or social innovation, support the development of small and medium-sized enterprises, encourage the adoption of sustainable solutions, contribute to the growth of employment and well-paid jobs with high added value, and strengthen the sustainability and resilience of public infrastructure. Purchasing innovative products, works and services plays a key role in improving the efficiency and quality of public services. Green public procurement can provide incentives for industry to develop environmentally friendly products and services and thus to move towards more sustainable business models.

It should also not be forgotten that in the current situation of socio-economic crisis, the strategic concept of public procurement is taking on a more significant dimension and it is important that the state and local government use their purchases to help the recovery of the economy.

Therefore, the way of preparation and the procurement process itself should motivate the market to offer quality, sustainable, safe, resilient and innovative solutions so that their implementation fully exploits the societal potential, in the sense of effectively reducing the negative impacts of climate, environmental, geopolitical, security or socio-economic risks and, on the other hand, taking advantage of the economic opportunities that this process offers. Naturally, part of this effort on the part of contracting authorities must be to encourage the widest possible range of relevant suppliers to take part in the tendering process, so that these suppliers have confidence that the contracting authorities are sincere in seeking the best possible solution to their needs and that the award of the contract will be efficient and fair, i.e. properly prepared and transparent.

The principles of OPL were incorporated into the public procurement environment by the relevant EU Directives in 2014², and indirectly by the GPA in 2012³. More than a decade ago, the purpose of public procurement, which until then⁴ had focused only on the development of the single market through the principles of transparency, non-discrimination and equal treatment, was thus extended to include the principle of competition, leading to strong pressure on price and supplier protection. As is also evident in the current legislative and methodological developments in other EU Member States, the public procurement field is reaching a new phase which requires a change in the approach of the actors concerned and a general modernisation of the public procurement rules.

Strategic procurement

The responsibility of contracting authorities in public procurement must be set in the context of the commitments and opportunities for the Czech Republic arising from the measures taken in connection with the Paris Climate Agreement of 2015 and the Green Deal for Europe⁵ as the basic

² See chap. 11.1.3

³ The Agreement on Government Procurement. This is a multilateral agreement within the WTO to ensure reciprocal access to the public procurement market and open, fair and transparent conditions for competition in public procurement.

⁴ Since the adoption of the GPA 1994 and the directives adopted by the European Community progressively since the 1970s.

⁵ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: A Green Deal for Europe (2019).

Available from <https://eurlex.europa.eu/legal-content/CS/TXT/HTML/?uri=CELEX:52019DC0640&from=CS>

2. Context of the strategy's development

30-year the development strategy of the European Union countries. This strategy consists in particular in achieving four key strategic objectives:

- to become climate neutral by 2050;
- Protect human lives, animals and plants by reducing pollution;
- help ensure a just and inclusive transformation;
- to help companies become global leaders in clean products and technologies.

These long-term goals thus reflect the climate, environmental, innovation and social aspirations of the EU countries and reflect the collective responsibility for economic transformation. Against the backdrop of these aspirations, a fundamental transformative change is taking place in the global financial world. Increasingly, non-financial risks, i.e. sustainability and resilience, are becoming key economic drivers of efficient capital allocation and value creation. This is already shaping and will further shape the approach to public procurement finance in the future, requiring new approaches and practices from the early stages of procurement preparation.

These factors are now leading to a shift in the interpretation of the concept of 'due diligence' and the content of the concept of accountability, which is now to include not only a short-term cost-benefit perspective but also a medium- and long-term perspective, including the integration of costs and benefits in the life cycle of works, goods and services. As a consequence, they increase the incentives for contracting authorities to use the available space (including small-scale contracts) to benefit the purpose(s) for which they were established, thus strengthening relative balance, stability and efficiency over longer time horizons, not only for themselves but also, in the case of local authorities, for their established businesses and investors. For them, the ability to innovate and develop more sustainable businesses will be the alpha and omega of their future competitiveness in the internal market and wider global markets. The success or failure of this process at the local level will therefore have major implications for the competitiveness and investment attractiveness of the Czech Republic as a whole.

From the perspective of public budgets and public policy objectives, it is essential that the **ability to take a strategic approach to public procurement is adopted by as wide a range of contracting authorities as possible, and that effective practices and the application of sustainable development and innovation principles become the new standard**. For this reason, attention should be focused on the substance of public procurement itself. At the same time, procurement procedures should be simplified and standardised as much as possible and, where appropriate, supplemented with additional means of supporting contracting authorities, including the development of professionalisation, support for centralisation of purchasing at national and regional level (e.g. sectoral centralisation in the health sector, etc.) and work with data.

For contracting authorities, suppliers and representatives of controlling authorities, this National Public Procurement Strategy 2024-2028 (the Strategy) should present a set of **clear and practical measures to modernise public procurement and introduce appropriate good practice quickly and efficiently**.

Basic facts about the public procurement market in the Czech Republic

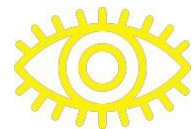
Volume of public purchases



Figure 1: Volume of public purchases in the Czech Republic (May 2022)

3 Vision

Public procurement takes place in a **predictable environment** that is oriented towards **maximising value for money**⁶. Such purchases lead to better services for citizens and businesses, more consolidated public budgets and more competitive firms. A key aspect of procurement is municipal economic time and personnel efficiency, including legal certainty, open and transparent communication with the market, **sustainability, resilience, innovation** or other socio-economic benefits, including reflection of impacts on the **local economy**. The procurement process is **fully digitised** with the possibility of centralisation at national and regional level and is ensured by **regular training of a team of professionals** with appropriate methodological, legal and subject-matter expertise. The emphasis is on the **preparation of the procurement procedure** and on **contract management**. Contractors understand and trust contracting authorities' positions and have a functional and effective defence tool in case of legitimate reasons, which contributes to a wider competition for public contracts and the possibility to obtain more advantageous offers. Thanks to this set-up, the Czech economy gains in competitiveness.



⁶**Value for money** is a concept based on the (mandatory) 3Es, the MEAT (most economically advantageous tender) concept, the price vs. quality ratio or the TCO (total cost of ownership) approach. To achieve it, it is crucial to take it into account when preparing a public contract and to set specific objectives, see e.g. McKevitt and Davis *Value for money: a broken piñata?* in Public Money & Management, Mar 2016

3. Vision

4 Purpose of the strategy

- A. With a vision of effectively spending national and European resources to implement the challenges of **economic, social and digital transformation** in a changing economy;
- B. together with **green transformation** and measures to respond to **energy and climate challenges**;
- C. and in accordance with the strategic objectives of the Government's Programme Declaration, the Ministry for Regional Development (hereinafter referred to as "MMR") aims to set up an effective and measurable government procurement strategy, the purpose of which is to:
1. improve the quality of performance provided to public sector entities and the value for money^{obtained7}, including the application of 3E principles and respect for the principle of good governance, with an emphasis on sustainability, smart solutions and innovation;
 2. to create and further develop an environment that opens the way for environmentally responsible, climate-responsible and socially sustainable purchases⁸ that support the development of SME, social enterprise and local community participation;
 3. continuously increase the awareness, knowledge and skills of those responsible, including the establishment of a national competency framework;

⁷ See footnote 6

⁸ In addition to the mandated requirements in sectoral legislation, which have been or will be adopted in the near future in the EU on the basis of the Green Deal for Europe and which aim, among other things, to contribute to tackling climate change, mitigation measures should focus on low-carbon solutions in construction procurement, blue-green infrastructure in cities as

one of the adaptation measures, circular economy and others.

4. Purpose of the strategy

4. to set up a system that collects relevant data and generates practical inputs for management, public control and the contracting authorities and suppliers themselves without imposing a significant administrative burden on users;
5. Optimise the conditions for increasing the supply of centralised purchasing and cooperation between subjects, especially at regional level, including support for national and sectoral centralisation;
6. improve legal certainty and predictability (including time and cost) for both contracting authorities and suppliers and reduce formalism, including the gradual unification of decision-making and measurement practice;
7. Focus on key sectors and strategic contracts to promote quality, sustainability, resilient innovation, smart solutions, digitalization.

In order to fulfill the purpose of the Strategy, the Ministry of Regional Development, as a beneficiary of the National Recovery Plan under Pillar 4 - Component 4.1 Systemic Support of Public Investments, has advocated for the approval of financing of reform steps for the implementation of public procurement reform under Subcomponent 4.1.2 Methodological Support and Modernization of Public Procurement, under which this Strategy has been developed and envisages the implementation of measures. In the period from 30 June 2026 to the end of 2028, the implementation of the measures set out in the Strategy will be financed from the operational expenditure of the MoF and no additional claims for financing from the State budget will be made.

Within the framework of these activities, the Ministry of Industry and Trade has committed to significantly strengthen its activities to support contracting authorities to meet the requirements and new challenges that are being placed on public procurement. The key tools for implementing this support will be the establishment of a competence centre (see Chapter 10.1 for details) for the management and transfer of knowledge and skills, including the preparation of guidelines, methodologies, model texts, training of all parties, the operation of an information disclosure infrastructure or consultancy support. The Competence Centre will include a new Public Procurement Portal, which will increase the availability of information and make public procurement issues more transparent in a modern virtual environment, including a single point of contact for stakeholder questions and suggestions. As part of the support, the MMR will expand training opportunities by extending the range of training courses covering the full breadth of public procurement. In the context of the knowledge and skills set for the public purchasing function, it will simultaneously support the development of a range of structured awareness and training programmes on public purchasing for public bodies in line with international good practice.

5 Entities directly affected by the strategy

Ministry for Regional Development



The Ministry of Regional Development, as the coordinator of the ZZVZ and the guarantor in the field of digitisation and public procurement and the use of European funds, has a key role in the development and implementation of the Strategy and is responsible for putting the necessary measures to support the objectives and priorities into practice as defined in the Strategy.

Contracting authorities



The Strategy, and in particular the individual measures and recommendations outlined therein, will be primarily addressed to the contracting authorities defined in the ZZVZ, regardless of their size and type.

5. Entities directly affected by the strategy

Suppliers



The strategy also has ambitions for suppliers in terms of supporting the wider purpose of public procurement. Suppliers should be motivated to come up with innovative, sustainable and socially appropriate solutions.

This encourages

companies to prepare better offers and ultimately

promotes their competitiveness.

Control bodies



Control and supervisory authorities have a major influence on the procedures of contracting authorities, especially as guardians of the legality of their procedures in terms of substance and form, or as arbitrators in disputes with suppliers. The approach of control and supervisory authorities in real practice will be crucial for the fulfilment of the Strategy's objectives. Contracting authorities should be prepared to go through inspection processes without fear that inspections will be focused on (alleged) misconduct that has no real impact on the competitive environment or transparency of purchasing, and with confidence that the supervisory authorities - within the space provided by the legislation - perceive trends, market dynamics and the needs of contracting authorities. The strategy aims to promote a broad discussion of these trends and needs, including with representatives of the supervisory authorities, and to contribute, in a pro-active and innovative approach, together with representatives of these authorities, to increasing legal certainty and preventing infringements (prevention) by raising awareness and sharing good practice, which is important, inter alia, for the group of less experienced contracting authorities.

Other entities affected by the strategy



Financial institutions (banks and insurance companies), consultants and consultancy companies assisting in the preparation of public procurement (administrators and advisors), providers of training in public procurement, providers of e-procurement systems, non-profit organisations, as well as professional chambers, media professionals and the wider public.

The strategy aims to raise the profile of the importance and role of public procurement on a societal scale and to raise awareness of successful projects and positive effects among the general public.

6 Definition of the problem to be solved

The Czech Republic has long been consistently criticised by the European Commission for key indicators in the area of public procurement. Public sector purchases amount to more than CZK 990 billion annually⁹, i.e. roughly 15% of the Czech GDP.

Although public procurement is an important tool for the provision of public services and the consolidation of public budgets as well as for the fulfilment of environmental, social and economic objectives, the Czech Republic has not yet sufficiently exploited this strategic overlap and potential.

1.

According to Datlab s.r.o. data, for example, public contracts competed on the basis of the lowest price are clearly dominated by the lowest price criterion, of which 80%, and to a large extent they do not prefer selection according to the lifetime costs of the purchased goods, works or services. The remaining contracts take into account more than one criterion. For 9 %, these criteria relate to quality - subject matter, implementation, innovation of the solution, environmental or social impact. Thus, for about 91 % of the contracts under the PPA regime, quality is not a subject of tender evaluation. Price is the predominant evaluation criterion, with 11% assessing its more detailed breakdown or life cycle costs, timeframes and other contractual conditions. Entering the public procurement market is thus more difficult for companies offering, for example, innovative solutions.

2.

The potential of sustainable procurement in areas that have a significant impact on the environment, especially in relation to energy efficiency of products and circular economy criteria, or the use of nature-friendly measures and blue-green infrastructure, is not used.

⁹ Ministry of Regional Development (2023). Annual report on the electronicisation and status of public procurement in the Czech Republic for 2022.

6. Definition of the problem to be solved

3.

Along with this is the way and degree of professionalisation of public purchasers. Even in this area, the emphasis to date has often been on the formal correctness of the assignment rather than on knowledge and skills in purchasing methods, quality of performance and value for money.

4.

Depending on the high number of public contracting authorities in the Czech Republic, public procurement is implemented in an extremely decentralised manner, which entails the risk of a lower level of expertise and experience of those responsible for procurement and, secondarily, may have impacts on the non-use of economies of scale, transaction costs, etc.

5.

Motivation for environmental, innovative or socially responsible purchasing is reduced by placing emphasis primarily on procedural correctness (in addition to monitoring real value-for-money inputs).

6.

The long procurement process in an environment of high legal uncertainty leads to the non-use of resources that could otherwise be obtained in the implementation of public investments, especially those of high volume or otherwise. This requires a more ambitious setting of criteria and conditions in the procurement process, the use of international good practice, modern capacity-building programmes for public purchasers and the strengthening of the role of centralised purchasing instruments and platforms.

In summary, it can be said that public procurement in the Czech Republic has so far focused mainly on the procedural side of things, and now it is necessary to focus more on obtaining the best value for money and responding in a healthy way to the challenges of the new era¹⁰.

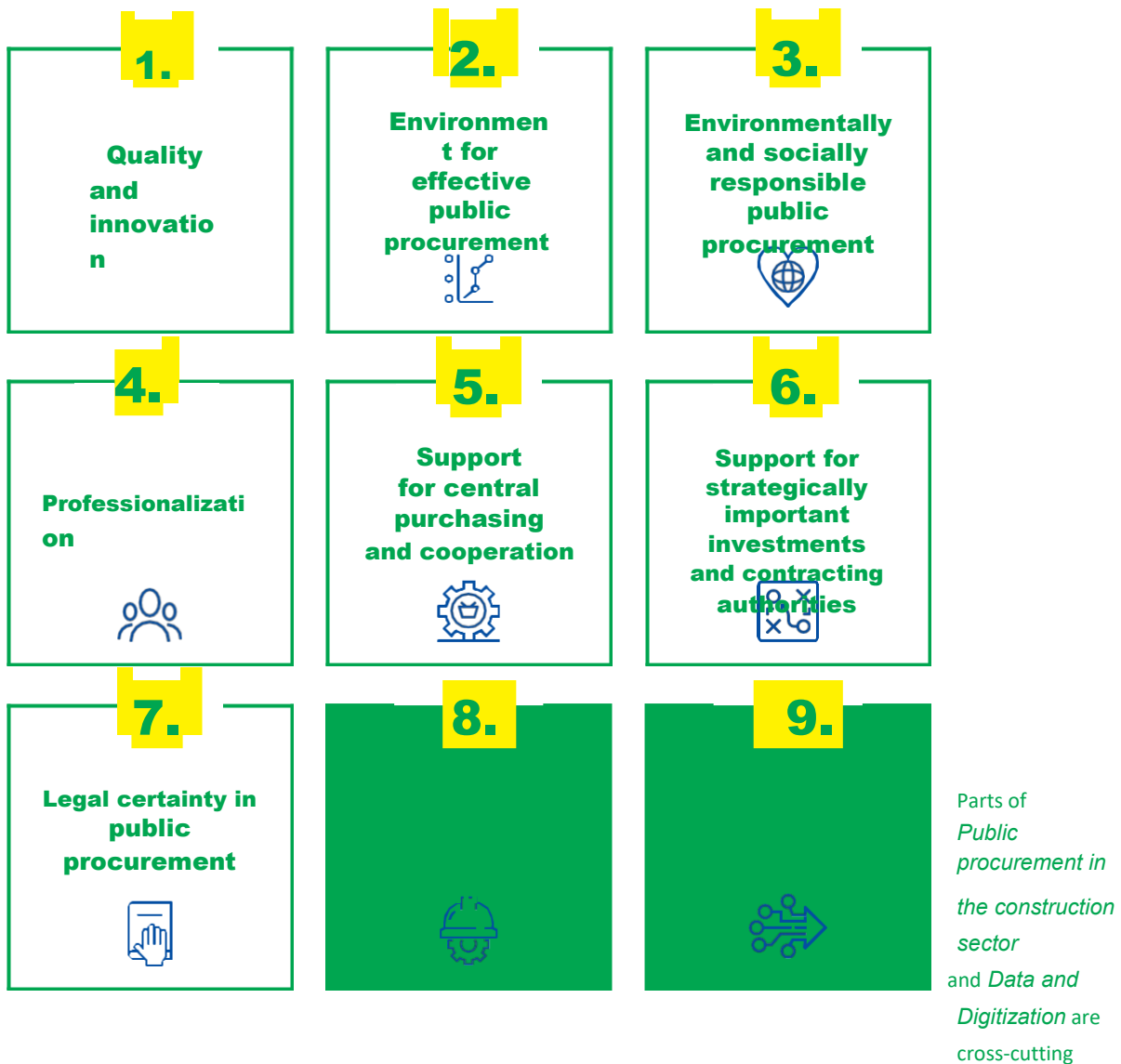


¹⁰ Use of risk management tools, due diligence, strategic approach to public procurement.

7 The logic of intervention

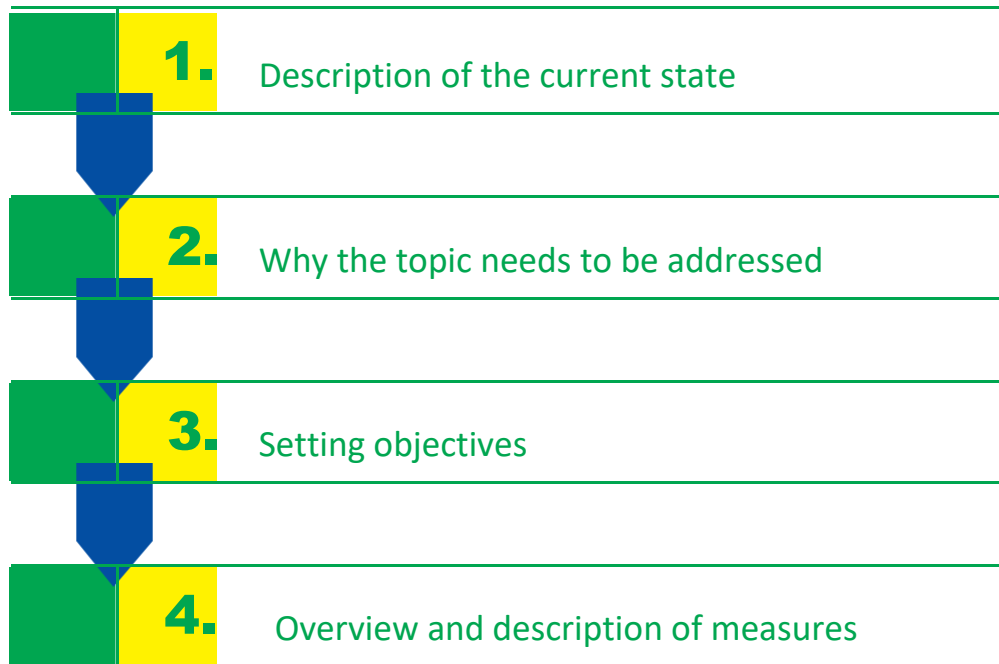
The strategy is structured into the following nine thematic units, which correspond to the main priority areas and themes. Within each theme, objectives are then formulated and solutions are proposed to achieve the purpose of the National Public Procurement Strategy as defined in Chapter 4 above.

Taken together, the headings below cover all aspects necessary for the establishment of a functional support system for both contracting authorities and other stakeholders. The basic pillars are:



7. The logic of intervention

The individual chapters are always divided into the following sections:



8

Objectives and measures under individual topics



1 Quality

8. and innovation



8. 1.1 Description of the current state

Promoting quality and innovation in public procurement can be achieved in various ways. This can be by setting fixed parameters and requirements (YES/NO assessments) in the framework of qualification or minimum technical conditions, while maintaining the principle of proportionality and non-discrimination, or by setting evaluation criteria ("more/less meets"). The evaluation may reflect life-cycle costs or take into account the quality and sustainability of the performance offered in other ways.

However, according to the available analyses in the Czech Republic, the award to the lowest bidder is still quite prevalent (see Figure 12 on page 115). This reflects a strong fixation on pure cost-based procurement. At the same time, international studies recommend the use of quality-based evaluation, including sustainability criteria, to support market growth with better quality performance and innovation.

At present, quality-conscious practices, and even innovation, are only inherent in those procuring entities that are willing to invest in training and dissemination of good practice. The proper setting of more advanced participation or selection criteria requires careful and timely preparation of the terms of reference, and this in turn requires the ability of the contracting authority to justify and defend these criteria or lesser practices, whether in discussion with its own management or senior organisation, to suppliers or, last but not least, to staff

8. 1 Quality and innovation

Objectives and measures

¹¹van Berkel, J.R.J. and Schotanus, F. (2021), "The impact of "procurement with impact": measuring the short-term effects

of sustainable public procurement policy on the environmental friendliness of tenders", Journal of Public Procurement, Vol. 21

No. 3, pp. 300-317. Cf. also the conclusions of the decision of the Supreme Administrative Court of 5 June 2008, no. 1 Afs 20/2008-152 ('... The ideal solution in the case at hand thus remains a procedure where the contracting authority sets the qualification criteria or basic parameters of the public contract less strictly in order to avoid unnecessary discrimination against certain eligible suppliers, but reflects its requirement for the highest possible quality of the public contract in its evaluation through the quality evaluation criteria under Section 116 of the Act.')

According to the thesis *"he who does nothing, does nothing wrong"*, the simplest form of selection is often preferred, with only basic qualifications, basic level of performance parameters and possibly with price as the only evaluation criterion.

As regards the development of criteria and procedures leading to the selection of qualitatively more valuable or innovative solutions, a survey carried out in 2021 within the framework of the Platform for Responsible Public Procurement (hereinafter referred to as the Platform OVZ) with approximately two thousand respondents included among the most important barriers:

- Uncertainty about the correct approach to dealing with situations and inconsistency in the approach of control authorities, particularly in subsidised contracts;
- the lack of structured methodological support;●
- the absence of a clear national policy;
- Inadequate public procurement training system.

This Strategy should help to remove these barriers.

8

1.2

Why the topic needs to be addressed

In the current socio-economic situation, the strategic approach to public procurement is taking on a more significant dimension. It is important that the state and local authorities in particular use their purchases to support the growth of our economy, to help improve the situation of small and medium-sized enterprises, which are key building blocks of the Czech economy, to support fair relations in the supply chain or the dignity of working conditions and, last but not least, not to unnecessarily abandon the promotion of quality and innovative solutions, especially sustainable and circular ones. In this context, it is particularly important **that they look for cost-effective life-cycle solutions, especially in the field of energy** (energy efficiency, integration of renewable energy sources, and carbon sequestration where appropriate), and that the resulting investments, especially the infrastructure being built, are **resilient to current and foreseeable future climate conditions**.

At the same time, we cannot ignore the new global trend in investing, which sees sustainability and achieving investment resilience as crucial. Within the European Union, this benchmark is the so-called Taxonomy of Environmentally Sustainable Economic Activities (EU Taxonomy), which also makes it possible to differentiate between normal purchases and 'taxonomic purchases', i.e. those that meet the requirements set by EU regulations for sustainability. Clearly, these aspects will have an impact on access to and cost of financing as well as insurance. ESG aspects are also increasingly being integrated into the terms and conditions of EU funds and requirements can be expected to be even higher in the next programming period 2028-2034.

Economic expediency should be perceived not only through the lens of the cost of acquisition of the performance, i.e. the "entry" purchase price. It is imperative to take into account the full life-cycle costs and sustainability of the products and services offered when purchasing, and to create continued pressure to increase the value for money offered in competitive public procurement, as

8. 1 Quality and innovation

Objectives and

wellmeasasduringes the course of performance. It is clear that, with few exceptions, procurement on the basis of the lowest price in terms of acquisition costs alone does not take

the actual total costs to be incurred by the contracting authority in connection with the procurement. At the same time, solutions and approaches that contribute to strengthening the position and confidence of the contracting authority towards developing positive environmental and social impacts of public spending should be encouraged.

In this context, the increased use of criteria and practices that promote innovation and quality, including those aimed at sustainability and sustainable financing, will only be achieved if contracting authorities are motivated to make more efforts at the early stages of procurement. At the same time, it is necessary to make quality and innovation-enhancing practices such a self-evident part of the procurement process that contracting authorities do not have to defend their decision to promote quality or innovation per se in the procurement process (why, if at all), but at the same time to be sufficiently well prepared to argue for the choice of specific criteria and to have this argumentation competently discussed from the other side (whether with the superiors or controlling authorities or market participants), while of course ensuring that these elements are monitored and evaluated also subsequently during the implementation of the public contract.

8.

1. 3

Setting objectives



Target: To develop an environment in which procurers are able to purchase **high-value goods and services for money** as a standard12, with **quality, sustainable and innovative** solutions.

Procurement with an emphasis on quality, in particular sustainability and resilience, as well as on promoting innovation, implies early and high-quality preparation of the procurement procedure and thus, where appropriate, a move away from selection based solely on the lowest tender price. At the same time, the most open and transparent possible discussion with the market should be ensured and encouraged, resulting in a greater incentive for wider competition between suppliers. At the same time, the risks associated with the provision of poor quality supplies should be reduced if these principles are properly applied.

In the target state, practical setting models should be available and used

- technical parameters and conditions of participation (including certificates and labels, green marks, etc.);
- contractual terms and conditions (including follow-up monitoring in the context of project management of contractual relations or contract management);
- evaluation criteria (life cycle costs and measurable, possibly non-quantifiable, quality criteria);
- with recommendations for the choice of specific procurement procedures and communication with the market, including the terms of preliminary market consultations.

8. 1 Quality and innovation

Objectives and
measures

¹² see footnote 6

A range of user-friendly templates, templates and methodologies, complemented by a functional methodological assistance environment, which contracting authorities will be able to easily access and rely on as templates prepared using the expert capacities of the Law Gestor, which have undergone expert discussion, discussion with the market and/or have already been tested in practice, should help to provide a safe environment for contracting authorities. This will create room for better predictability and thus activate the innovation potential from the suppliers' perspective, to promote sustainable performance and obtain better value for money on the contracting authorities' side. This space should be created systematically and ambitiously, rather than in isolation and on a small scale.

The Czech Republic is ranked ^{20th}¹³ in the statistics in the use of the lowest bid price criterion within the EU, which is in reality one of the leading positions. The strategy should contribute to increasing the share of above-limit contracts competed using criteria other than price to the EU average, which currently stands at 40% of the number of monitored above-limit public contracts. At the same time, the current EU average is 60% weighted by price.¹⁴ At the same time, the number of bids in these tenders will be monitored and surveys (consultations with industry associations or specific suppliers) will be carried out to determine their interest or barriers to participation in the tenders.

8. 1.4 Overview and description of measures

A platform for sharing good and bad practice



The MMR will establish a platform to share experiences and networking among contracting authorities and ensure its active management, thus building on the former ODA Platform.

It is expected that the Platform will be joined by representatives of contracting authorities interested in modernising procurement procedures in their organisation and in the market as a whole. These may be entities already active in this area or those willing and able to become active. Each procuring entity should have the ambition to actively develop and use the know-how in at least two projects per year, ensuring that they are properly prepared and that the recommendations from the MMR discussed in the Platform are implemented. Subsequently, the contracting authority should share experiences and contribute to their evaluation.

The platform will ensure regular meetings of contracting authorities' representatives. Two face-to-face meetings per year are foreseen, as well as several online meetings as needed. Together

8. 1 Quality and innovation

Objectives and measures

¹³https://single-market-scoreboard.ec.europa.eu/business-framework-conditions/public-procurement_en

¹⁴Datlab s.r.o. for MPSV (2019). Non-price criteria for public procurement in the EU.

Available from <https://datlabinstitut.cz/files/2019/07/2019-07-22-MPSV%20-%20studie%20kriteria.pdf>. Also Single Market Scoreboard. Available from https://single-market-scoreboard.ec.europa.eu/business-framework-conditions/public-procurement_en. Similarly, European Journal of Public Procurement Markets - 4th Issue (December 2022).

Available from <https://www.eupublicmarkets.com/wp-content/uploads/2017/02/EJPPM-4th-issue.pdf>

with this, communication between the contracting authorities' representatives and the Competence Centre staff (see Chapter 10 for more details) will take place during the procurement procedure; the contracting authorities' representatives will have access to consultations with the Competence Centre representatives as needed. The intention is to ensure effective support to the projects developed under the Platform and the successful implementation of the recommendations.

The Platform will also seek to engage with contracting authorities' senior managers to support the setting of appropriate ^{KPIs15} for members of the contracting authorities' team so that they correspond with the objectives developed within the Platform.

The platform will support the sharing of know-how, cooperation and the exploitation of synergies also through the mutual (cross-)involvement of experts and members of the commissioning teams in specific projects.

The Platform will also ensure the sharing of international good practice within similar structures at EU level, namely the Platform for the Public Buying Community.

Support for pilot projects



The pilot projects should bring and show concrete practical results of the cooperation between contracting authorities and the Competence Centre within the Platform. Each contracting authority participating in the Platform, through its management, will agree with the Competence Centre management on the selection of a specific project or projects for the period on which the joint cooperation will be implemented, in particular through (i) the use of know-how, consultation and recommendations from the Competence Centre, (ii) the personal involvement of an accompanying Competence Centre expert as a member of the contracting authority's working group and committees, (iii) other support (e.g. (iii) assistance in securing external expertise, foreign know-how, market consultations or media support). A key requirement will be an active approach by the procuring entity's staff to the proper preparation and organisation of the project (procurement process), support from the management of the procuring entity, exemplary cooperation and efforts to put the recommendations into practice.

Development and setup of methodology and template management



The measure includes an analysis of the current state of play and the subsequent development and management of relevant methodologies and templates for individual commodities with significant impact or importance in the field of public procurement, specifically the development and set-up of governance (including related updates and methodological support)

8. 1 Quality and innovation

Objectives and measures	<ul style="list-style-type: none">• general procurement methodologies to support quality/innovation/sustainability/resilience, including the development of templates and checklists;
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¹⁵Key performance indicators (KPI).

- methodologies and recommendations for dealing with vendor lock-in situations¹⁶ for selected most frequent categories of performance;
- models for each of the key institutes, in particular for:
 - i. preliminary market consultation,
 - ii. life cycle costing,
 - iii. GHG emission inventories,
 - iv. advanced sub-conditions to allow for variations of tenders, as well as for negotiation under the negotiated procedure with publication, competitive dialogue or design competition,
 - v. quality assessment criteria,
 - vi. selected contractual arrangements and clauses.

Providing comprehensive training



It is envisaged to develop current procurement practices through comprehensive capacity building using effective tools.

Under the Professionalisation theme, a follow-up is planned to support progressive contracting authorities: setting up a pilot programme to build the capacity of members of public and sector contracting authorities' work teams, focusing on innovation and quality, including sustainability and resilience; to be implemented for 20 participants (in two runs, including a live online broadcast/recording format).

Occupational market consultation (OTK)

The purpose of sectoral market consultations is to ensure that contracting authorities are not reliant solely on their own initiative and efforts, but that instead of consultations being conducted individually and uncoordinated, it is possible to conduct communication jointly and more efficiently, with the widest possible participation of representatives of the relevant market, and to provide information or feedback from the market or its properly targeted sectors in a unified manner. Market consultations conducted in this way should lead to cost savings on the part of both contracting authorities and suppliers, while at the same time ensuring that their conclusions are as robust and reliable as possible. Professional associations would also be involved in the consultations, depending on the subject matter. The results of the CTC should be made available in an appropriate manner so that contracting authorities can draw on them when formulating the terms of reference.

¹⁶ The position in which the contracting authority has been placed because of its previous procurement practice and in which it cannot escape from its dependence on a particular supplier and its solution when it needs to change.

8. 1 Quality and innovation

Objectives and measures

It is assumed that the timetable for the OTK will be set for selected performances with a frequency corresponding to the nature of the demand for services/products and market dynamics. The OTP schedule will be publicly available and will provide market participants with information on when and how there will be an opportunity to discuss the terms and conditions of public purchases in a given area. The timetable will be open to modifications or additions according to current needs. The APCs will take the form of questionnaire surveys, round tables, etc. In the run-up to the relevant CTC, both contracting authorities and suppliers will have the opportunity to provide input, which will then be addressed in the CTC. After the CAB, a controlled update of the methodologies and templates will be carried out.

Honourable mention for inspiring procurement teams



Inspirational projects from existing projects, or after the preparation of their own project, will be awarded annually to inspire buyers to increase their motivation and the prestige of the purchasing position. In addition to the realised experience, emphasis will also be placed on the open sharing of knowledge, including those elements that have not proven themselves, as an important part of the know-how being transferred. This activity will include the visibility of these projects within the market in general and to the wider public.

The measure will include the development of a methodology for the selection of projects suitable for evaluation and award and a communication and media plan.

Together with this activity and the leadership of the Platform, senior procurement managers will be approached and involved with the intention of stimulating discussion on setting up the relevant ^{KPI17} for procurement teams.

**8. 1 Quality
and innovation**

Objectives and
measures

¹⁷Key performance indicators (KPI).



An environment for effective public procurement



8. 2.1

Description of the current state

One of the key conditions for optimal value for money in public procurement is **effective procurement**, which requires:

- uniform and comprehensible rules for both contracting authorities and suppliers;
- An electronic environment for efficient, transparent, innovative and secure procurement in the field of public procurement;
- functioning competition, i.e. the interest of suppliers in the implementation of public contracts;
- a partnership approach between the public and private sectors involving fair treatment of firms by contracting authorities;
- sufficient communication from the procurement preparation phase, including contract management and building a trust environment through communication to unsuccessful bidders for public contracts.

Small-scale public contracts represent a significant part of the volume of public purchases, but in terms of the number of purchases made and the size of the range of suppliers involved, they clearly outweigh the contracts under the law. This implies a need for greater clarity in view of the order of magnitude greater number of persons involved on the contracting authorities' side, suppliers who, moreover, often do not have a specialisation in public procurement. In reality, however, potential suppliers are faced with inconsistencies in rules and procedures depending on the contracting authority or the provider of funding, particularly for subsidised public contracts.

8. 2 An environment for effective public procurement

Objectives and measures

In recent years, the legal regulation of public procurement has moved significantly towards unification with European legislation, but in some topics related to the priorities of the Strategy, it goes beyond the obligations of EU directives.

The intuitiveness and efficiency of the use of electronic tools also play an important role in making the environment more attractive for suppliers. While some steps have already been taken to bring together information from multiple tools in one place, there is still room for improvement in the electronic environment for suppliers. The e-procurement strategy for the period 2022 to ²⁰³⁰¹⁸ already describes a number of tools and steps to maximise the potential of e-procurement, and the implementation of this Strategy will seek to accelerate selected steps in relation to the Strategy's objectives, as described in the Data and digitalisation chapter.

One of the elements for achieving the objective of public procurement, i.e. maximum value for money, is competition. Academic studies show that on average each additional bid increases the savings in a public contract by 4.4%¹⁹ and 1-4%²⁰ respectively. In addition, increased competition can also have an impact on the non-price aspects of performance if they are taken into account by the contracting authority. Thus, instruments promoting competition have a direct impact on public budgets. However, the average number of bids in the Czech Republic for both public and sectoral contracting authorities in 2022 was about 3 bids per tender. There was a year-on-year decrease (3.4 in 2021). By subject of the public procurement, the highest average number of bids was for civil works - about 4.3 bids per procurement, followed by services - 3 bids and supplies, where the average is 2 bids.²¹ The objectives and metrics in relation to competition are described in the chapter Data and digitalisation. However, their fulfilment is a key input to the measures described in both chapters.

The MMR implements a range of methodological support activities. However, it is necessary to strengthen the functional activities and bring them closer to the real needs of contracting authorities and suppliers, with an emphasis not only on the correct interpretation of the PPL, but also on the common practice of administration and on commodity specialisations in the field of procurement.

8. 2.2

Why the topic needs to be addressed

In most cases, administrative obligations beyond normal commercial practices make purchasing more expensive or discourage suppliers from bidding, making the competition itself less effective. A contracting authority that focuses primarily on minimising the risks associated with the procurement

¹⁸ <https://portal-vz.cz/wp-content/uploads/2022/06/Strategie-elektronizace-VZ-pro-obdob%C3%AD-let-2022-2030.pdf>

¹⁹ Pavel, J. (2008). The impact of the number of bidders on the price of construction contracts in the field of transport infrastructure

²⁰ Soudek, J., Skuhrovec, J. (2013). Public Procurement of Homogeneous Goods: the Czech Republic Case Study. IES Working Paper 05/2013

8. 2 An environment for effective public procurement

Objectives and measures

²¹ MMR (2023). Annual report on the electronicisation and status of public procurement in the Czech Republic for 2022. Available from <https://portal-vz.cz/vyrocní-zpravy-a-souhrnné-údaje-o-veřejných-zakázkách/vyrocní-zpravy-o-stavu-veřejných-zakázek/> European Court of Auditors (2023). Public procurement in the EU: Less competition in the procurement of works, goods

and services over the 10 years to 2021.

8. 2 An environment for effective public procurement

Objectives and measures

through the process, it loses both potential benefits (qualitative improvement of the offer) and the possibility of avoiding risks associated with future performance.

There is a need to make the public procurement environment more attractive for companies, to simplify and unify rules and procedures, to strengthen trust and communication between the private and public sectors and to activate competition between suppliers. This leads to better services for citizens, lower prices, smarter, greener and more innovative solutions, and consequently to more consolidated public budgets and more competitive companies.

Communication between contracting authorities and suppliers is increasingly coming to the fore, especially in advance of public procurement. The trend towards the use of pre-market consultations or "Meet the Buyer" events is evident in the Czech Republic. However, one of the challenges will undoubtedly be the need for close cooperation between contracting authorities and suppliers in meeting EU strategic objectives, in particular the EU taxonomy and ESG.

The importance of effective competition is also highlighted in the European Court of Auditors' Special Report "Public Procurement in the EU"²². It notes that, despite the directives' efforts to improve the flexibility of public procurement, to improve companies' access to public contracts and to encourage a more strategic approach, EU-wide data confirms that procurement procedures continue to impose a considerable administrative burden, the proportion of SMEs participating in public procurement has not significantly improved, and that strategic (e.g. Environmental, social and innovative aspects are rarely taken into account in public tendering procedures, while the number of single tenderers has increased overall.

Small-scale contracts are a key area for policy focus in terms of long-term competition, as this segment clearly has the lowest barriers to entry for new suppliers (especially in terms of required references, administrative complexity).

8.
2. 3

Setting objectives



Target: Strengthening the attractiveness of public procurement

In order to achieve the above objective, it is necessary to **make maximum use of the potential of computerisation**. An electronic environment for efficient, transparent, innovative and secure public procurement in the Czech Republic is a prerequisite for increasing the availability of information for suppliers on announced contracts and increasing the availability of information on the possibility to submit a tender for new suppliers.

The aim is that information about all public contracts is available in one place, the supplier can submit a tender from one place and at the same time have an overview of all his submitted tenders and that anyone can set up the sending of information about announced contracts according to the chosen parameters.

Another of the sub-objectives is to **improve the flexibility of public procurement and to reduce administrative complexity by simplifying procedures**. The legal regulation will be based on efficient purchasing,

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²² European Court of Auditors (2023). Public procurement in the EU: Less competition in the procurement of works, goods and services in the 10 years to 2021.

8. 2 An environment for effective public procurement

Objectives and measures

i.e. that obligations beyond the European directives are only imposed in justified cases. In order to achieve this sub-objective, the Strategy thus envisages an amendment to the Public Procurement Act that will further simplify the procedures as far as possible up to the level of the EU directives. At the same time, it is necessary to conduct a discussion on updating the financial limits for the sub-limit procedure in connection with the discussion on increasing the limits for small-scale contracts.

It is also necessary to **focus on small-scale public procurement**, which represents a significant part of the volume of public purchases. In addition to the intention to adjust the limits, which have been unchanged for a long time (despite significant inflation and increase in the prices of performance), a **uniform approach to the publication of key information on public procurement** and a unified **environment for the award of public contracts** should be ensured. This is considered by the promoter of the law as a key aspect to increase their attractiveness for suppliers and thus broaden the competition for these contracts.

2. 4 Overview and description of measures

Amendment to the ZZVZ



The subject of the amendment will be to strengthen the flexibility and simplify the procedures for public procurement so that the requirements under EU directives are not extended or exceeded as far as possible. At the same time, it will be proposed to reduce the financial limits for public procurement.

Order search and notification system



It will be possible to search over the published data on current and historical contracts in an intuitive environment, including the possibility of setting up notifications to inform about reported contracts according to the supplier's choice.

Update of the public purchasing methodology



Methodological Instruction No. 3 Central Harmonisation Units will be updated in cooperation with the Ministry of Finance of the Czech Republic in accordance with the current legislation. It will be expanded to include information and approaches to pre-procurement activities, in particular needs assessments, as well as procedures leading to the evaluation of purchases. It will also be supplemented with examples of internal documents to demonstrate the 3Es before, during and after procurement and examples of good practice.

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Objectives and measures

Other measures with a cross-cutting impact on the accessibility of contracts for suppliers are described in the Data and digitisation section.

8.3 Environmentally and socially responsible public procurement

Objectives and measures

8.

3

Environmentally and socially responsible public procurement



8.3.1

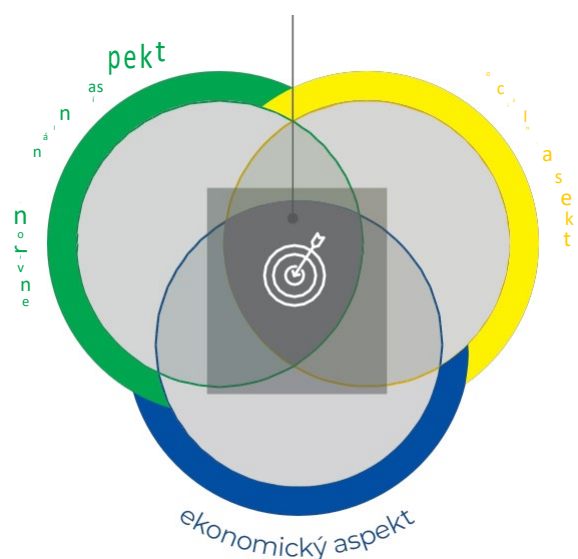
Description of the current state

The essence of environmentally and socially responsible public procurement (EPR) is the **strategic use of the influence** that public procurers can exert through their purchasing power in the market. It is based on the public administration's responsibility for the efficient use of public funds (3E principles). Responsible public procurement then

consists of **public administration organisations purchasing the products, services and works they need, while obtaining maximum value for money²³ by creating benefits for society and the economy and minimising negative impacts on the**

environment²⁴.

ENVIRONMENTALLY AND SOCIALLY RESPONSIBLE PUBLIC PROCUREMENT



²³ See footnote 6

²⁴ Based on the definitions of the Sustainable Procurement Task Force UK (2006) and the Marrakesh Task Force on Sustainable Public Procurement, UNEP:

"Responsible Public Procurement - a process whereby organisations meet their needs for goods, service, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits to society and the economy, whilst minimising damage to the environment."

8. 3 Environmentally and socially responsible public procurement

Objectives and measures

The definition of sustainable procurement in the ISO 20400 guidelines is: *"Sustainable procurement [is] procurement that has the most positive environmental, social and economic impacts possible over the entire life cycle."*

8. 3 Environmentally and socially responsible public procurement

Objectives and measures

The application of environmental and social considerations in public procurement has been strengthened by the adoption of the procurement directives in 2014, when, in addition to innovation, environmentally and socially responsible procurement, including support for SMEs, which often have an impact on local employment, became one of the **strategic objectives of the procurement directives** transposed into the PPA. An important milestone in their introduction into domestic procurement practice was the **adoption of new principles for environmentally and socially responsible public procurement and innovation²⁵** with effect from January 2021.

After the amendment to the ZZVZ of 2023, the obligation to apply the principles of socially and environmentally responsible procurement and innovation does not apply to the award of public procurement contracts. Even if it is not an obligation, it may still be appropriate to apply them in a number of cases, as some PPMRs can be an appropriate tool for achieving positive social or environmental impacts, as evidenced by a number of examples of good practice²⁶. They can also, in appropriate public procurement, if properly applied, contribute to the implementation of the principle of efficiency of public procurement.

Structured **data** in relation to OVZ have not yet been systematically collected. An analysis of the Mapping of Public Procurement Volumes²⁷, which focused on the 50 largest contracting authorities responsible for 62.56% of the volume of public procurement contracts awarded in the long term, showed that qualitative environmental, social and innovative criteria were identified in **less than 1% of contracts**. This was also confirmed in the Annual Report on FP²⁸ (see graphical illustration in the Annex).

The indicative results of the municipal survey²⁹ in the Pláčka study (2023/2024)³⁰ show that 14% of municipalities have regular discussions on sustainable public procurement between the different organisational units. For example, the requirement for Ecolabel or other sustainability certifications is used in routine purchases of low-priced goods and services by 5% of municipalities, in routine purchases of high-priced goods and services by 8% of municipalities and in non-routine purchases of high-priced goods and services that require detailed technical specifications by 11% of municipalities. 33 % of municipalities use the Ecolabel or other certificates as a source of information on products and services when preparing public procurement. Information on the environmental impact of products and services is used by 20% of municipalities and the Social Enterprise Directory by 8% of municipalities.

As for the importance of certain parameters for the purchase of goods and services by municipalities, the parameters are:

²⁵ § 6(4) of the ZZVZ (as amended in 2023) in conjunction with § 28(1)(p) to (r) of the ZZVZ

²⁶ Examples of good practice so far on the sovz.cz website, in the future on the Public Procurement Portal

²⁷ Datlab s.r.o. for the project Strategic Public Procurement Policy in the Czech Republic (Effective Investing) (reg. no.: CZ.03.03.01/00/22_021/ 0001141). Analysis of Mapping of public procurement volumes.

²⁸ MMR (2023). Annual report on the electronicisation and status of public procurement in the Czech Republic for 2022. Available from <https://portal-vz.cz/vyrocní-zpráva-souhrnné-údaje-o-veřejných-zakázkách/vyrocní-zpráva-o-stavu-veřejných-zakázek/>

²⁹ These are the results of the first phase of data collection (several rounds will take place), 288 out of 6 253 municipalities have

8. 3 Environmentally and socially responsible public procurement

Objectives and measures

responded so far and there is therefore a risk of a relatively large statistical error. It should also be borne in mind that the answers may be burdened by the respondent's choice of options, that are assumed to be socially appropriate and answered by those who are relevant to the topic.

³⁰ Plaček, M., Šumpíková, M., Fojtík, R., Rossel, J. (2023/2024). Advancing Green Purchasing in Czech Municipalities. Arizona State University Report. Sustainable Purchasing Research Initiative. Forthcoming

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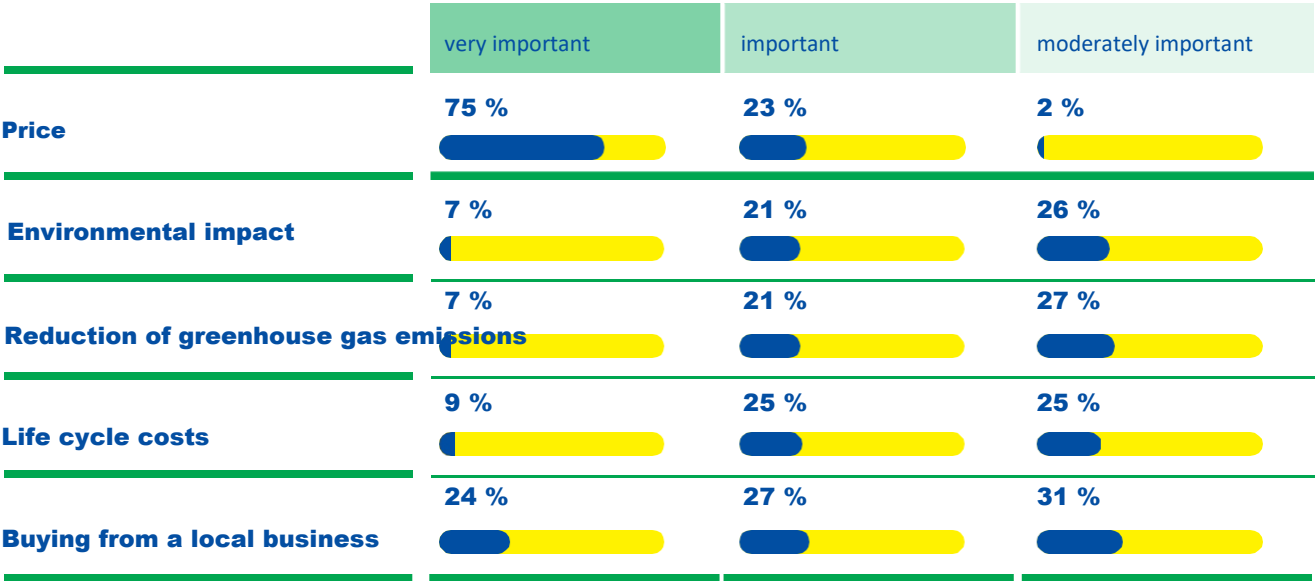


Table 1: Importance of parameters for the purchase of goods and services by municipalities (source: Plaček (2023/2024))

It is therefore clear that although sustainable aspects are perceived as important (and the involvement of local businesses is emphasised even more), the primary cost of the product or service remains very important for three quarters of respondents and important for a further 23%. In comparison, e.g. the full life cycle cost of a good or service is very important and important to only 9 % and 25% of respondents respectively. The technical specification of the subject of the contract is very important for 14% of municipalities, important for 29% and moderately important for 33% of municipalities when dealing with environmental/sustainability impacts. On a scale of very successful to very unsuccessful, 50% of respondents rate the overall implementation of sustainable purchasing in the municipality/city as "neither successful nor unsuccessful".

8. 3.2

Why the topic needs to be addressed

A broad survey on **barriers to** the development of sustainability in public procurement in projects implemented in 2016-2023³¹ revealed that there is strong legal uncertainty about this, in addition to barriers such as concerns about inconsistent interpretation of controls, administrative complexity or reluctance to change anything,

"what is sustainable" and at the same time in line with the 3E principles.

The use of some social criteria, in particular the promotion of the participation of social enterprises in procurement procedures, is hampered by the fact that the Czech Republic has not yet adopted a law on social entrepreneurship. The possibility to identify social enterprises by means of subsidy titles (so-called recognition ^{features32}) is used by contracting authorities

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³¹ Projects Support for the Implementation and Development of Socially Responsible Public Procurement (Reg. No.: CZ.03.3.60/0.0/0.0/15_018/0000732) and Policy of Strategic Public Procurement in the Czech Republic (Effective Investing) (Reg. No.: CZ.03.03.01/00/22_021/0001141), hereinafter referred to as "ODA projects".

³² For more see the Recognition Set for Integrative Social Enterprise (WISE)

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Objectives and measures

only in a very limited number of cases³³, rather contracting authorities associate social aspects in public procurement with the provision of so-called substitute performance, under which goods or services are often supplied to contracting authorities with minimal or no labour input from persons with disabilities.

Even the robust legislative anchoring, European methodologies and methodological support, sharing of good practice examples of progressive contracting authorities and education provided in the Czech Republic since 2016 within the framework of the OVZ³⁴ projects, methodological support at the methodological days of the Office of Public Procurement and a number of other platforms, have not achieved that environmentally and socially responsible public procurement has become a standard and has been systematically used in all public procurements where appropriate.

In the Czech Republic, the potential of environmentally and socially responsible public procurement remains untapped despite some **successful examples of good** practice³⁵.

It is desirable to use public funds spent on public procurement in line with other public policies as a tool for **market stimulation**, both in relation to the climate commitments of the Czech Republic and minimising the negative impacts of purchases on the environment, and for promoting social responsibility and cohesion, including wider economic benefits (e.g. positive impact on the local economy, support for social entrepreneurship). At the same time, pressure must be exerted in public procurement to **mitigate risks**, whether through long-term lowest bidder procurement or problematic aspects in subcontracting chains. Public administrations should not resign from their responsibilities and should not accept deliveries that show risk aspects such as non-compliance with labour and health and safety regulations in subcontracting chains, undignified working conditions in the provision of services such as security and cleaning, non-compliance with ILO (International Labour Organisation) conventions, which can lead to social dumping or tacit tolerance of the use of child labour in the purchase of certain foodstuffs, textiles, etc.

Applying the aspects of environmentally and socially responsible procurement will lead to benefits of both financial and non-financial nature. These may be positive social impacts not included in the price of performance (negative externalities not taken into account, e.g. related to greenhouse gas emissions or emissions of pollutants into the air, water, etc.), impacts consisting in the development of organic agriculture, circular economy, social entrepreneurship, etc. Data to assess the impacts of taking into account OEA aspects have not yet been systematically collected and specific financial savings cannot be predicted at present. It is not even possible to make an informed estimate because of the wide range of possible OEA aspects, and it is not possible to predict which of them will be chosen by contracting authorities and in what financial volume of public contracts. Measuring the benefits of OEA will only be realistic when its use at the level of individual procurement procedures is consistently monitored through new forms based on eForms. This will also be helped by setting harmonised minimum standards for OEA, putting them into practice and monitoring their use.

The experience of a number of EU countries that have adopted public procurement strategies³⁶ shows that **public procurement**

³³ Especially in the custom practice of the MLSA

³⁴ See the Responsible Public Procurement web portal (sozv.cz)

³⁵ For example, the SAO was awarded second place in the Procura+ award for its good practice example, Construction of a new headquarters with the lowest life cycle costs | SOVZ, the South Moravian Region received an honorable mention in the same competition for the construction of a hospital for children with respiratory diseases, a public procurement contract for the purchase of textiles to prevent violations of ILO ILO Conventions and the provision of cleaning services at Czech Television are mentioned as

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Objectives and measures

examples of good practice in the EU publication Making socially responsible public procurement work

³⁶ E.g. Austrian Aktionsplan und Kernkriterien: naBe-Kriterienkatalog, sustainable criteria: naBe criteria - naBe, National Strategy Sweden's public procurement: Sweden_national_public_procurement_strategy_english_web.pdf (oneplanetnetwork.org) and sustainability criteria: find sustainability criteria | The National Agency for Public Procurement (upphandlingsmyndigheten.se), Sustainable criteria in the Netherlands: Sustainable Public Procurement Webtool (mivicriteria.nl), Sustainable criteria in Germany: Recommendations for your tender | Umweltbundesamt, Finnish strategy, Sustainable Procurement Strategy in Ireland

8. 3 Environmentally and socially responsible public procurement

Objectives and measures

They are an important tool and can be a lever for the economy, steering it towards sustainable production and consumption patterns and contributing to the overall achievement of a resilient and cohesive society.

Public procurement can also be an important tool for promoting employment, and can thus contribute in particular to reducing the public budgets spent on supporting the unemployed. In view of the long-standing low level of unemployment in the Czech Republic, it is possible to focus on supporting the disadvantaged by supporting the development of the social economy. The practice of the Sustainable Purchasing Platform in Austria (naBe) has shown that in order to support and develop the application of sustainable solutions in public procurement, there is a need for a single set of concrete and easy-to-apply minimum sustainability standards that will provide legal certainty for contracting authorities, provide sufficient guidance for suppliers, but also guide supervisory and control authorities and contribute to more uniform control approaches.

Last but not least, a large number of suppliers and some contracting authorities will already be subject to the new EU rules under the Corporate Sustainability Reporting Directive (CSRD) for the financial year 2025. It will therefore be necessary to bear these contexts in mind when preparing public procurement, tendering procedures and contracts, and to prepare appropriate conditions within the framework of this Strategy so that obliged entities can reliably, including evidence, fulfil their sustainability reporting obligations, i.e. not just rely on the creativity and improvisation of contracting authorities and suppliers.

8.

3. 3

Setting objectives



Target: Standard use of environmentally and socially responsible public procurement in appropriate contracts

In order to achieve the above objective, it is necessary to fully implement the principles of environmentally and socially responsible contracting provided for in Section 6(4) of the ZZVZ at the level of organisations. Contracting authorities must be given both the support and tools (minimum standards, model texts, shared examples of good practice, support in using the so-called GPP or Green Criteria of the European ^{Commission³⁷}), but also the necessary competences to apply the principles of environmentally and socially responsible public procurement in those public contracts where it is appropriate and where it will bring social ^{benefit³⁸}.

At the same time, suppliers must be sufficiently informed about the interest of the state and local government to buy in this way, in particular consultation with the market in the preparation of minimum standards can be used appropriately

³⁷ Green Business Library (europa.eu)

³⁸ The greatest societal benefit in the preparation of a large investment project will not come from the requirement that the paper on which the project documentation is submitted be environmentally friendly; it is preferable to focus on the projected construction itself, or its preparation, including pre-demolition audits, the widest possible use of SDOs, life cycle costs,

8. 3 Environmentally and socially responsible public procurement

Objectives and measures

construction materials, etc. Similarly, it makes no sense to require compliance with the ILO Conventions in the supply of office paper in the sub-supply chain when there is no risk of violating them for this product (unlike textiles, ICT, coffee, cocoa, etc.).

8. 3 Environmentally and socially responsible public procurement

Objectives and measures

OVZ, sectoral market consultations, events such as Meet the Buyer, Meet the Potential Bidder, preliminary market consultations, etc.

The emphasis in the Strategy and measures for its implementation is on









social aspects

e.g. support for the participation of social enterprises in tendering procedures, employment of people disadvantaged on the labour market, decent working conditions, compliance with the basic principles of the International Labour Organisation conventions, promotion of gender equality at work, etc.

environmental aspects

environmental aspects, responding to climate change and environmental protection, including the use of energy from renewable sources and the principles of the circular economy for the prevention, elimination and use of waste, disassembly and reparability, reduction of energy consumption and consideration of the entire life cycle of products, etc. This is in line with the related strategies of the Czech Republic³⁹ and using the EU Taxonomy and technical screening criteria defining levels of significant contribution and levels of 'significant non-detriment' in relation to the six EU environmental objectives.

Opportunities for environmentally and socially responsible public procurement, the potential of which it is desirable to use in public procurement, if they are related to the subject of performance and the public contract is suitable for their application, or is financed or is to be financed using sustainable financing instruments, are in particular:

-  **climate change mitigation and adaptation measures**
-  **environmentally friendly solutions, including the use of renewable energy and the circular economy, the sustainable use and protection of water resources and the protection of ecosystems and biodiversity;**
-  **employment of people at a disadvantage on the labour market;**  **support for training, practice and retraining;**
-  **decent working conditions;**
-  **Support for the participation of SMEs in public procurement;**  **Support for the participation of social enterprises in public procurement;**
-  **Ethical purchasing and human rights;**

³⁹In relation to the environmental criteria, coordination with the activities of the Ministry of the Environment (see https://www.mzp.cz/cz/strategie_dokumenty_v_gesci_prehled), in particular the Strategic Framework and the Circular Czech Republic

8. 3 Environmentally and socially responsible public procurement

Objectives and measures

Action Plan.

8. 3 Environmentally and socially responsible public procurement

Objectives and measures



fair relations in the supply chain; gender



aspects;



participation and positive impact on the local community.

For the implementation of the ODA, it is necessary to start **systematically** taking into account both environmental and social aspects, or a combination of both, in the appropriate objects of performance,

- which can be expected to have **the greatest environmental and/or social impacts** (typically the most emission-intensive items of performance such as construction work, including the emphasis on the preparation of project ^{documentation}⁴⁰ and, on the other hand, items of performance which are suitable for promoting social entrepreneurship or where there is a risk of violating International Labour Organisation Conventions or decent working conditions, etc.);
- for which **there are already practice-tested solutions, model texts, tried and tested examples of good practice;**
- that offer relatively **simple solutions** (so-called low-hanging fruit), e.g. the purchase of seasonal fruit and vegetables and food from close to home in the LFS for nursery and primary schools that fall under this procurement scheme;
- contracting authorities that intend to use sustainable financing instruments to finance the contract.

These may be public supply contracts with a label within the meaning of the Public Procurement Act, i.e. e.g. with an eco-label certification or certifying that the product in question comes from a so-called 'eco-label'. This includes: supply with a recycled component, support for the participation of social enterprises in tendering procedures for the procurement of appropriate performance items, e.g. refreshments at events, green care, etc., using e.g. the Catalogue of Social ^{Enterprises}⁴¹.

On the basis of the above, in implementing the Strategy, specific objectives in relation to environmental and/or social aspects (or a combination of both) will be defined **in the minimum OHS standards**, which are one of the measures in this chapter, in broad discussions, with the greatest possible degree of participation, with experts, contracting authorities and suppliers, for individual sectors (e.g. ^{sewerage}⁴², cleaning, security, food supply, events, ^{ICT}⁴³).

Based on the requirements of the ministries and in cooperation with them, methodologies will be prepared according to their needs for putting environmentally and socially responsible public procurement into practice.

⁴⁰Public procurement in the construction sector is comprehensively dealt with in Chapter 8.8.

⁴¹The catalogue of social enterprises is available on the sovz.cz website here.

⁴²As part of the pilot testing of the procedures in the project Strategic Public Procurement Policy in the Czech Republic - Effective Investment, discussions with experts, procuring entities and suppliers in relation to office paper have identified that it would be appropriate for the minimum standard of OVZ

for office paper included recommendations for minimising printing (emphasis on digitalisation) and a requirement for the EU Ecolabel as a label under Section 94 of the PPA.

⁴³Public procurement in the construction sector is comprehensively dealt with in Chapter 8.8.

3.4 Overview and description of measures

On the basis of the National Public Procurement Strategy for the implementation of the OVZ

- 1. contracting authorities will be provided with existing, updated and adapted tools** for putting VET into practice, namely methodological materials, checklists for assessing VET opportunities in public procurement, practice-tested model texts for tender documentation, publications, examples of good practice, webinars and others, see knowledge base and methodological resources below;
- 2. A Sustainable Purchasing Action Plan will be developed, which will include the creation of a database of harmonised minimum standards for VPOs, including texts to be used in tender documentation,** in accordance with the proposed measures (see below), and will also use **other measures** in relation to centralised procurement at national and regional level, education of contracting authorities, and soft measures such as honourable awards for contribution in the field of responsible public procurement, including the use of sustainable financing.

Specific measures proposed:

Knowledge base and methodological resources for the implementation of environmentally and socially responsible public procurement



Updating and adaptation of the methodological materials and resources listed so far on the so.vz.cz web portal in line with the objectives of the Strategy for this priority. This information will be part of the modernised Public Procurement Portal. The portal will serve as a knowledge base for this priority after the changes have been made.

Education of contracting authorities in the field of environmentally and socially responsible public procurement



Gradual preparation of basic training modules on environmentally and socially responsible procurement, including the use of sustainable financing with an emphasis on the minimum standards of VET and their implementation in practice within AVI. It will build on the training and webinars provided by the OHS Institute, which are available on the so.vz.cz web portal (in the future on the Public Procurement Portal).

8.3 Environmentally and socially responsible public procurement

Objectives and measures

Database with examples of good practice



In connection with the database Examples of good practice (so far on the web portal sovz.cz), a database with examples of domestic procurement practice will be created, which will show how existing methodological materials, sample textations for procurement documentation, and minimum standards of the OHS can be used. They will be available on the Public Procurement Portal.

Minimum standards for responsible public procurement I and II

01/2024-09/2024

10/2024-09/2025



Part of the **Sustainable Purchasing Action Plan**

For the implementation of environmentally and socially responsible public procurement, minimum standards for responsible public procurement for selected objects of performance, including, where appropriate, aspects of the EU Taxonomy, will be developed and made available (following the pilot verification of procedures under the project Strategic Public Procurement Policy in the Czech Republic - Effective Investing): The first set will include construction works, including preparation of project ^{documentation⁴⁴}, provision of security and environmental cleaning services, supply of office paper, supply of food and catering services, provision of events. The minimum standards of the OHS shall specify for each performance object one or more environmental and/or social aspects (or a combination thereof) that will meet the objectives of this chapter.

Subsequently, based on the experience of the first set of minimum standards of the OHS, further performance items will be identified. The minimum standards for the KEAs will include specific social or environmental objectives, or a combination thereof, for individual performance objects, including a justification and model wording in the tender document. With regard to the forthcoming legislation in the field of social entrepreneurship, appropriate performance objects will be defined to support the participation of social enterprises in tendering procedures that will lead to the social activation of disadvantaged persons. The selection of aspects for minimum standards and their setting will be discussed with experts, contracting authorities and suppliers so that they are appropriate aspects for the subject of performance, their application is not too burdensome for contracting authorities and the market is able to respond adequately. The MMR intends to lead by example in the application of the minimum standards for OHS and subsequently share its examples from practice.

⁴⁴ Public procurement in the construction sector is comprehensively dealt with in Chapter 8.8.

8. 3 Environmentally and socially responsible public procurement

Objectives and measures

Monitoring and evaluation of the use of minimum standards for responsible public procurement in eForms



Part of the **Sustainable Purchasing Action Plan**

Following the establishment of minimum standards for OBA, monitoring of their use should be ensured, with individual environmental and social aspects monitored separately. Therefore, on an ongoing basis, once the minimum OHS standards have been established, it is necessary to use the eForms monitoring capabilities in relation to the performance objects for which the minimum OHS standards will be prepared. In this way, it will be possible to identify and evaluate the use of the minimum standards and ensure that they are used systematically and in a standard way.

Awards for contribution to environmentally and socially responsible procurement



Part of the **Sustainable Purchasing Action Plan**

Each year, the best procurement teams will be awarded for their comprehensive use of environmentally and socially responsible procurement to improve their motivation and prestige.

The measure will include the development of a methodology for the evaluation method.

8. 4

ProfessionalisationObjectives and
measures

8. 4 Professionalisation



8. 4.1

Description of the current state

Work in the area of public procurement is weighed down by, among other things, the traditionally negative portrayal of public procurement as a problem area plagued by wasteful use of public funds, lack of transparency, the threat of corruption or conflict of interest. In addition, public administration work is less well remunerated than in the private sphere. Its traditional conception and the current training offered by the law's promoter provide sufficient training in the public procurement process, but do not cover the topic of procurement in its entirety or respond to the numerous current challenges.

The Catalogue of Jobs in Public Services and Public Administration does not separately regulate the position of procurement administrator. According to this document, the procurement agenda should be guaranteed by a property management officer or an investment officer.

The key role of the administrator is to ensure that the contracting authority's procedures comply with the formal rules of purchasing, so his or her activities are often limited to compliance with the regulations governing the purchasing process (in particular the PPA). A considerable amount of time and effort is invested in the procurement process itself, which may not be commensurate with the time and effort spent on preparing the purchase or managing the contractual relationship after the contract is concluded. Less attention is then paid to the preparation or implementation phase. The interconnection of the different phases of procurement (including the evaluation of previous tenders) is desirable.

The need for and the current offer of training provided by the Contracting Authority also corresponds to such a setting. This focuses primarily on the procedural aspect of purchasing and the individual provisions of the Act. (For example, even in the context of the relevant branch of the civil service,

8.4 **Professionalisation** Objectives and

the examination questions and study literature (in the context of Section 2 of Decree No.162/2015 [measures](#) Coll., on the details of the civil service examination) are based exclusively on knowledge of the ZZVZ, respectively.

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Professionalisation

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related regulations. Other aspects of procurement are left out, both for procurement administrators and other procurement officers).

The public sector purchasing function and the role of the person responsible for purchasing is therefore limited to the procurement **process** and does not see the **purchasing process in its complexity**.

Among the areas of the civil service is "Public investment and procurement". In the case of municipal officials or ordinary employees in employment relationships, an identical uniform category can no longer be found. The position of public procurement administrator therefore has formal differences, although it should be a broadly comparable position in terms of job description across the different types of contracting authorities (state, municipality, region, etc.). The question arises as to whether it is not appropriate and possible to set uniform conditions for procurement officials and a uniform standard for the training of such officials.

Further training in the field of public procurement is provided by the MMR programme within the AVI (Academy of Public Investment), as well as by commercial offer of various training courses on the PPA and non-commercial training within various projects (e.g. the PPA Institute) and disciplines (e.g. the CKA). In recent years, activities aimed at expanding the expertise of persons responsible for purchases beyond the procedural rules have been successfully developed. At the same time, new challenges related to rapid changes in the market (covid crisis, supply chain crisis, energy crisis or, in a broader context, the crisis caused by the war in Ukraine, sanctions), as well as challenges arising from the transformation of the economy or from new legislation and policies (e.g. Fit for 55, taxonomy, transparency of supply chains), or challenges in the development of artificial intelligence or the issue of pre-commercial procurement in support of innovation, are emerging. These challenges and initiatives should be met by the promoter of the law by setting up a framework for the public sector purchasing profession that would facilitate the setting up of a training offer for those responsible for purchasing in the public sector.

The current setup of public procurement training therefore offers an opportunity for development in areas that go beyond the procedural rules of public procurement, or the rules of public funds management, and the development of the training offer to cover not only the competencies **for the proper functioning of procurement**, but also to provide preparation for current and **future challenges** and risks associated with public sector procurement.

A specific feature of the Czech Republic is the large number of local governments, many of which are less able to allocate and properly train a workforce focused exclusively on public sector purchasing.

In the area of professionalisation, the issue of remuneration cannot be overlooked. According to the data of 22 November 2023, the

The monthly pay rate of a "represented employee" ⁴⁶ is

29 500 CZK. The average wage in the national economy in the second quarter of 2023 is CZK 43,¹⁹³⁴⁷. The remuneration for the position of a VZ administrator therefore appears to be below average in relation to the general level of remuneration (albeit in the private sector). This is a demanding activity in terms of expertise, stress and reputational burden.

⁴⁶ <https://cz.jooble.org/salary/administr%C3%A1tor-ve%C5%99ejn%C3%BDch-zak%C3%A1zek>

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⁴⁷ According to CSO data.

8. 4

ProfessionalisationObjectives and
measures**8. 4.2****Why the topic needs to be
addressed**

Improving the quality and efficiency of procurement by contracting authorities is closely related to the capacity of the procurement function, or the professional readiness of those responsible for procurement (whether they are the contracting authority's own employees or external providers of administration services). Improving the state of public procurement in the Czech Republic should therefore include a focus on capacity development and retention and on education, science and research in public procurement. This is also with regard to the new challenges mentioned above.

Support for increasing public procurement capacity can be found in international initiatives. According to the EC recommendation⁴⁸, EU Member States should develop and implement long-term professionalisation strategies for public procurement, define the basic level of knowledge and skills necessary for the profession (and also address the professions of auditors or procurement auditors), as well as develop or support the development of available tools to simplify and improve the procurement function. In particular, Member States are encouraged to:



develop and implement long-term professionalisation strategies in the field of public procurement adapted to their needs, resources and governance structure;



to identify and define the core skills and competences that all procurement professionals should possess and acquire through training, taking into account the multi-disciplinary nature of procurement projects, both specialist procurement officers and staff performing related tasks, as well as judges and auditors;



Develop appropriate training programmes - both initial and lifelong - based on data and needs assessments and, where appropriate, competency frameworks;



Promote the exchange of best practices and provide support to experts to ensure professional procurement, cooperation and transfer of expertise.

Professional development of procurement officers is also addressed in the OECD Recommendation³⁹. According to this recommendation, the parties concerned should use, for example, recognition of administrators as a distinct profession, certification or regular training to ensure that procurement officers meet high standards of knowledge, practical experience and integrity. A survey conducted by the OECD in 2020 found that only 13 countries (39%) recognise public procurement administration as a distinct profession.

The increased emphasis on the purchasing function and the empowerment and perception of administrators within the organisation should contribute to better purchasing performance and thus savings (including in the area of transaction costs). A more comprehensive and systematic approach to professionalisation could help in long-term planning for professional development (on the part of the contracting authorities) or for a career in procurement (on the part of the procurement experts themselves).

⁴⁸ Commission Recommendation (EU) 2017/1805 of 3 October 2017 on the professionalisation of public procurement. Building an architecture for the professionalisation of public procurement.

8.4 Professionalisation

Objectives and

⁵ OECDmeasures(2015).OECD Recommendation on Public Procurement. Recommendation IX.
Available from <https://www.oecd.org/gov/public-procurement/OECD-Recommendation-on-Public-Procurement.pdf>

8. 4

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In a broader sense, professionalisation should not only concern public procurement administrators, but also all persons involved in procurement within the organisation (e.g. as "internal clients"). Related to this topic is the question of the professional capacities of external providers of public procurement administration services. The group of persons responsible for the control of public procurement will not be left out.

The state and the regions should play an important role in counselling for local governments. The pooling of the agendas of several local governments should be encouraged.

8.**4. 3****Setting objectives**

Target: Improving the functioning and image of public procurement, as well as its responsiveness to new challenges and risk management, by building and enhancing the professional capacity of those responsible for public procurement.

The above objective can be broken down into the following sub-objectives:

- Support the development of the professional capacities of all those responsible for procurement in public administration (which are not only procurement administrators);
- encourage the development of human resource management and its development in the field of purchasing (from the organisation's point of view);
- to support improved opportunities for professional development and career planning in the field of public procurement and in the field of public procurement control (from an individual perspective);
- create an environment for the development of procurement administration services provided by external contractors;
- Expand training opportunities for public purchasing beyond knowledge of procedural rules;
- to create an environment for the coordination and development of science and research in the field of public procurement in the environment of Czech scientific, research and educational institutions;
- Support the creation and ensure the management and development of an environment for information sharing and exchange of experience between contracting authorities;
- to create advisory and consultancy points at the state and regional level and to link them also with sectoral specialisations (e.g. commissioning of public works projects - establishment of a state and support for regional architects on the model of the Netherlands and the Belgian federal states).

4.4 Overview and description of measures

Human Resources Working Group and professionalisation in public procurement



Involvement of relevant stakeholders in the development of the topic of human resources and professionalism in public procurement on the basis of a working group - followed by regular thematic meetings.

Discussions within the working group should also cover issues of remuneration, training of those responsible for auditing, requirements for external providers of public procurement administration services, etc.

Setting up and developing a framework for the public procurement function (procurement administrator/purchasing profession in the public sector)



Establishment of a knowledge and skills framework for the public procurement function, taking into account ProcuCompEU. The definition of the framework will be continuously discussed with relevant stakeholders (within the framework of the Platform for Stakeholder Cooperation to address the adequate anchoring of the role of the purchasing agent in the public sector) for its further development and possible adjustments. The needs of contracting authorities in the area of professionalisation will also be continuously identified.

The framework for the profession of procurement administrator/purchaser in the public sector is to be set up in such a way that it is applicable across the different forms of their employment (employee, civil servant, ^{USC} official⁵⁰).

Developing the theme of public procurement in education, science and research (universities, public and research institutions)



Supporting the development of research and involvement in international projects in the field of public purchasing.

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⁵⁰ Territorial self-government unit
measures

8.4 Professionalisation

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Roundtables with public purchasing education providers (universities, private providers).
Conferences. Methodological material on education in public procurement.

Questionnaire survey of the Ministry of Regional Development for universities (faculties) on the approach to public procurement in education, science and research.

Mapping of staff capacities and self-assessment in public procurement



The staff capacities of the contracting authorities in the field of public procurement will be identified and evaluated in the form of desk research, or questionnaires, interviews, etc. (including the identification of specific aspects - gender or age composition of staff - comparison with private procurement).

For the purposes of Czech procurers, a self-assessment tool for staff capacities will be adapted and provided free of charge.

Selected contracting authorities are conducting a pilot self-assessment. This provides contracting authorities with a simple tool to assess their own staff capacity in public procurement. And they will be encouraged to undergo this assessment. Support for piloting a staff capacity analysis of selected contracting authorities (20 selected) mapping their current capacities, and then by January 2026. After the pilot testing, the tool will be made available to the wider contracting public.

Provision of training to public contracting authorities within the direct activities of the Ministry of Regional Development



Developing a minimum level of training for public procurement within AVI - expanding the existing AVI offer to cover competences in the breadth of the ProcurCompEU framework. Including exploring the possibility of including topics or courses such as the Green Public Procurement Training Toolkit or Gender Responsive Public Procurement. Focusing on specific areas of importance (e.g. procurement of public works projects - deciding on billion-dollar state contracts)

Education of contracting authorities outside the framework of direct MMR activities



Support (especially methodological and coordination) for the development of

measures	training covering the whole breadth of public procurement in the context of the set of knowledge and skills (components) for the public procurement function through the organisation of round tables and conferences oriented to public procurement training.
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8. 4**Professionalisation**

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measures

**Examination of the possibility of adjusting
the remuneration of purchasing agents in
the public sector**

Analysis of the possibility of adjusting changes in the remuneration of public sector purchasers.

8.

5

Support for central purchasing and cooperation



8. 5.1

Description of the current state

Centralisation in the sense of economies of scale, time and staff capacity, shifting legal and administrative complexity to the experience of the central contracting authority, show that it is possible to positively influence the interest of smaller contracting authorities and at the same time support SME involvement, the local economy and sustainability aspects. For example, the success of the Austrian ^{BBG51} agency model, built on the pillars of cooperation, a comprehensive customer care system, awareness raising, professionalisation and data evaluation, reflects the voluntary involvement of cities, municipalities and other entities at 58 % of the total (42 % are entities with mandatory centralisation). Through a simple and transparent e-shop purchase, the contracting authorities obtain commodities that also take into account regionality and sustainability. In Sweden, SMEs account for up to 86 % of the approximately 800 suppliers involved in centralised procurement within ^{Adda52}. The Italian marketplace ^{MEPA53} also offers support for direct purchasing and SME involvement to complement large central contracts.

Centralized procurement in the Czech Republic is implemented **at the regional level** by regional authorities and large cities, mainly for the needs of the authority and the contributory organizations established by them. The approach to regional centralised procurement is not uniform and the biggest inconsistencies are perceived in the process set-up, the system of data collection and evaluation and the use of effective tools. The overview of central procurement of commodities and services by regions and cities in the period 2019-09/2023 illustrates on the one hand the opportunity to increase the number of centrally procured commodities and services at the regional level and on the other hand reflects the potential supply of commodities and services that municipalities and cities can join.

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- 51 Bundesbeschaffung GmbH, <https://www.bbg.gv.at/>
- 52 <https://www.adda.se/>
- 53 <http://www.acquistinretepa.it/>

8. 5 Support for central purchasing and cooperation

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Centrally purchased commodities - number of contracting authorities of the region and the city

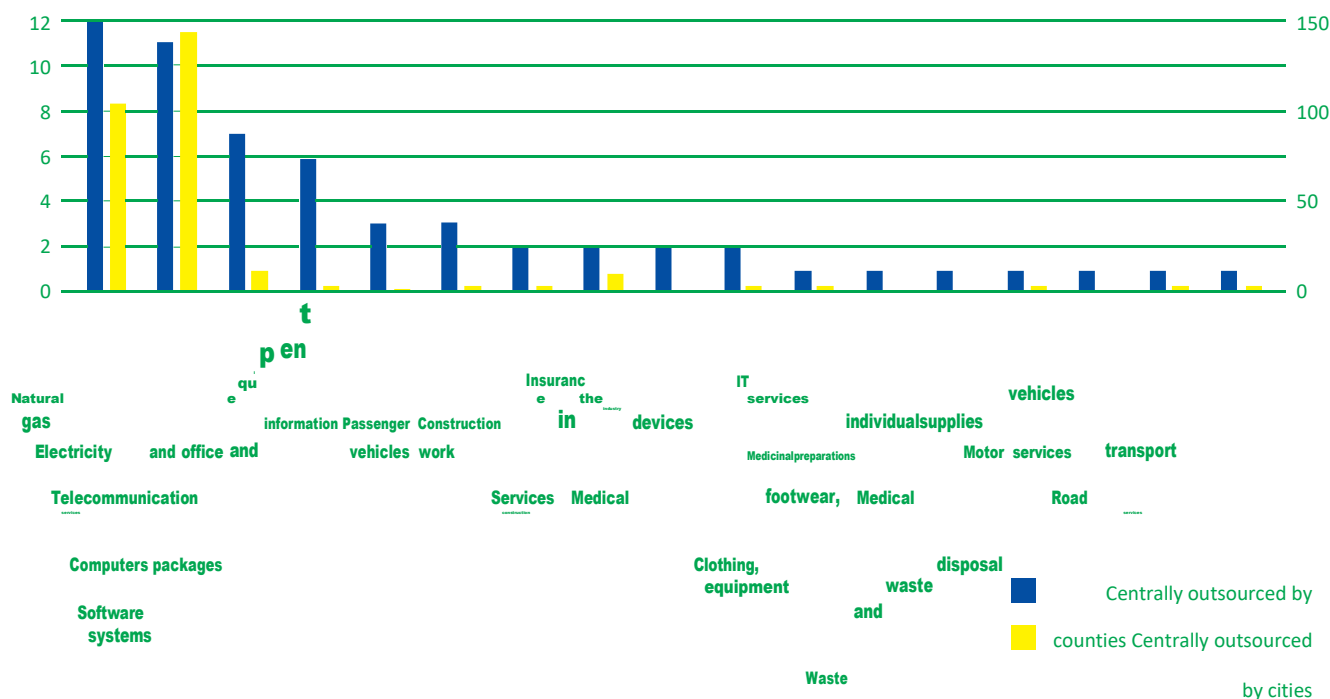


Figure 2: Number of procuring entities that centrally purchased selected commodities in the period 2019-9/2023 (source: Datlab s.r.o.)

Centralised procurement at national level and joint purchasing rules are defined by the relevant government resolutions^{54,55}. One of the obligations of the Joint Procurement Rules is the preparation of the Joint Procurement Evaluation Report by the MoF. According to the MoF report for 2021 and 2022, the main benefit of joint purchasing for all state and public administration entities is cost-effective spending, with savings ranging from 5-35% depending on specific commodities and services. These savings are achieved through economies of scale and by optimising the use of limited administrative capacity. Local authorities can also be involved in central public procurement by the MoF and Mol.

According to the Annual Report on ^{VZ56}, the most important central purchases in the Czech Republic are made by the state administration (CZK 23 billion), however, especially in recent years, the share of cities and their contributory organisations (CZK 4.5 billion), as well as regions and their contributory organisations (CZK 3.4 billion) has been growing. The two most important long-term groups of central public procurement items are energy (CZK 16.5 billion) and IT and telecommunications (CZK 11.6 billion) (2022). Together, these areas account for almost 80% of all centrally procured contracts in 2022.

⁵⁴ RESOLUTION OF THE GOVERNMENT OF THE CZECH REPUBLIC of 14 December 2011 No. 930, on the Minimum Mandatory List of Commodities to be Mandatorily Purchased Using the Institute of Central Procurement within the Departmental Systems of Centralised Public Procurement in accordance with the Minimum Requirements for the Establishment and Operation of Departmental Systems of Centralised Public Procurement.

⁵⁵ Defined in the RESOLUTION OF THE GOVERNMENT OF THE CZECH REPUBLIC of 8 July 2019 No. 487, on the Report on the Evaluation of the

8. 5 Support for central purchasing and cooperation

Objectives and measures

Central State Purchasing

and departmental centralised procurement systems for 2018 and the rules of the Joint Purchasing

⁵⁶ Ministry of Regional Development (2023). Annual report on the electronicisation and status of public procurement in the Czech Republic for 2022.

Available from <https://portal-vz.cz/vyrocní-zpravy-a-souhrnné-údaje-o-verejnych-zakazkach/vyrocní-zpravy-o-stavu-verejnych-zakazek/>

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Compared to other EU countries, the share of central purchasing in the Czech Republic is higher for energy, software packages and information systems, personal vehicles, telecommunications services and insurance. Good results are also achieved in the purchase of furniture, computers and office equipment and motor vehicles (except passenger cars). However, for 13 other commodities the share of central purchasing in the Czech Republic is not even half of the EU countries.

Centrally purchased commodities in the Czech Republic and the EU - share of central purchases

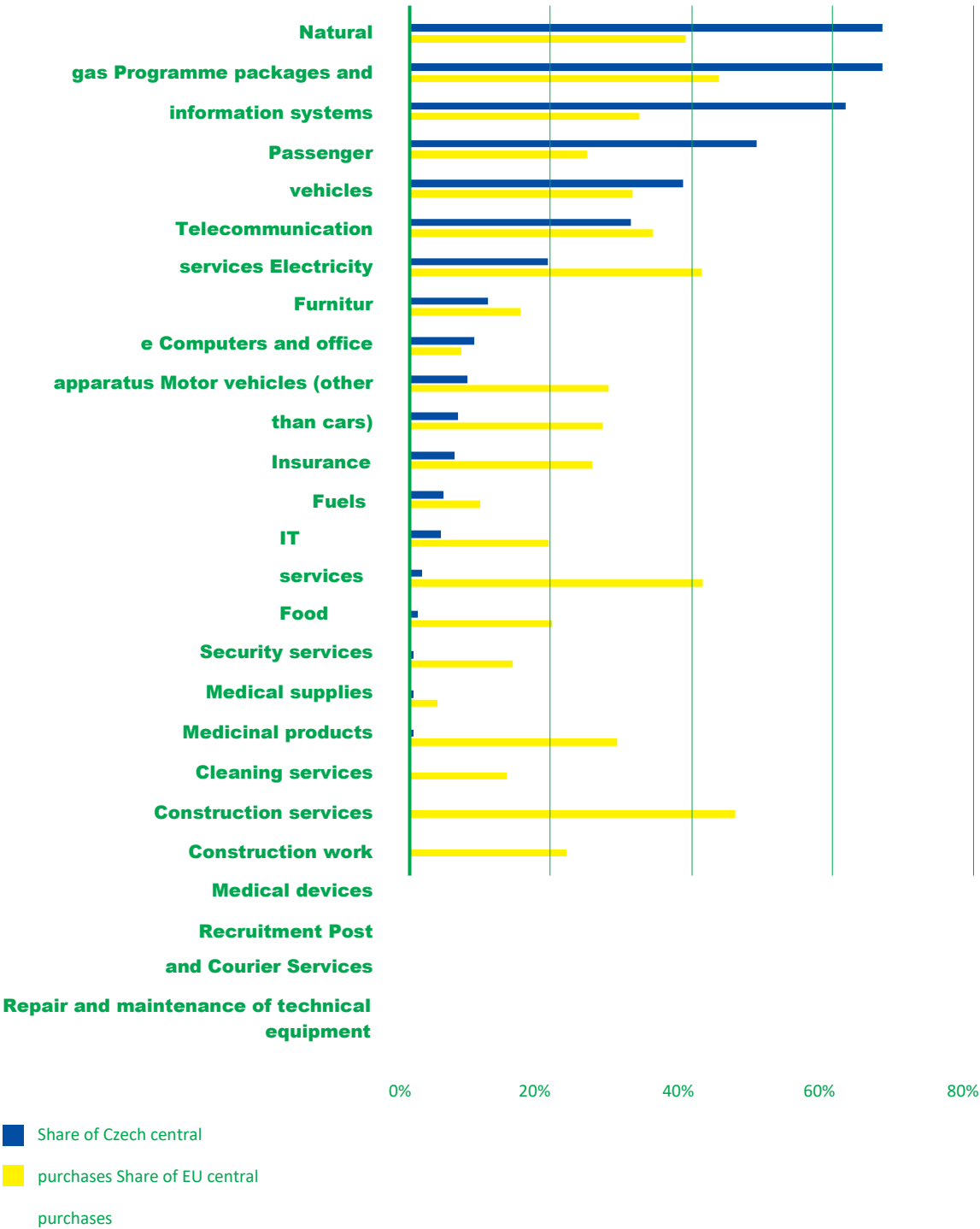


Figure 3: Comparison of the share of centrally purchased commodities in the Czech Republic

8. 5 Support for central purchasing and cooperation

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compared to the EU average (2019 - 09/2023). Selected items are compared according to the volume of above-limit public procurement (central vs. non-central). The approach therefore includes only larger contracts and may be inaccurate, especially with regard to possible non-exhaustion of framework contracts. (source: Datlab s.r.o.)

8. 5.2

Why the topic needs to be addressed

In August 2023, the MMR mapped the current situation and needs of municipal and city contracting authorities in a questionnaire survey *Defining the needs of smaller contracting authorities - optimising public procurement* among members of the SMO CR and SMS CR (91 municipalities and cities participated⁵⁷). Only 27% of the total number of participants had experience with central purchasing, especially with the purchase of energy, IT and mobile and data services. Among the barriers to greater involvement, contracting authorities cited a lack of awareness, a perception of the unsuitability of centralised procurement for smaller contracting authorities, concerns about standardisation and unification, and the exclusion of local SMEs. However, all these barriers could be overcome by the proposed optimisation at regional level, as demonstrated by the questionnaire survey input on the question of preferred set-up options. Contracting authorities expressed interest in a **regional centralisation model, the possibility to buy centrally from any central contracting authority (regardless of geographical affiliation) and would welcome the possibility to buy selected commodities through an online tool (e-shop) and/or an online platform publishing current calls for participation in central purchasing by all central contracting authorities.**

The view of the regions is described in the final report *The potential of centralised purchasing in the context of opportunities for a responsible/strategic approach to public procurement*⁵⁸. The representatives of cities and regions consider the lack of support/awareness of political leadership, administrative complexity, reluctance of some contracting authorities and suppliers to participate in centralised purchasing, lack of flexibility, flexibility and support between the delegating and delegated contracting authority as barriers. However, they agreed that they saw centralised purchasing at regional level as a good opportunity and defined steps to optimise centralised procurement:

-  strategic grasp of central purchasing;
-  professionalisation, especially on the part of central contracting authorities;
-  standardisation (in particular contract templates and procurement documents) and speeding up processes;
-  resolving funding and staff capacity issues;
-  setting standards of technical specifications for appropriate performance of centrally procured public contracts;
-  reduction of the administrative burden with regard to Article 9(4) of the PPA (described in more detail in section 3.1.3 of this report);
-  education and support for political representation.

The MoF also describes the benefits of the involvement of smaller contracting authorities according to the Evaluation Report on Joint Procurement in 2021-2022: *"The unequivocal success of Joint Procurement (hereinafter also referred to as "JPP") in the period under review is the significant expansion of the scope of the JPP among other public administration entities, including, for example, municipalities, cities and regions, which purchase through central contracting authorities, in particular the Ministry of the Interior and the Ministry of Finance. While in 2019 and 2020, the value of joint purchasing for other public administration entities reached a financial volume of approximately CZK 0.5 billion*

8. 5 Support for central purchasing and cooperation

Objectives and measures

excluding VAT, in 2021 and 2022 the value of such purchases is already CZK 1.86 billion excluding VAT."

⁵⁷ Of course, given the number of respondents who answered, the data should be interpreted with caution.

⁵⁸ The final report was prepared within the framework of the project Responsible Approach to Public Procurement - Strategic Public Procurement.

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Support for the centralisation of public procurement is also proclaimed by the Government of the Czech Republic, especially in its programme declaration in the areas of Digitisation and Regional and Local Development. The Digital Services priority aims to strengthen the professional and personnel capacity of central authorities to implement digital transformation of processes, better quality procurement and subsequent project management. Furthermore, under the Public Procurement priority, the government is committed to setting up a functional model for central commodity procurement to ensure a reduction in administrative burden for different levels of procuring entities, in particular on the basis of e-shop or other efficient forms of public procurement.

The strategy thus proposes to create a system combining centralisation in the administration of ministries and to optimise the offer of central purchases of regions with the potential of more targeted support to smaller contracting authorities, thus enabling them to purchase a wide range of commodities with all the advantages that centralisation brings to the contracting authorities (see the following chapters).

8.
5. 3

Setting objectives



Target
:

Creating optimal conditions for the development of central purchasing and cooperation, especially at the regional level, taking into account the great diversity of contracting authorities in the Czech Republic.

The priority aims to

- Creation and operation of a regional centre model for centralised procurement at regional level; setting up
- a simpler and more flexible way of purchasing;
- in connection with the subject areas of Professionalisation and Environmentally and Socially Responsible Public Procurement, to reduce the overall competences of central procurement buyers in the regions;
- setting up the missing data monitoring system for the involved contracting authorities (at least at the level of regions) on the actual use of framework agreements, on the time and personnel savings achieved, including the measurement of the impact of individual measures, etc;
- support for cooperation in public procurement, including links with sectoral bodies (e.g. regional architects).

5. 4 Overview and description of measures

8. 5 Support for central purchasing and cooperation

Objectives and measures



A key measure is the involvement of stakeholders with the following sub-objectives: to raise awareness of the benefits of centralisation across all contracting authorities through the implementation of and participation in conferences, roundtables, seminars, etc.

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Objectives and measures

In cooperation with representatives of contracting authorities from regions, towns and municipalities, SMO CR, SMS CR, AK CR, etc., motivate the involvement of smaller contracting authorities in central purchasing, especially at the regional level, through targeted communication and active participation in events (e.g. seminars, conferences, other events).

With representatives of the MoF, look for the potential of linking national and regional centralisation with the aim of greater involvement of municipal and city contracting authorities (cooperation, consultation, etc.).

Consult with experts from both domestic and foreign central procuring entities, including experts in monitoring and data, to set the direction of regional centralisation, description of benefits, monitoring, evaluation, etc.

With representatives of the pilot projects, define and implement the format of the regional centre, including the monitoring of the participating entities.

Create partnerships with representatives of other regions and analyse for all regions possible barriers for not taking advantage of the optimisation of regional centralisation.

Setting up and implementing the regional centre model



Defining the model, preparing appropriate tools, templates, standardized procedures, etc.

The regional centre will serve in **centralised procurement also for smaller contracting authorities from municipalities and towns, to make effective use of purchasing tools and to promote co-operation across the board**. The measure will be implemented by optimising the central purchasing system (setting up the centralised procurement process, defining functional tools, selecting appropriate commodities, setting up an e-shop, etc.) and standardising procedures. It is foreseen to introduce systematic methodological and consultative support, sharing of good practice examples, awareness-raising supporting centralisation at the level of municipalities and state administration. By 2025, the regional centre model will be implemented in the regions of Pilsen, Liberec. We foresee the involvement of the South Moravian Region and others.

Analysis of the possibility of creating an online tool (e-shop, marketplace)



Analysing the possibility of using online tools, selecting a suitable solution and supporting the creation of conditions for implementation.

There will be a review of the possibilities of using online platforms to set up a simpler and more flexible way of shopping. The first is a supply-driven marketplace,

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as an opportunity for suppliers to integrate their e-shop into an open interface to offer

8. 5 Support for central purchasing and cooperation

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their goods. The aim is to use the technical knowledge of suppliers in the specification of individual commodities. For the contracting authority, this means either a direct purchase with a justification of the purchase, where the system archives alternative purchase options, or in the context of a closed call to suppliers, where the contracting authority sends a direct request and the suppliers offer a tailored price, delivery date, etc. This system has been operated in Italy for almost 20 years (MEPA marketplace under Consip, Home - acquistinretepa) to support direct purchasing, the involvement of SMEs and to complement large central contracts. The second option is a central e-shop. This is an interface that integrates the results of the centralised procurement of the different central procurers with the aim of aggregating demand and using the know-how of the central procurers. The assumption is that there will not be one central contracting authority for the Czech Republic, but a single e-shop, which will create a portfolio of central framework contract offers or central DNS of central contracting authorities with the possibility to participate. The commissioning contracting authority will thus be able to choose according to its needs regardless of geographical or other jurisdiction. The e-shop should include role management for the individual contracting authorities, including the possibility of process workflow and calculation of commissions from the price of the contract for the contracting authorities.

Monitoring and evaluation settings



Setting up a system of data collection and evaluation and its centralised procurement at regional level, including the impact of measures of other priorities of the strategy, especially professionalisation and environmentally and socially responsible procurement.

8. 6 Support for strategically important investments and procurers

Objectives and measures

8. 6 Support for strategically important investments and procurers



8. 6.1 Description of the current state

A specific group of public contracts that require a special approach are those whose performance is unique within the Czech Republic or that require special attention for another reason. Such a reason may be the scale and complexity of the project to which the public contract relates, the financial value of the investment and its significant impact on the market or the increased risk of loss of financing, the type or scheme of award (e.g. PPP), the nature and complexity of the financing (e.g. the nature of the procurement, the cross-border nature of the procurement or other international political elements, the particular interest in securing the procurement on time or at the required increased quality because of its importance for further downstream performance or for securing an investment in the public interest. These contracts are defined in this Strategy as strategically important public investments (hereinafter also referred to as 'SIPs').

Typically, these are SRIs in the areas of defence and security, energy and transport infrastructure, investments discussed by the Government's Strategic Investment Committee, or projects of significant value for the Czech Republic or a particular region.

While standard deliverables can be supported by standard support tools and project management, as well as generally available templates or methodologies, for SIBs this general assistance offer is usually insufficient. In practice, the sponsors of these projects face sub-issues that are linked to the

8. 6 Support for strategically important investments and procurers

Objectives and measures

unique position of the sponsor or otherwise go beyond the commonly available knowledge or experience from other previous cases (e.g. specific special risks), especially if they have not been

8. 6 Support for strategically important investments and procurers

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in the Czech Republic are not addressed in decision-making or deposit practice. These gaps in competences, experience or resources must be continuously identified and effectively eliminated during the preparation and implementation of the contract so that they do not affect the time, money and activities as the classic key three elements of each project.

8. 6.2

Why the topic needs to be addressed

SGIs financed from public funds are usually associated with public interest and their timely and proper, quality implementation determines the success of these and other follow-up projects or investments (macroeconomic impact) and ultimately the provision of quality public services. These projects also carry with them a significant potential to act as a major motivator for the development of the market for solutions, especially innovation, which is otherwise difficult to motivate the market to do. It is essential that this potential is exploited and that these opportunities are not wasted. Examples include, among other things, more consistent and effective setting of large construction projects in accordance with the Circular Czech Republic 2040 document and, where relevant, with the requirements for environmentally sustainable investments according to the EU Taxonomy, promoting interest in technical fields and increasing the prestige and importance of working in them, involving communities in projects involving housing construction and management, etc.

There is a risk of lost opportunities in particular where time pressure or excessive alibismus would lead to a cautious approach and a preference for simplicity of procedure (e.g. 'value for money' evaluation) over a more complex solution leading to better value for money, even though the contracting authority would be convinced of the suitability of the more complex approach and would be willing and able to devote the necessary effort to its setting up with appropriate support.

The "*do nothing, do no harm*" principle must be avoided.

8.

6. 3

Setting objectives



Target: To improve the legal certainty of contracting authorities in the application of incentive elements in the award of strategically important contracts and to promote the use of the potential of these contracts to address societal challenges, especially in relation to environmental and social aspects.

The strategy aims to offer contracting authorities of strategically important investments such measures that will provide them with specific, targeted and targeted support corresponding to the

8. 6 Support for strategically important investments and procurersObjectives and measures

needs and potential of these projects, to act as a motivator for suppliers to develop innovative solutions, to offer performance with particular benefits.

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their environmental or social effect, and at the same time to support the contracting authority in the good preparation of the project with regard to the greater public interest in their successful effective implementation, across all phases of the project cycle until the completion of the contract. These may be sub-issues in the choice of the most appropriate procurement method for a given performance in a specific context, both in the procurement phase and during the procurement process itself, or in the subsequent implementation of the public investment.

In particular, support should be provided in the form of structured regular or ad hoc expert consultations with the aim of increasing the legal and factual certainty of contracting authorities that, at key stages of the project cycle or in contentious, complex or risky situations, they are choosing solutions and taking measures that can be considered the best possible under the circumstances, not only from their own point of view but also from the point of view of the representative of the Law Enforcement Agent as consulting expert, including consideration of financial aspects. This approach will also include strengthening transparency in case of controls and supervision.

It will be in the interest of the Act's gestor to provide support for procedures that have not yet been applied in the Czech Republic, provided that they are necessary from the contracting authority's point of view to ensure quality or innovation and that the contracting authority devotes appropriate efforts to them during their preparation and implementation. An important follow-up activity will be the sharing of experiences, both positive (best practice) and negative (lessons learned), in order to promote cooperation and exchange of experience between contracting authorities in major investments and the development of advanced solutions.

Due to the specificity, uniqueness, longer process of strategic procurement and relatively small number of such projects, the following is set rather than a measurable target.

- At the end of the monitoring period (after 5 years), a qualitative analysis and evaluation of the complexity of the procurement conditions in the context of the possibilities of the ZZVZ will be carried out,
 - primarily assessing the impact on (i) the evaluation criteria, (ii) the conditions supporting social and environmental aspects.
- At the end of the monitoring period (after 5 years), a quantitative and qualitative analysis will be carried out in the context of the MMR's advisory activities.

In both cases, an improvement over the current situation should be achieved.

6. 4 Overview and description of measures

**Round table - introductory and follow-up
(validation) meetings**

8. 6 Support for strategically important investments and procurers

Objectives and measures



Meetings of the most important contracting authorities, i.e. potential contracting authorities of strategically important contracts, with representatives of the MMR and possibly other invited key stakeholders.

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Introducing and explaining the concept of support in this chapter of the Strategy, discussing the possibility of extended cooperation in addition to the activities under the umbrella of the Platform. (The Platform is otherwise a form of long-term and regular cooperation for improvement in the area of standardizable performance.)

In the following years, the MMR will ensure regular annual contact (in the form of a meeting or questionnaire) with procuring entities of strategic importance, including potential candidates for inclusion in this group, in order to map key issues among them, to discuss proposed solutions and to activate other projects for inclusion in the JMA Advisory Group.

Methodology of the procedure for the support of strategically important investments and contracting authorities (SVIZ Methodology) and its updates



The MMR will develop a brief methodology for the selection of projects of strategic investment and for the pilot implementation of support. The methodology will set out the prerequisites for the inclusion of a project in the MMR support plan and the rules of engagement, how to determine the expected extent of expert involvement (number of hours in different phases), including an initial project checklist and a timetable. The support will presuppose an active approach of the contracting authority, the professional competence of its representatives, especially in terms of the HPA and the substantive aspects of the implementation, good open communication, interest in using the potential of the JMAA, including the support of the organisation's management, and the readiness for transparency of the procedure. The MMR expert should have the possibility to be involved as a member of the contracting authority's closer team (working group or relevant committees).

The methodology will be issued as a basis for the initial phase of support to procurers of strategically important investments, with the expectation that the evaluation process and methodology will be adapted as necessary for the next period after the end of 2025.

Monitor compliance with government resolutions (e.g. the Policy of Architecture and Building Culture of the Czech Republic)

Support for the JMA



Projects accepted for support by the MMR will be accompanied by a designated expert as a representative of the MMR, according to the specific circumstances of the project and the agreement with the sponsor, in an agreed schedule and form of cooperation. Another form of support may be the mediation of foreign know-how using MMR contacts and communication, as well as the

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involvement of foreign experts through the MMR.

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In the initial phase (2024), it is expected to provide support for 2-3 pilot projects resulting from the proposals of the sponsors in the Round Table (see above) according to the assumptions and rules set out in the JRC Methodology. Depending on the needs and expert capacities of the MMR, the intention will be to accompany 3-6 projects in each year and at the same time to bring 2-3 of these projects to the stage of completion of the tendering procedure (award of contract).

After the end of the project support, the presentation of the project and the sharing of experiences should be done in cooperation with each other, especially within the Platform and with the public.

8.

7

Legal certainty in public procurement

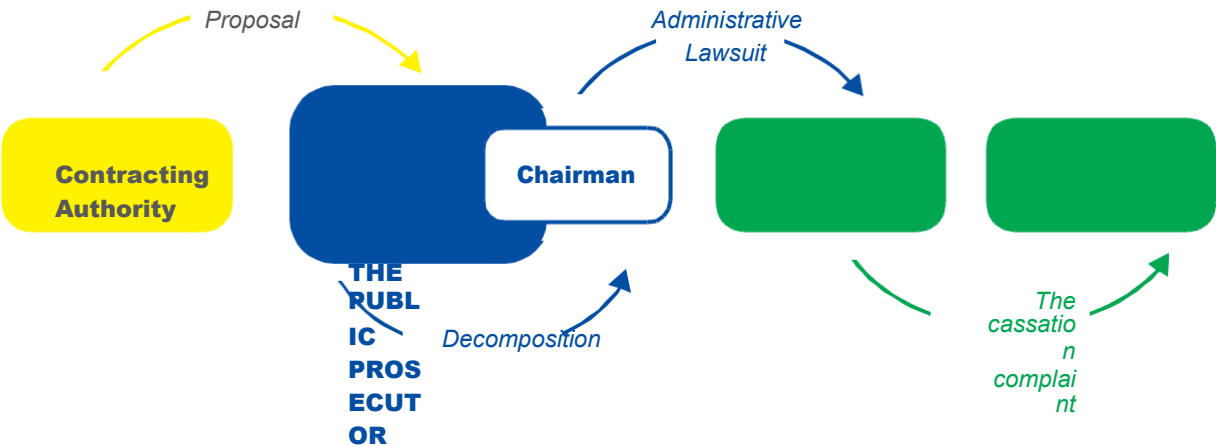


8. 7.1

Description of the current state

In the Czech Republic, control and supervision over public procurement is exercised by a considerable number of bodies and entities within the state administration and the judiciary.

First of all, it is the Office of Public Procurement, which supervises compliance with the Public Procurement Act. The Office of the Procurement Authority decides in two instances and its decisions are reviewable in the administrative justice system, in which up to two instances of judicial review are also possible.



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Objectives and measures

Figure 4: Outline of the instance procedure for the review of public procurement (source: own elaboration).

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In total, a public contract can be reviewed by up to four instances, which often leads to years of protracted litigation⁵⁹. This naturally implies the need for the professional public to be able to follow the current decision-making practice of all four instances. The conclusions of the different instances logically differ from each other and it is only a question of what percentage. The annual reports of the Office for the years 2018-2022 show that, on average, the President of the Office for the Protection of Competition annuls a decision and returns it to the first instance or reverses the first instance decision in 16% of cases. On average, the OHIM is unsuccessful in both instances, with about one in three judgments.

These percentages are certainly not indicative of "good-bad" or "good-poor" decision-making by the Office or administrative courts, but they do illustrate the likelihood that contracting authorities and suppliers can expect a change in legal opinion if the proceedings proceed to the next instance. However, this leaves the professional community grappling with constantly evolving decisional practice and case law, which increases legal uncertainty among contracting authorities and suppliers as to what course of action is currently applicable. The logical consequence of this situation is uncertainty for contracting authorities, who thus primarily choose a procurement procedure which does not necessarily lead to the ideal fulfilment of the value for money principle, but which has the highest chance of not being challenged. On the other hand, suppliers who are legitimately convinced that the contracting authority has acted in breach of the law must decide within a relatively short period of time (usually 10 days from the receipt of the rejection of the contracting authority's objections) whether they wish to challenge the contracting authority's procedure by filing a petition with the Office for Harmonisation in the Internal Market. Such a decision is all the more complicated as the filing of a petition requires a deposit, which, depending on the size of the public contract, may be up to CZK 10 million. CZK 60. In the event of failure before the Office of Public Procurement, this deposit is forfeited to the state budget. Thus, the contractor must make the decision to file a remedy not only knowing that it will be a financially risky dispute, but also knowing that it may take years before a final decision is made in its case. In the event that a public procurement contract is already signed with another contractor during the proceedings, the contractor may not even benefit from the success of the case (conclusion of the public procurement contract) and, in view of the current decision-making practice of the civil courts, may not even be entitled to damages.

All of the above may negatively affect the willingness of suppliers to bid for public contracts and, consequently, to undergo public procurement disputes. However, this willingness of suppliers to challenge the contentious behaviour of contracting authorities is crucial for the fairness of the public procurement market, as it is the only way to improve the quality of the public procurement market and the persuasiveness of contracting authorities' arguments.

The OCA itself is internally set up somewhat non-standard in European comparison, in terms of its monocratic leadership and the breadth of competences it exercises outside the review of public

procurement⁶¹. Similarly, the number of instances that can investigate a public contract is also something

to ponder⁶².

Public procurement co-financed by European funds (hereinafter referred to as "subsidised") constitutes a significant set of public contracts. Roughly a quarter of the volume of public contracts registered in the Public Procurement Bulletin

⁵⁹ This model of administrative decision-making and judicial review can be described as standard in the Czech context. However, it is worth adding,

that it is not the only conceivable and predictable model of proceedings under the Administrative Procedure Code. It is therefore

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legitimate to ask whether the "standard model" of administrative proceedings is the most optimal one for the supervision of compliance with the Public Procurement Act.

⁶⁰ For the sake of completeness, it should be added that an identical bond with forfeiture effects is then required even if the contractor is unsuccessful in both

instances of the Office for the Protection of Competition and, together with the administrative action, proposes that the Administrative Court issue an interim measure in the matter.

⁶¹ Cf. the comparison of the functioning of public procurement supervision in EU Member States prepared by the MMR in 2020.

⁶² Cf. e.g. the arrangements at federal level in the Federal Republic of Germany or in Croatia, where the first instance is decided by the administrative authority, and in the second an administrative court.

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The contracts⁶³ were subsidised from European funds and were therefore subject not only to the ZZVZ, but also to the regulations and methods of the European funds.

Share of subsidies and non-subsidised PAs according to the PA Bulletin 2014-

2022

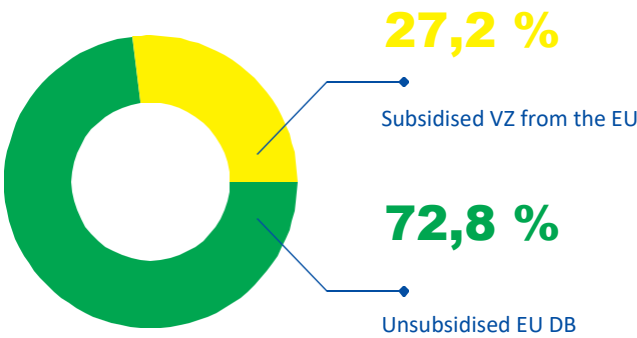


Figure 5: Share of subsidised and unsubsidised procurement (source: own analysis of the Journal of Public Procurement)

Subsidised public procurement is controlled by the providers of European subsidies, which are usually the managing authorities represented in the 2021-2027 programming period by seven ministries or their so-called intermediate bodies, which are currently five, with two intermediate bodies cooperating with two operational programmes.

Institutions implementing cohesion policy in the Czech Republic

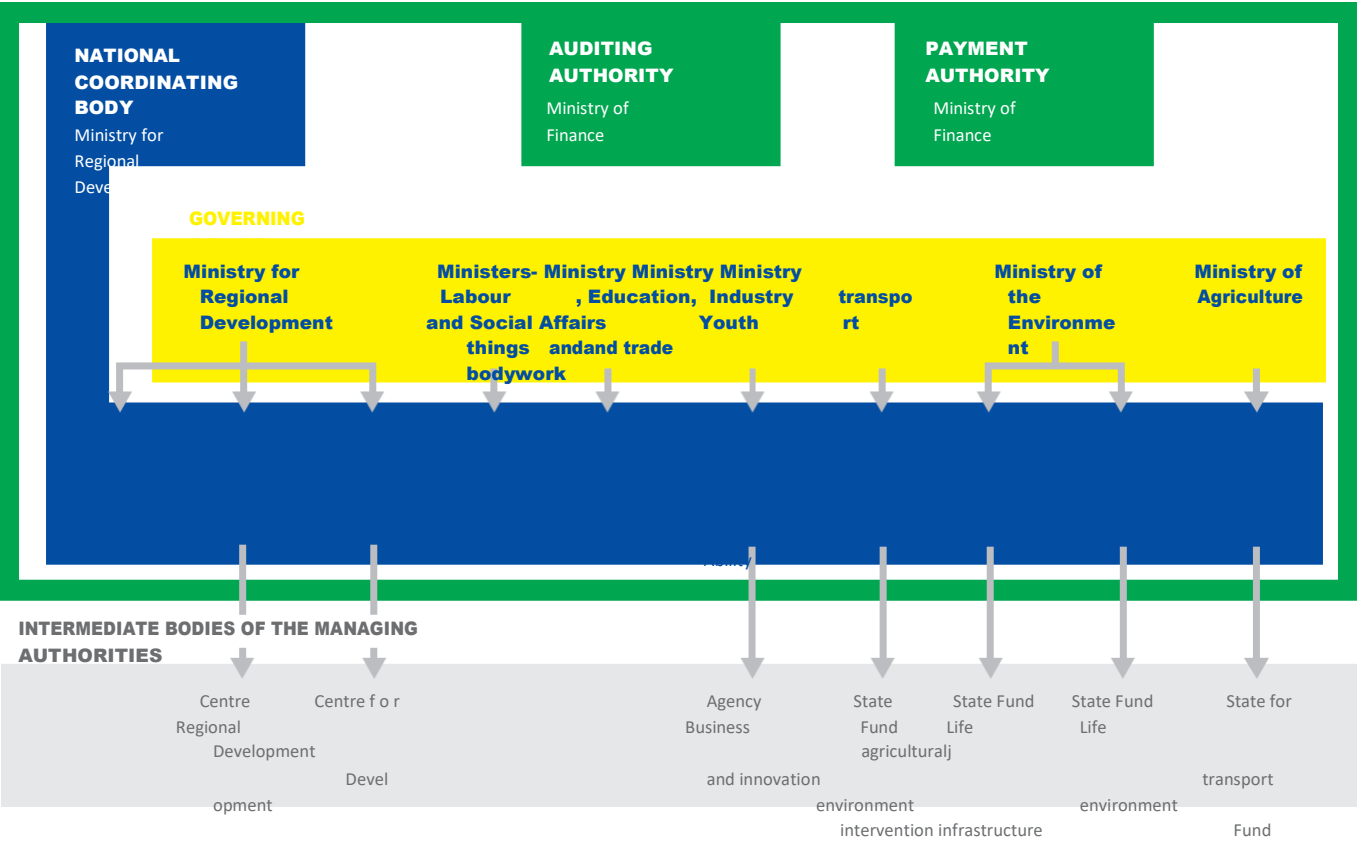


Figure 6: Institutions implementing cohesion policy in the Czech Republic (source: MMR (2022)⁶⁴)

⁶³ The Journal of Public Procurement records public procurements awarded under the ZZVZ, i.e. generally not small-scale contracts. The chart below therefore refers only to the so called "public procurement under the Act". Thus, the chart does not

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include subsidised small-scale contracts, which are also covered by the rules governing the procedures for awarding public procurement contracts laid down in the methodological rules of individual operational programmes.

⁶⁴ MMR (2022). ABECEDA FONDŮ EU 2021-2027, 1st edition, Prague 2022

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The number of controls carried out by managing and intermediate bodies implies enormous administrative and capacity requirements on the part of both contracting authorities and contractors. Although the control bodies for subsidised contracts should only carry out checks on a sample of projects⁶⁵, it is no exception that the sample was 100 % of the programme's subsidised contracts.

OP 2014-2020	Number of projects	Number of control	Average number of checks per project	Number of finding
OP Enterprise and Innovation (MIT)	13 577	92 667	6,83	422
IROP (MMR)	12 717	129 545	10,19	766
OP Transport (MD)	317	2 635	8,31	282
OP Environment (MoE)	9 694	10 372	1,07	267
OP Employment (MoLSA)	9 447	15 990	1,69	1 264
OP Technical Assistance (MMR)	261	5 326	20,41	70

Table 2: Analysis of audit activity for selected OP 2014-2020 (source: Datlab s.r.o.)

The basis for this table was data from the MS 2014+ system. Partial differences in control volumes may also indicate different practices and methodologies for recording controls by individual managing authorities.

Although the above figures for the number of controls on individual projects do not refer only to public procurement, they illustrate the amount of control that is associated with projects.

Public contracts through which a breach of budgetary discipline may have occurred under Act No.218/2000 Coll., on budgetary rules, are at some stage of the process subject to examination by the **financial administration** authorities, which may again decide in two instances. The administrative courts are again competent to hear actions against decisions of the financial

administration⁶⁶.

It is evident that the Czech Republic has a truly robust system of control and supervision over public procurement⁶⁷. This system can then lead to fragmented decision-making and expenditure practices.

⁶⁵ The obligation is based on the rules of the Single National Framework for the programming period 2021-2027.

⁶⁶ There are a total of eight administrative courts of first instance in the Czech Republic, if we do not count the branches of administrative courts. While the locally competent administrative court for administrative actions against decisions of the Office

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for Administrative Offences is always the regional court in Brno, where the Office for Administrative Offences is located, disputes against decisions of financial authorities are handled by the locally competent regional courts, i.e. potentially by all administrative courts in the Czech Republic.

⁶⁷ On the other hand, it should be mentioned that the control system for public contracts subsidised by the EU is also set up with regard to the conditions of audit of shared management under the relevant EU regulations.

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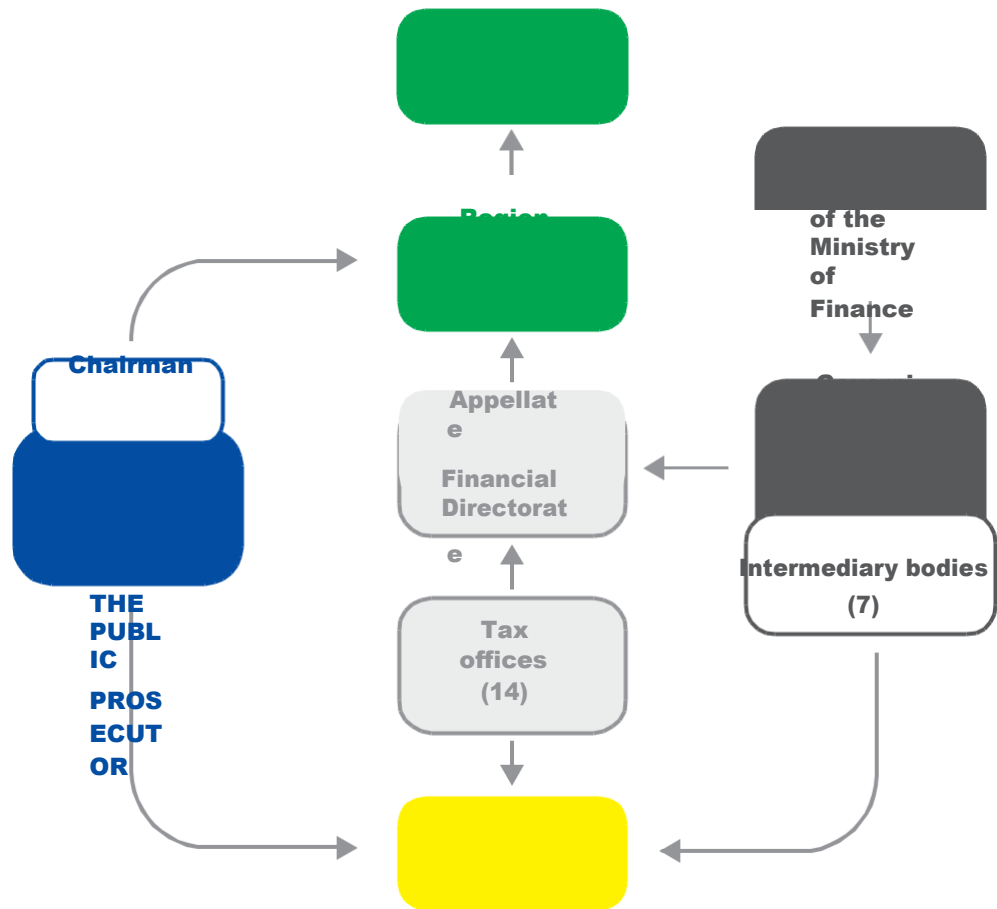


Figure 7: The system of control and supervision over public procurement in the Czech Republic (source: own elaboration)

The set-up of the system of control and supervision over public procurement may be the reason that the individual entities described above may not respect each other's obligations under identical provisions of the law. The reason is not only that different bodies may naturally have different legal opinions, but also that the individual bodies assess the contracting authority's actions from the perspective of different regulations, where, for example, the Office of Public Procurement examines whether the contracting authority has committed an offence under the ZZVZ, the Audit Authority examines whether there has been an irregularity, and the Financial Administration examines whether budgetary discipline has been breached. As a result, however, they assess identical acts of the contracting authority. This may also be the reason why contracting authorities primarily use procedures that are most likely to be accepted by all control and supervisory authorities (see e.g. the extension of the evaluation to the lowest tender price). Data on cancelled procurement procedures can also be indicative of the different behaviour of contracting authorities when they award a subsidised public contract. While non-subsidised tenders are cancelled in 11% of cases, subsidised tenders are about half as likely to be cancelled in 17% of cases⁶⁸.

It is worth adding that the issue of excessive administrative burden has long been addressed at both national and European level. These efforts have already led to partial positive progress⁶⁹ and should be evaluated and built upon.

⁶⁸ This is the average of cancelled public contracts according to the Public Procurement Bulletin since the entry into force of the PPA, i.e. from October 2016 to October 2023.

⁶⁹ For example, a Planning Coordination Module has been created and is used by all institutions carrying out project controls on funding projects. From the European funds, decisions of the Office of the Public Prosecutor's Office and courts were shared within the monitoring

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system, as well as audit findings of the Audit Authority are shared with the managing authorities using the APAO IS.

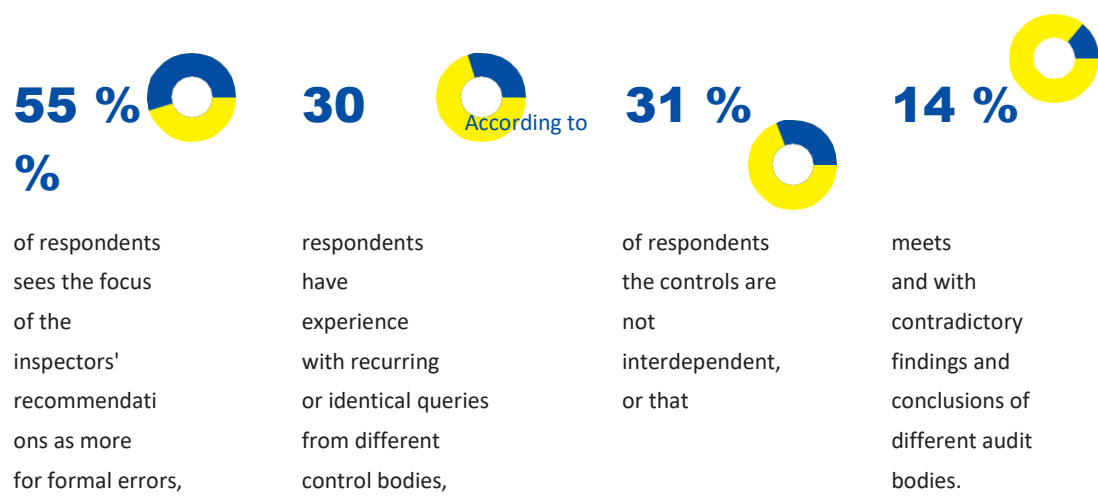
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Despite the robustness of the control and supervision mechanisms, according to the Eurobarometer ^{survey70} , the public procurement sector in the Czech Republic, or the procurement officials themselves, is rated by the public as the most susceptible to corruption among all other surveyed entities.

In this category, the Czech Republic stands out above the EU average. The control and supervision mechanisms in the Czech Republic are thus probably not meeting one of their objectives, namely to inspire public confidence in public procurement.

For example, a survey of grant recipients carried out as part of the Evaluation of the Methodological Environment from the perspective of the implementation structure of the EU Funds by ^{EY71} shows that



These data also show that there is rather a disillusionment among contracting authorities that the inspectors are often not so much concerned with the quality and appropriateness of purchases, but with their formal procedural correctness.

As for the issue of different interpretations across the controlling authorities in particular, this is underlined by the fact that the authorities do not even know about the mutual interpretation of identical provisions.

The individual managing authorities create their own case studies of their decision-making practice, the audit body's conclusions form a separate source of information, which is not available to contracting authorities, and the collection of decisions of the Office of Public Procurement is available on the Office's website, but without paid commercial services it is difficult to use for auditors, contracting authorities and bidders for public contracts. It is thus appropriate to ask whether the Czech Republic is ideally fulfilling its obligations under the Procurement Directive towards the predictability of ^{VZ73} law or whether steps towards better user-friendliness and sharing of decision-making practice would be appropriate in this respect.

The manuals for applicants and beneficiaries of subsidies issued by individual managing authorities still differ in the parts relating to the rules on public procurement subsidies, despite efforts to introduce a uniform methodological ^{framework74} , which can be illustrated, for example, by the fact that different managing authorities respond to identical

⁷⁰ See <https://europa.eu/eurobarometer/surveys/detail/2658>
⁷¹ Viz https://www.dotaceeu.cz/getmedia/0a1c9a07-c44c-46e5-92c3-075eaf48f1f7/Zaverecna_zprava_FINAL-25-4-2019.pdf.aspx?ext=.pdf
⁷² The database of final decisions of the Office of Competition and Consumer Protection is already publicly available at

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<https://www.uohs.cz/cs/verejne-zakazky/sbirky>.

-rozhodnuti.html. However, the search mask only allows limited search options. To search more efficiently, either commercial tools must be used, or more advanced browser search methods must be mastered, which requires users to have more advanced knowledge of the Internet.

⁷³ Cf. Article 83(4) of Directive 2014/24/EU of 26 February 2014 on the award of public contracts: "Member States

shall ensure that:

a) information and guidance on the interpretation and application of Union law in the field of public procurement is made freely available to assist contracting authorities and economic operators, in particular SMEs, in the correct application of these rules, and that

b) support is made available to contracting authorities for the planning and implementation of procurement procedures."

⁷⁴ In this case, it is the Methodological Guideline on Procurement for the 2021-2027 programming period.

legislative changes to the ZZVZ with different time intervals. This transfers an unnecessary administrative burden especially to those contracting authorities that are beneficiaries of subsidies from several operational programmes.

8.7.2

Why the topic needs to be addressed

The contracting authorities are concerned about unpredictable or inconsistent interpretation of control and supervisory authorities. This can easily lead from excessive caution in the choice of procurement procedure to a loss of the sense of public procurement, i.e. in the search for the most appropriate solution on the market.

The public contracts that cause the greatest fear among contracting authorities are subsidised public contracts. While in the case of unsubsidised contracts it is primarily the Office of the Public Procurement Authority that supervises the contracting authority's procedure, in the case of subsidised public procurement four other entities are added: the Intermediate Body, the Managing Authority, the Audit Authority and the Financial Administration. All of them may have different interpretations of the same contracting authority decision.

The controls that may occur before and during the procurement process not only prolong the entire procurement ^{procedure}⁷⁵ but also create a false sense of certainty for contracting authorities. One auditor's conclusion may not be the same as a later audit or ^{CAO} conclusion⁷⁶. To this should be added the fact that the rules for subsidised procurement are not yet fully uniform between subsidy ^{bodies}⁷⁷, which imposes excessive administrative requirements on the contracting authorities for subsidised procurement and implies an unnecessary amount of potential errors.

Procurement auditors may not have practical experience of procurement, so they may emphasise formal correctness in their audits without reflecting whether the substance of the procurement process has been followed. At the same time, the sanctions (corrections)⁷⁸ that the subsidy authorities can award to a subsidy recipient for an erroneous procedure in a public procurement can be many times higher than the sanctions awarded by the Office of Public Procurement. *In contrast to the sanctions applied by the Office of the Public Procurement Authority (ÚOHS) under the ZZVZ, the higher correction from the allocated subsidy for a public contract can reach up to 100% of the amount granted.*

Regardless of the funding of the contract, disputes between suppliers and contracting authorities can last for ^{years}⁷⁹. In fact, there are five instances for the review of a contract (objections + 2x CAOHS + 2x administrative courts). Particularly in design procedures, the consequences of long decision-making can be very negative, and the fear of contracting authorities of delays in the implementation of the public contract often increases the "blackmailing" potential of contractors challenging public contracts before the Office of the Procurement Authority.

It should be added that, in particular, controls on subsidised public procurement require a considerable amount of public administration capacity, which may be lacking in turn in the contracting authorities themselves in the more rigorous preparation of

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⁷⁵ In the case of OPZ+, these are checks before the start of the procurement and before signing the contract, in which the managing authority has 15+25 working days for the control of the MTR and 30+30 days for the control of the procurement according to the ZZVZ. Before the signature of the addendum it is the same 15 working days for both schemes. Cf. page 157 of the general part of the Rules for applicants and beneficiaries under OPZZ+, Issue No 5.

⁷⁶ By the nature of their statutory activities, the opinions of the Audit Authority of the Ministry of Finance and the Office of the Auditor General are independent of the opinion of the auditors governing bodies or intermediate bodies.

⁷⁷ Although there is a Methodological Guideline for Public Procurement approved by the MMR NOC, individual managing authorities have their own rules for grant beneficiaries, which, although all based on the same MMR NOC Methodological Guideline, differ from each other in particulars, both in t h e i r language and systematics, but also in the specific rules or their details.

⁷⁸ See European Commission Decision C/2019/3452 final issued on 14 May 2019 establishing and approving guidelines for the determination of financial repairs.

⁷⁹ Cf. statistics of Czech courts available at <https://www.justice.cz/web/mzp/statisticke-udaje-z-oblasti-justice>

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public procurement. The contracting authorities themselves request external administration and legal offices to be able to carry out the procurement procedure in accordance with the law and e.g. all "fund" regulations and to report all necessary documents for the purpose of audits. On the one hand, procurement know-how is thus not accumulated with the contracting authorities but with external contractors. On the other hand, considerable energy is spent on the administration and reporting of contracts already carried out (even going back many years), instead of concentrating on the rigorous preparation of future contracts.

In addition to the above, the question is whether too many public administration entities are involved in the system of control and supervision of public procurement. On the one hand, there are checks on the correctness of the procedure for awarding public contracts subsidised by European funds. All seven managing authorities and five intermediate bodies now check procedural correctness. In contrast, Slovakia has recently moved to unify the control of public procurement subsidised by EU funds by making the Public Procurement Office (similar to the public procurement section of the Czech Public Procurement Office) an independent intermediate body for this activity. Thus, it is possible to consider unifying the controls into an independent administrative office, possibly under the Ministry in charge of both the PPA and the methodological guidelines for public procurement subsidised by EU funds, namely the Ministry of the Interior.

Another example for considering the appropriateness of the current legislative setting of official procedures can be seen in the case that the control authorities reasonably believe that a beneficiary of a subsidy has violated one of the conditions of the subsidy. In the event that the grant has not yet been paid to the beneficiary at that moment, the managing authority will resolve the situation in the framework of the administrative procedure that the managing authority is conducting. However, if the subsidy has already been paid and the managing authority ^{unsuccessfully}⁸⁰ calls on the beneficiary of the subsidy to repay it (e.g. due to a breach of a provision of the Methodological Guide for public procurement under the operational programme), then this situation is no longer dealt with by the managing authority, but is referred to the relevant component of the financial administration (the territorial competent financial office), which should recover the paid ^{subsidy}⁸¹. However, the financial administration has to subject the whole matter to its own assessment of whether there has been a breach of budgetary discipline according to Act No 218/2000 Coll., on budgetary rules, which implies a new assessment of the case, on which a lot of capacity has already been exhausted on the part of the managing authority and the beneficiary of the subsidy (the contracting authority). This creates a new administrative round which, through appeals and administrative actions, can take years. In addition, according to the Budgetary Rules Act, a levy for breach of budgetary discipline and the corresponding penalty can be levied even for actions that have taken place in the last 10 years. In contrast, offences under the PPL, which are sanctioned by the Office of the Public Prosecutor, are time-barred within 5 years of their commission.

8.

7.3

Setting objectives



Target:

To ensure the maximum degree of legal certainty and predictability for both contracting authorities and suppliers of public procurement, to reduce the emphasis on formalism in procurement and to reduce the administrative cost of the entire control process, while maintaining the current

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protection of public funds against abuse.

⁸⁰ I.e. in the case that the managing authority, after a futile invitation of the beneficiary according to § 14f of Act No. 218/2000 Coll., on budgetary rules.

⁸¹ This process is governed by the Methodological Instruction No.4 of the Central Harmonisation Unit of the Ministry of Finance, which regulates the procedural procedure so that the transfer of the matter is, as far as possible, without administrative requirements for the beneficiary of the subsidy.

8.7 Legal certainty in public procurement

Objectives and measures

The above objective can be broken down into further partial objectives:

- preventing unnecessary litigation before public authorities and the courts;
- reducing the administrative burden on contracting authorities of subsidised public contracts when communicating with control bodies;
- making decisions by the Office of the Competition Authority as quickly as possible, especially in the case of live contracts, while maintaining the maximum degree of persuasiveness of the decision;
- the use of the experience of expert staff of contracting authorities in control activities related to subsidised public procurement;
- A free, internationally standardised and user-friendly approach to public procurement decision-making for both user and analytical purposes using AI tools;
- maximum compliance with the single audit principle for subsidised public contracts;
- explanations and clarifications of uniform control issues in public procurement subsidies from EU funds;
- carrying out controls on subsidised projects on a risk-based sample and, where appropriate, using data-based red flags;
- close cooperation between the Ministry of Regional Development, the Office of the Public Prosecutor and the Audit Authority in an effort to unify the practice of expenditure;
- regular feedback from subsidy recipients on audits of subsidised public contracts; rationalising the
- number of controls and inspection bodies; maximising the use of simplified reporting methods;
-
- revising the minimum amount below which it is not practical to deal with irregularities in subsidy projects;
- taking inspiration from foreign experience.

7.4 Overview and description of measures

Analysis of the possibilities of entrusting the power to control subsidised public procurement to a single control body



The MMR in cooperation with the MoF will prepare an analysis of the current state of the number of audits and controls of public contracts and the differences between audits of contracts subsidised from national or EU funds and audits of non-subsidised public contracts. The analysis will

8. 7 Legal certainty in public procurement

Objectives and measures

serve to evaluate the possibilities of further steps, to rationalise the procedure of the control bodies in the field of public procurement. The possibility of unifying the inspection bodies will also be discussed.

The analysis will also include the financial implications of the proposed measures and possible clarification of competence and procedural issues. The analysis will be prepared in cooperation with the relevant entities whose activities will be analysed. The implementation of the next steps will also consider their appropriate timing so as not to jeopardise the absorption of EU funds in the period 2021-2027 or 28+. The competence of the MoF Audit Authority will not be affected by the analysis.

Analysis of public procurement reviews



The MMR, in cooperation with the Office for the Protection of Competition, will prepare an analysis of the possibilities for speeding up administrative and judicial review of public procurement, with a focus on a possible reduction in the number of instances.

Jedinj metodickj pokyn for subsidized public procurement from EU funds published on the portal of the Ministry of the Interior



The MMR maintains the only official version of the Methodological Guideline for public procurement on the MMR portal, the Operational Programmes will only refer to the version of the Methodological Guideline and will not create their own sets of rules and exceptions for the purposes of individual Operational Programmes. In the event of a necessary derogation for the purposes of a specific operational programme, this derogation is first approved by the MMR and published on the MMR portal.

Establishing a contractual framework for the involvement of expert staff of contracting authorities



Expert staff of public procurers will be enabled to be involved in audits of subsidised public contracts, e.g. through the use of model performance agreements. The 'contracting authority' inspector will be involved in the preparation of checklists for subsidised public contracts, where appropriate.

Deposit and decision-making practice for subsidised ERs



The MMR portal will be supplemented and continuously updated with explanatory opinions and case studies facilitating the implementation of the

8.7 Legal certainty in public procurement**Objectives and measures**

provisions of the Methodological Guideline for Public Procurement. The MMR, in cooperation with the MoF, will also publish the interpretation of individual control questions based on the Methodological Guideline Control of financial resources from EU funds 2021-2027.

8. 7 Legal certainty in public procurement

Objectives and measures

Easily accessible decision-making practice of the Office of the Competition Authority



In cooperation with the DIA, the OCA will develop a suitable format for the OCA to publish its final decisions in order to make them as user-friendly as possible and to assist users (contracting authorities, suppliers and inspection authorities) in the correct application of the law. The final decisions will be available free of charge both on the website of the Office and in open data format.

Readily available results of the audit activities of the Audit Authority of the Ministry of Finance of the Czech Republic



The Audit Authority of the MoF in cooperation with the DIA will create a suitable format for the Audit Authority to publish its audit findings in order to make them as user-friendly as possible and to assist users (contracting authorities, suppliers and controlling authorities) in the correct application of the law and subsidy rules related to public procurement. The audit findings will be made available free of charge, to the extent appropriate, on the Audit Authority's website and in open data format.

Analysis of possibilities to extend the use of simplified reporting methods



The MMR will prepare an analysis of the existing experience with the use of simplified reporting methods (SRM) both in the Czech Republic and in the EU Member States, with the aim of extending the use of SRM and thus reducing administrative costs for the control of public procurement subsidies.

Round table on the possibilities of concentrating the competences of managing authorities in relation to procedures for breach of budgetary discipline concerning subsidy funds



The Ministry of Finance in cooperation with the MoF will organise a round table on the consequences of the project "Strengthening the management and control of public finances from 2022", which was implemented by the MoF. The roundtable with representatives of managing authorities and contracting authorities will focus on the possibilities of procedural simplification of proceedings for breach of budgetary discipline in connection with subsidised public

8. 7 Legal certainty in public procurement

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procurement, in particular on the increased specialisation of these proceedings by financial administration authorities.

8. 7 Legal certainty in public procurement

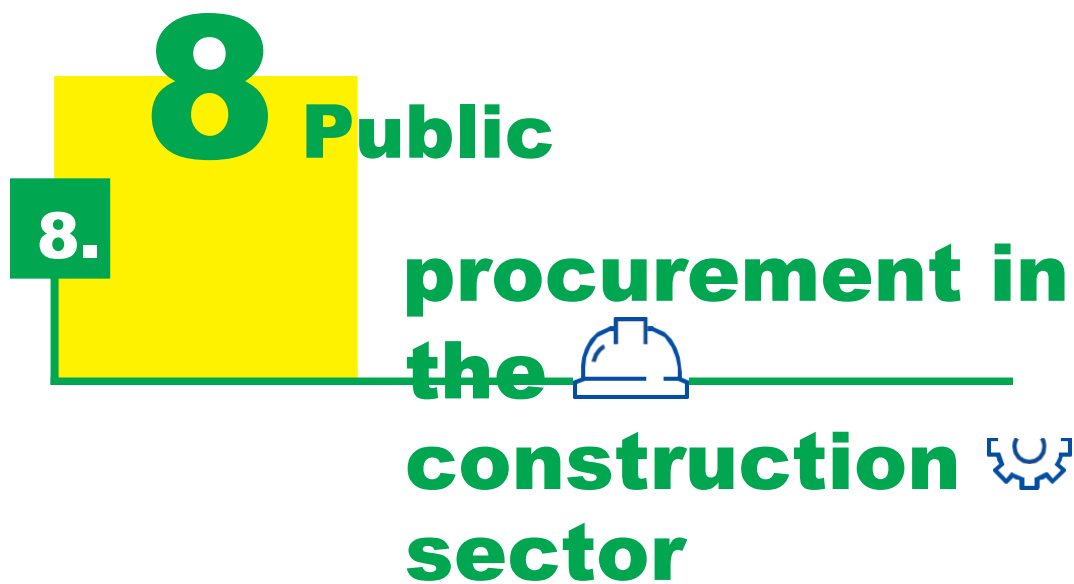
Objectives and measures

Regular sociological survey among contracting authorities and suppliers



The MMR will periodically (about every 2 years) conduct a sociological survey among public procurement contracting authorities focusing mainly on their perception of the main obstacles in their work and their experience with control and supervisory authorities; the survey among suppliers will focus on their experience with public procurement and on possible barriers to suppliers' entry into the public procurement market.

8 Public procurement in the construction sector



8. Description¹ of the existing situation

Public procurement in the construction sector is a cross-cutting theme for which virtually all the characteristics typical of any procurement apply to some extent, as described in the other sections of this strategy. At the same time, however, these contracts represent (in contrast to the multiplicity of different service and supply contracts) a relatively compact category with common characteristics, in particular a long life cycle of tens and hundreds of years, generally high upfront and lifetime costs, as well as specific challenges (complex technical standards, permitting processes, significant sustainability impacts, greater potential for climate vulnerability, significant carbon footprint, etc.). The volume of public works contracts is also very significant, exceeding 40% of the total financial volume of all public contracts in the Czech Republic⁸². Their impact on the national economy and sustainability is therefore crucial.

Public contracts in the construction sector are mainly represented by public contracts for construction works, however, a significant part of them are also public contracts for services, i.e. services of designers, engineers, technical supervision of the builder, etc. They also include public supply contracts for construction materials or technological units.

Public procurement in the construction industry shares common challenges with the entire construction sector, which is characterised as relatively conservative or lagging behind in relation to

8. 8 Public procurement in the construction sector

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the introduction of digitisation and other modern methods and which is therefore currently undergoing a major transformation referred to as Construction 4.⁸³.

⁸² For example, in 2022, the share of public works contracts was 45% of the volume of all public contracts under the ZZVZ regime, their financial volume amounted to CZK 174 billion.

⁸³ E.g. Vira, B. (2018). Construction 4.0. Construction Magazine No. 03/2018. Available from <https://www.casopisstavebnictvi.cz/clanky-construction-4.0.html>

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The digitalization of the construction industry is therefore also important for public procurement in the construction sector, which takes the form of digitalization of construction proceedings and the introduction of building information modelling (BIM). The digitalization of construction proceedings is introduced by the new Construction Act No. 283/2021 Coll. with effect from 1 July 2024, through the construction administration information system, in particular the so-called builder's portal, which will allow digital actions to be taken towards the construction authority and the authority concerned in electronic form. The BIM method has been gradually introduced in the private sector and on a voluntary basis in recent years. It is to be introduced as mandatory for selected contracting ^{authorities⁸⁴} by the Act on Building Information Management and Information Model of the Building and Built Environment, the subject matter plan of which was approved by the Government of the Czech Republic on 3 May 2023. The subject matter plan indicates 1 July 2024 as the expected date of entry into force of the Act, however, given the state of legislative work (due to the need to address the links to other related forthcoming legislation in the field of data management and digitisation, the section text has not yet been finalised), a later date can be expected.

Public procurement in the construction sector is regulated by the ZZVZ together with other types of public procurement, but there are certain specifics. The most important is Section 92 of the ZZVZ, which establishes a legal presumption for the proper determination of technical conditions for public works contracts. A more specific specification is then made by Decree No. 169/2016 Coll., on the determination of the scope of documentation for public works contracts and the inventory of works, supplies and services with the indication of the dimensions. The legislation allows for the award of a public works contract both on the basis of project documentation for the execution of the construction with a list of works, supplies and services with a dimensional order, and on the basis of requirements for the performance or function (so-called design&build). Public works contracts have specific (higher) financial limits. In the case of public service contracts for design and technical supervision, the contracting authority is not entitled to require economic qualification (turnover) pursuant to Article 78(6) of the Public Procurement Act. Pursuant to Article 103(3) of the ZZVZ, the contracting authority may, in the case of public works contracts, design activities or design contests, specify in the tender documentation a binding requirement to use specific electronic formats, including building information modelling (BIM) tools.

Public procurement in the construction sector is also influenced by the legal regulation of the Construction Act and its implementing regulations, especially in relation to the definition of the content of project documentation for the award of construction, the obligation of the construction manager, the technical supervision of the builder or the electronic maintenance of the construction diary. Furthermore, the area is covered by Act No 360/1992 Coll., on the practice of the profession of authorised architects and on the practice of the profession of authorised engineers and technicians active in construction (Authorisation Act), as amended, in particular in relation to the definition of the content of individual authorisation fields or the participation of foreign persons in procurement procedures.

Public procurement in the construction sector will be significantly affected by the recently adopted or currently drafted European Union regulations on ESG principles and ^{taxonomy⁸⁵}.

⁸⁴ Entities that manage the property of the Czech Republic - organisational units of the state and state contributory organisations, state enterprises and state organisations, higher territorial self-government units (regions) and their contributory organisations and other legal persons, if the above-mentioned obliged persons will have a predominant influence in them pursuant to Section 4(1)(e) of the ZZVZ.

⁸⁵ For example, Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 establishing a framework to facilitate sustainable investments and amending Regulation (EU) 2019/2088 (Taxonomy Regulation), Commission Delegated Regulation (EU) 2021/2139 of

8. 8 Public procurement in the construction sector

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of 4 June 2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council as regards the establishment of technical screening criteria for determining under which conditions an economic activity qualifies as significantly contributing to climate change mitigation or adaptation and whether that economic activity significantly undermines any of the other environmental objectives or Directive (EU) 2022/2464 of the European Parliament and of the Council of 14. 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU as regards corporate sustainability reporting (CSRD).

and taxonomies of aligned) projects is not made mandatory, compliance with these principles will have a major impact on the future ability to obtain funding for these projects or the willingness of contractors to participate in their implementation at all. It is also likely that compliance with (some of) the criteria of the taxonomy will be required in EU-funded projects.

Public procurement in the construction sector is also increasingly affected by *sustainability-related* sub-regulations in directly applicable EU sectoral legislation. For more details see Chapter 11.1.2.

In practice, the procurement of public works contracts on the basis of predetermined parameters on the basis of detailed specifications according to project documentation for the implementation of the construction with a list of works, supplies and services with an indication of the dimensions, which does not allow to reflect the know-how of suppliers or innovative ideas in these performances. The vast majority of public contracts are awarded on the basis of the lowest tender price criterion, possibly in combination with other numerical criteria such as time of performance. The use of qualitative evaluation criteria, including criteria related to measured sustainability (ESG) through the EU Taxonomy or life cycle costs (or TCO), is still rather marginal. The use of more innovative procedures, such as the design & build method, the BVA method, or at least the award of contracts through negotiated or competitive dialogue procedures or the use of design competitions, is not widespread. The use of Building Information Modelling (BIM) is also still low. However, accurate data in this respect is largely unavailable at present.

Despite various sub-initiatives, contracting authorities do not yet have generally accepted methodologies and templates for procurement documents for these innovative and sustainable practices to facilitate the preparation and implementation of procurement procedures, in particular as regards the tendering process, the setting of qualifications and evaluation criteria. The use of innovative practices is often perceived as risky. Contracting authorities may not feel reasonably confident that following the recommended procedures will not expose them to the risk of having their procurement procedure challenged in proceedings before the Office for Harmonisation in the Internal Market, of having their subsidies cut or even of facing criminal prosecution.

In recent years, the use of FIDIC Commercial Terms and Conditions can be observed to be widespread, especially by large contracting authorities (e.g. the Road and Motorway Directorate or the Railway Administration). However, these model contracts are not suitable for all cases, especially for smaller projects; their unintended modification in the form of extensive special conditions can also be a nuisance. In the practice of common contracting authorities, model works contracts of varying quality are used for the execution of construction contracts, and there is often interchange between contracting authorities without it being clear how appropriate the model contract is. The contracts are often unbalanced, transfer unmanageable risks to the contractor and, in the contracting authority's attempt to make its job easier, may in turn lead to more expensive projects, delays in implementation or discourage potential contractors from participating.

On the other hand, the increasing use of preliminary market consultations, the so-called measurement contracts, the expanding procurement of design work using the evaluation of the organisation, qualification and experience of the team members who will participate in the execution of the public contract or the use of architectural competitions (design competitions) can be perceived as positive.

The issue of construction and project prices can also be identified as a related problem. At present, the collection of information on construction prices is purely in the hands of private companies. Therefore, the state may not have a clear idea of how much a certain project and its implementation should cost. This fact then makes it difficult to identify purposefully overpriced projects or collusive

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practices in the award of construction contracts. It also makes it significantly more difficult for contracting authorities to identify exceptionally low bid prices, where contracting authorities are often forced to commission expert reports and cannot rely on reliable statistical data.

8. 2 Why the topic needs to be addressed

As already mentioned above, public works contracts have long accounted for more than 40% of the financial volume of all public contracts. Public infrastructure, which has a major impact on the quality of life of the population, is built, maintained and reconstructed through public works contracts. A characteristic feature of infrastructure is its long-term nature and the long preparation time. Therefore, unlike the most varied operational and short-term performances, the way we define the tender conditions for the design work and the actual construction work will have a major impact on the use and impact of the works for many decades. The importance of the early design phases, where a significant part of the decision is made on whether the procuring entity will actually get value for money, whether the construction will be sustainable and whether it will benefit the surrounding area, should be highlighted as crucial. At the same time, many of the buildings and spaces that are, and will be, in use are relatively old and will need to be renovated to meet the required standards of sustainability. At the same time, public procurement in the construction sector is of interest even to very small contracting authorities without the appropriate professional apparatus.

Both the rapid preparation and approval of construction projects and their correct and rapid procurement are essential for economic recovery. On the contrary, the current situation of often lengthy preparation and authorisation of construction and complementary procurement with sometimes lengthy reviews has, especially for strategic projects, quite significant negative impacts.

Construction contracts are also very important in terms of meeting sustainability objectives (e.g. buildings have a major impact on energy consumption and the construction sector on waste production). In view of their aforementioned long-term nature, new buildings need to be thought about in terms of needs over decades. However, as is clear, reducing energy consumption (increasing energy efficiency) and introducing a circular economy can bring substantial savings and have environmentally beneficial impacts (and in the context of current energy prices, significant social impacts) already in the short term.

The construction industry in the Czech Republic is also characterised by relative fragmentation in terms of competence⁸⁶. The construction industry as such (construction production) generally falls under the competence of the MIT, which is responsible for a number of related issues (e.g. metrology and state testing, but also the issue of small and medium-sized enterprises). The Ministry of Industry and Trade is responsible for public investment (public procurement), as well as spatial planning and building regulations. However, certain aspects of the construction sector are also dealt with by the Ministry of the Interior (in relation to transport construction), the Ministry of the Environment (e.g. in relation to the assessment of the impact of activities and their consequences on the environment, the state environmental policy in general or the EMAS programme) and the Ministry of Labour and Social Affairs (e.g. in relation to occupational safety). From this point of view, it also seems advisable for the strategy to deal with construction procurement as a whole, as the fragmentation of competences mentioned above may otherwise hinder the achievement of the desired objectives.

Finally, a comprehensive approach to construction procurement is also essential in terms of training relevant experts throughout the project cycle, including aspects of financing and the new emerging

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role of sustainable finance. The actual award of a public works contract is essentially a culmination of previous project preparation, which must take into account the use of innovative and smart practices, sustainability principles and computerisation from the outset; their later inclusion is very

⁸⁶See Act No. 2/1969 Coll., on the Establishment of Ministries and Other Central Bodies of State Administration, as amended.

difficult, if not impossible. It is therefore essential that public investment decision-makers and project managers, designers and architects, project preparers, other technical, economic and legal advisors, as well as contracting authorities, are aware of these procedures. In many cases, however, the different disciplines are now completely isolated. In future, this isolated approach must be overcome and all the areas concerned must be brought together. Cooperation with professional chambers (the Czech Chamber of Architects and the Czech Chamber of Authorised Technicians and Engineers in Construction), professional and interest associations and universities is essential in this respect.

The actual purpose of the assignment, however, lies only in the implementation phase and especially in the use of the building. Elements of project management need to be strengthened in the context of construction and specifically used in procurement procedures. These include, for example, issues of evaluating the proper performance of the public contract and the possible use of negative experiences to exclude contractors from the public contract (including the sharing of these experiences).

8.

8. 3

Setting objectives



Target: To achieve a state where public procurement in the construction industry is prepared, awarded and implemented in project management in a primarily efficient, sustainable, innovative, digital and measurable manner.

All modern best practices and international best practices should be used as much as possible in the preparation, implementation and execution of construction projects. In particular, projects should therefore be prepared and implemented:

- **on the basis of appropriate legal regulation** - in particular, suitably coherent regulation of the Construction Act, the Public Procurement Act, the Authorisation Act and other relevant legislation, while respecting relevant EU regulations (e.g. the Net Zero Industry Act);
- **in accordance with the principles of sustainability, including the principles of the circular economy, ESG and EU taxonomy⁸⁷**, from the very beginning of the preparation of the investment, from the spatial planning processes, through the creation of project documentation, in the construction procedure, to the preparation of the tender documentation and the contract for the implementation of the public contract;
- **in digital form** using **Building Information Modelling (BIM)** techniques; in appropriate cases using **design competitions**;
- **according to international best practice in public procurement**, in particular:
 - **Involving contractors in project preparation** (PTK, Early Contractor Involvement, etc.);
 - using **centralised procurement where** appropriate;

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⁸⁷ The integration of ESG principles into the preparation of public construction projects is currently the subject of a project entitled "Integration of Taxonomy and Non-financial Reporting into EIA, Construction, Public Investment and Public Procurement Processes in Czechia and Slovakia", for which an application for support from the Technical Support Instrument (TSI) has been submitted.

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Objectives and measures

- the choice of **appropriate procurement procedures** (e.g. negotiated procedure with publication or co-dialogue where appropriate, use of qualification systems) and **appropriate methods** (e.g. design&build);
- using appropriate/compulsory **templates for tender documentation**;
- using **appropriate contractual terms**;
- using appropriate **qualitative evaluation criteria**, including life cycle cost or TCO issues;
- using a uniform methodology for calculating the lifetime costs of construction contracts;
- using appropriate **certificates** and **labels**;
- respecting **fair conditions in the supply chain, the principle of environmentally and socially responsible procurement** and **innovation**, and ensuring **support for SMEs**;
- using appropriate **contract management** practices in the implementation phase.

The aim is also to ensure that the state has **sufficient data on the construction contracts implemented**, especially on the use of essential elements (sustainability, qualitative evaluation criteria) and can monitor the achievement of the required objectives.

Specifically, the state should also have sufficient data to be able to assess whether a project is **being implemented at an appropriate market price**, both at the stage of its preparation (determination of the expected value of the public contract, or implementation costs) or bidding (and the assessment of an exceptionally low bid price, etc.).

As already mentioned above, in the case of the construction sector, this is a cross-cutting section aimed at covering this important segment of public procurement. Many of the sub-objectives will therefore be addressed in other thematic areas of the concept. At the same time, a number of issues of the construction industry as such are related to construction procurement. Therefore, the implementation of some of the sub-objectives goes beyond the scope of this strategy (in particular digitisation and BIM or the issue of price monitoring). These objectives will be addressed separately, but ultimately need to be progressively integrated into the investment cycle of construction ^{projects⁸⁸}.

8. 4 Overview and description of measures

Analysis of existing practice and follow-up development and management of methodologies and templates



In the first phase (in 2024), an analysis of the current practice of contracting authorities in relation to the formulation of terms and conditions (good and bad practice) should be carried out for possible future consideration in the development of methodologies and templates.

8. 8 Public procurement in the construction sector

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⁸⁸ Some of these issues and the measures proposed below are synergistic with the objectives and measures set out in the Policy on Architecture and Building Culture of the Czech Republic, Update 2022, Theme 4 - Procurement and Subsidies, approved by Government Resolution No. 6 of 4 January 2023.

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Objectives and measures

This will be followed by the creation and management of specific methodologies and templates for procurement documents:

- public procurement of project activities;
- public contracts for the activities of technical supervision, design supervision, OSH coordinator, etc;
- public works contracts (of various types).

Given the comprehensive and cross-cutting nature of this thematic area, a number of sub-inputs will be developed either within other thematic areas (in particular Quality and Innovation and Environmentally and Socially Responsible Procurement) or outside this strategy (e.g. BIM). However, all these sub-inputs need to be included in public procurement in the construction sector.

Consideration should be given to the standardisation of the template of the tender documentation, e.g. in a modular form, i.e. the creation of a kind of analogy to the terms and conditions, which would not change, and all the specifics would be listed in the form of annexes, which would allow especially suppliers to navigate more easily in the tender conditions.

The development of the methodologies is planned for 2024, and in the following years they will be supplemented with newly developed inputs and elements.

Methodology for integrating sustainability principles (ESG and taxonomy) into public procurement in the construction sector



There has been and continues to be a number of recent legislation at EU level on ESG and the EU taxonomy as part of the broader issue of sustainable finance. These are regulations of thousands of pages of text. It is very difficult for contracting authorities who would like to or will be forced to integrate these principles into project preparation, as well as for e.g. grant providers, to grasp this issue. At the same time, it is clear that compliance with all the principles (which are not mandatory) can lead to substantial cost overruns in construction. The aim of the methodology should therefore be to provide practical guidance on how to prepare and implement an environmentally sustainable e.g. school, council flats, swimming pool etc. and which key aspects to consider when making this decision.

Training of contracting authorities, designers and contractors



Contracting authorities need to be trained in the use of new procedures and tools. In addition to traditional contracting authority training, interested designers need to be involved in the training process so that they are able to

8. 8 Public procurement in the construction sector

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prepare construction projects using the innovative methods described.

There is also a need to develop tools and tools (e-learning, methodologies) for construction contractors to use when they want to respond to an innovative procurement procedure (due to the assumption of less interest in advance training).

Support for pilot projects



Innovative procedures and methodologies and templates should be tested on suitable pilot projects, which would then serve as a model for other procuring entities.

During 2024, the first projects will be selected and memorandums of cooperation will be signed with their sponsors. Expansion to other projects may take place in the following years.

Analysis of existing contractual practice and working group on contractual terms and conditions



In the first phase (in 2025), an assessment of the current contractual practice of contracting authorities in the construction sector should be carried out as a starting point for the work of the working group. The analysis should compare a sample of contractual conditions used by different contracting authorities (large contracting authorities, sectoral contracting authorities and, conversely, small contracting authorities without a professional apparatus, especially municipalities) and identify both good and particularly bad practice.

The aim of the working group is to analyse the current contractual practice in public procurement in the construction sector with the aim of identifying appropriate measures, e.g. the creation of certain recommendations and model contract clauses (to promote good practice and to integrate new practices or, on the contrary, a list of undesirable provisions). The appropriateness of creating a Czech model contract for public works and construction services contracts (especially design activities) will be analysed.

The establishment of the working group is planned for the first half of 2025.

Methodology for contract management



Most of the measures described in the strategy focus on the preparation phase of public procurement or on its proper award.

It is therefore necessary to develop a methodology that will serve as a guide for contracting authorities (and for information also for contractors) to implement best practices in contract management. The aim is to ensure that contracts are also implemented and completed properly and on time, without delays, cost overruns, etc. A related objective is also to obtain feedback for the contracting

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authorities, including sharing any negative experiences to exclude ineligible suppliers from the procurement process.

8. 9 Data and digitisation

Objectives and measures

9 Data and digitization



8. 9.1

Why the topic needs to be addressed

This chapter deals with similar topics as the Strategy for the Electronic Procurement⁸⁹. A significant part of the relevant objectives are already described and defined by this strategy. Only possible extensions or specificisation of these objectives beyond the scope of this strategy are addressed here. The vision presented here is to a large extent common to it.

The currently available machine data do not comply with the requirements of Decree No. 168/2016 Coll. and therefore deteriorate the quality of management control, but also the overall transparency from the point of view of the public and suppliers. The availability of data on the contracting authority profiles is illustrated in the following graph.

⁸⁹Ministry of Regional Development (2021). Strategy for electronic procurement for the period 2022 to 2030. Available from

8. 9 Data and digitisation

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<http://portal-vz.cz/wp-content/uploads/2022/06/Strategie-elektronizace-VZ-pro-obdob%C3%AD-let-2022-2030.pdf> measures

Completeness of data on contracting authority profiles (ZZVZ regime)

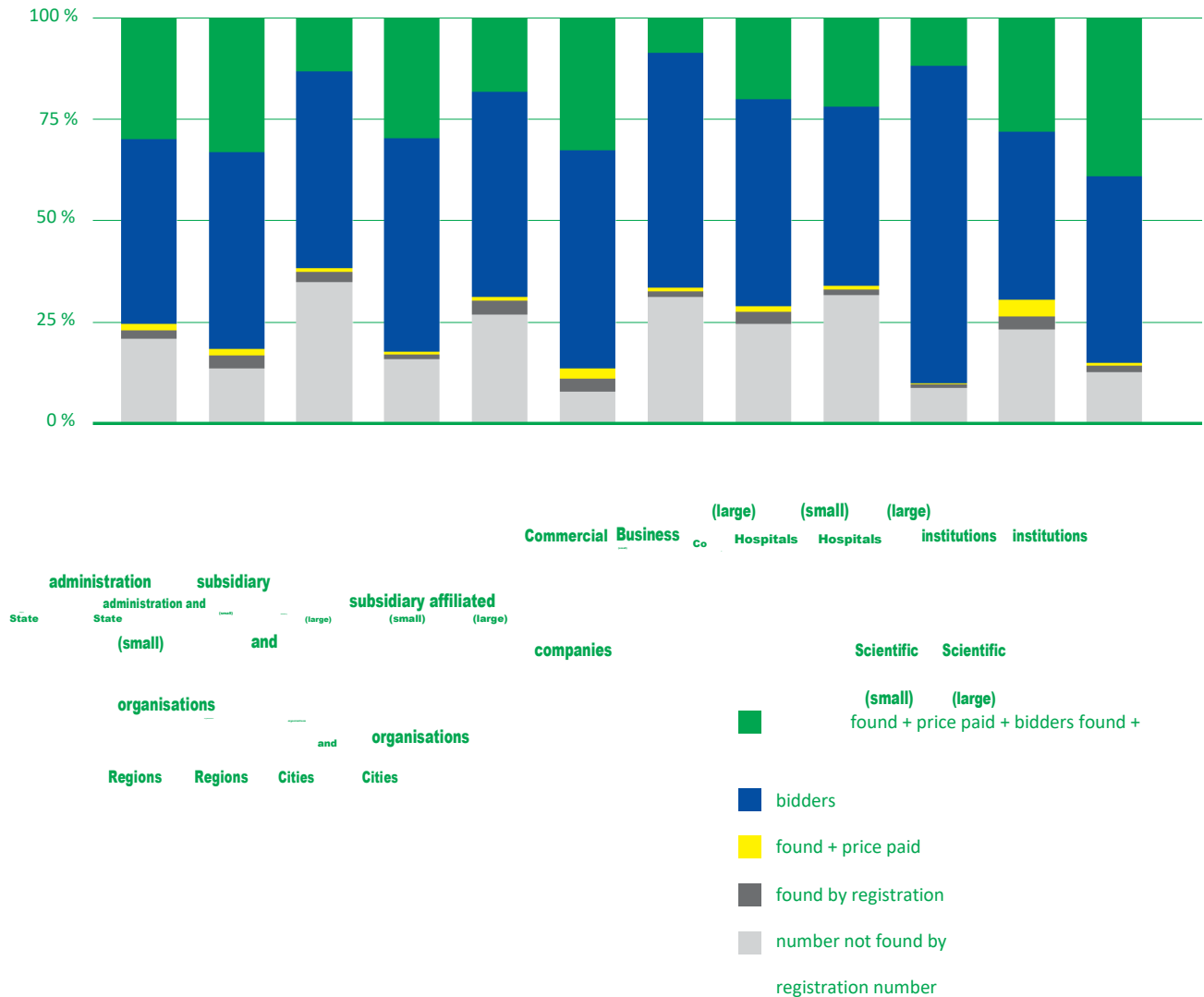


Figure 8: Comparison of the completeness of data published on the contracting authority profile for 2022 (source: Datlab s.r.o.)

The chart indicates the quality of data in terms of usability for monitoring competition, management control. It is not indicative of the degree of compliance with legal obligations. Contracts published in the GTC are the default. For each one, it has been established by its Bulletin registration number whether the contract with the same number is published on the contracting authority's profile. It was also examined whether the contract contains information on the price actually paid or information on unsuccessful

the "tenderers" for the public contract (if any in the context of the information on the number of tenders from the PGI).

However, another shortcoming in terms of mapping procurement practice may be small-scale contracts. Their publication is (with the exception of smaller municipalities without the obligation to publish in the register of contracts) de facto voluntary.

8. 9 Data and digitisation

Objectives and measures

Publication of small-scale contracts on the contracting authority's profile

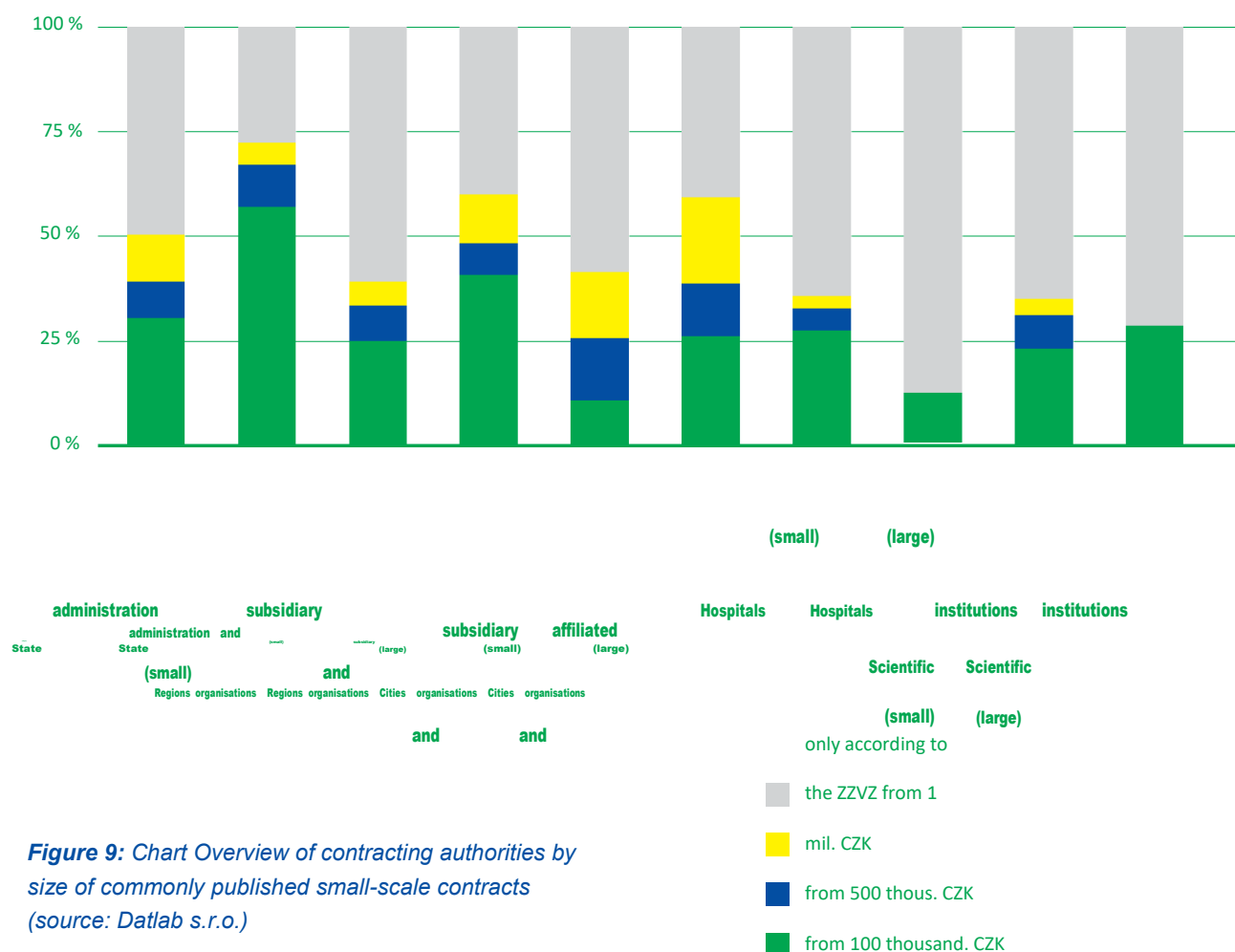


Figure 9: Chart Overview of contracting authorities by size of commonly published small-scale contracts
(source: Datlab s.r.o.)

These two examples illustrate partial problems of market monitoring on units of selected parameters. In general, however, the needs of the regulator, the supervisory authorities and the market itself are much broader and more diverse - the sub-objectives described below are aimed at meeting them.

However, the main purpose of the digitalization process is to facilitate the procurement processes from the perspective of contracting authorities and suppliers, and secondarily to increase the efficiency of the system thanks to greater transparency of the system for the purposes of management management, control by supervisory authorities, public oversight and company confidence. This should be subordinated to the development of systems under the responsibility of national authorities, but also to the regulatory environment for third party systems.

The steps towards this are contained in the Electronicisation Strategy, here we recapitulate the general objectives essential for achieving the **other priorities of this strategy**, and the evaluation of their achievement.

1 Adequate use of eForms - beyond the items required by regulation, especially with regard to the possibility of monitoring compliance with strategic objectives, the entire project cycle of the contract, including final evaluation, etc. In addition, standardisation of data will allow better assessment of compliance with European practice.

2. Improved automation - 70% of the data entered into the electronic tools should be

automatically provided by the systems, reducing the burden on suppliers and improving data reliability.

8. 9 Data and digitisation

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3.

Better data for managerial management - the public procurement infrastructure should provide, as far as possible, complete and reliable information on both legal and small-scale contracts. As mapped in the Annual Report on Public Procurement 2022, a significant part of purchases are made outside the PPA regime and are not registered as small-scale contracts on the contracting authority's profile - this situation may be further exacerbated if the limits are

4.

shifted.

Use of artificial intelligence

Given the turbulent development of technological possibilities, it is difficult to formulate a long-term vision in this regard. Artificial intelligence has the potential to contribute in the years ahead, for example, to:

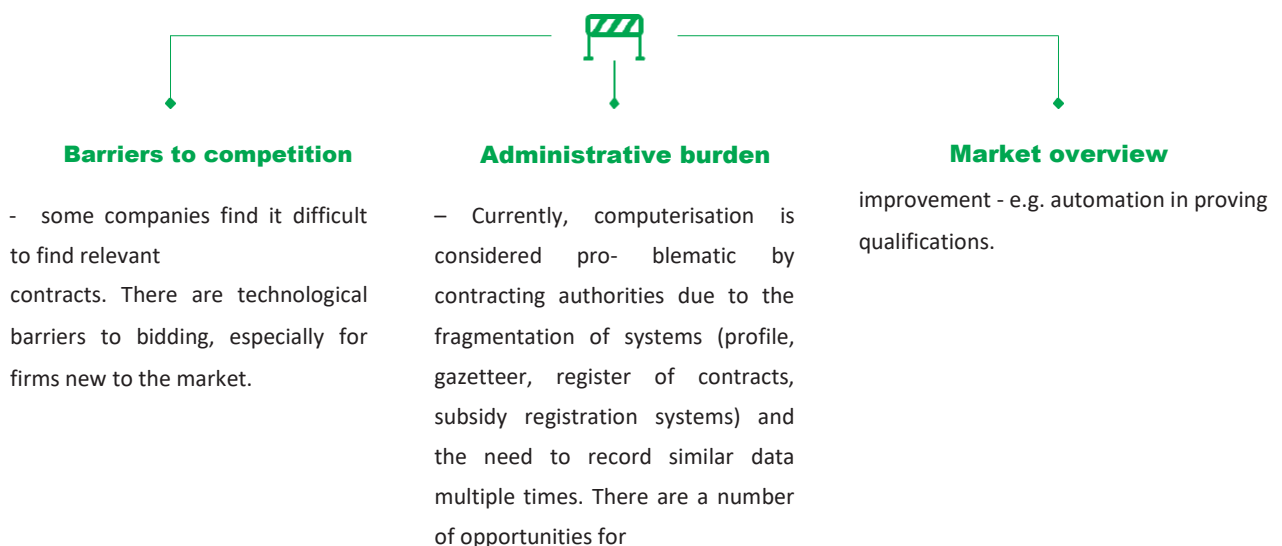
- preparation and checking of documentation; automated form filling
- (typically CPV determination); pre-processing of tenders for evaluation.
-

A necessary condition for its use is the further progress of computerization, especially in terms of accessibility and machine-readability of documents, standardization of electronic tools so that machine learning approaches have the possibility to retrieve data, and that the meaning of data is, if possible, unambiguous across different electronic tools.

8. 9.2

Why the topic needs to be addressed

The IT infrastructure of public procurement is today a prerequisite for its very functioning. It also contributes increasingly to their efficiency. In practice, this is particularly important from the following perspectives:



8. 9 Data and digitisation**Objectives and measures**

– The MMR and the supervisory authorities do not have quality data for the analysis and

control. Their collection should be automated, if possible, without burdening the contracting authority.

8. 9.3

Setting objectives



Target: With easier traceability of tenders, participation in public procurement (and meeting the other objectives of this Strategy), there will be wider and more varied competition for contracts, leading to better value for money. Increased automation will reduce the administrative burden on contracting authorities. The availability of data for scrutiny by the public and relevant authorities and for management control will also improve.

Objective 1: More effective tools for suppliers

Metric 1.1 - Number of small and medium-sized suppliers that have successfully bid in a public procurement.

Metric 1.2 - Market breadth - The total size of the pool of bidders for public contracts in specific sectors.

Metric 1.3 - Competition - The average number of bids in naturally competitive sectors monitored separately under the Act and the MTR.

Metric 1.4 - Openness of small contracts - Availability of information on public contracts (including RFPs and PPAs), with basic information critical for bidders - deadlines for submission of tenders, CPV, tender documentation.

Metric 1.5 - Satisfaction survey among suppliers who have submitted bids in specific instruments, including the time required to register/ submit a bid.

Objective 2: User comfort for contracting authorities

Metric 2.1 - Level of voluntary use of electronic tools below the limits set by the ZZVZ (or the VZMR methodologies). Numbers and volumes of procedures published in this way across different types of contracting authorities.

Metric 2.2 - Satisfaction survey among contracting authorities using specific electronic tools, including an estimate of the standard time for preparation and publication of public procurement, receipt of tenders.

Metric 2.3 - Percentage of public procurement contracts published in the Public Procurement Bulletin in an automated way, i.e. through the API without the need for manual input of information.

Objective 3: Availability of data for public, institutional, management control



Metric 3.1 - Quality of published data in electronic tools - monitoring the availability and validity of information whose publication is not technologically forced.

Metric 3.2 - Reliability of data integration into other state administration systems (identification of subjects according to ARES, State Treasury, Register of Contracts, MS 2021+, etc.).

Metric 3.3 - Proportion of public purchases through public procurement, i.e. captured within the Procurement Bulletin and contracting authority profiles.

Beyond the scope of the ^{Electronicisation} Strategy⁹⁰ , the extent of their contribution to the municipal objectives defined above will be monitored in addition to the fulfilment of the technological objectives.

9. 4 Overview and description of measures

Single place for submission of tenders	
 <p>Suppliers will be able to submit a tender from any electronic tool (specificity 1.3.1 of the electronicisation strategy). Definition of a technology standard and introduction of an obligation to receive tenders and requests for clarification from third party certification tools.</p>	
Easy migration of contracting authorities between electronic tools	
 <p>Contracting authorities will be technologically facilitated to change the operator of the electronic tool - especially the transfer of existing and historical contracts thanks to the newly functioning Register of Public Contracts. For a transitional period, the contracting authority will be able to use several electronic tools simultaneously. The aim of the measure is to increase the competitive pressure on the operators of the profiles and to achieve a more comfortable service for contracting authorities and suppliers.</p>	

8. 9 Data and digitisation

Objectives and measures

⁹⁰

Ministry of Regional Development (2021). Strategy of electronic procurement for the period 2022 to 2030. Available from <http://portal-vz.cz/wp-content/uploads/2022/06/Strategie-elektronizace-VZ-pro-obdob%C3%AD-let-2022-2030.pdf>

8. 9 Data and digitisation

Objectives and measures

Simplified demonstration of basic qualifications



A service for simple verification of basic qualifications will be available to contracting authorities. Suppliers will not be forced to submit the same information in each tender and the contracting authorities will verify it.

Unified authentication to NIPEZ tools

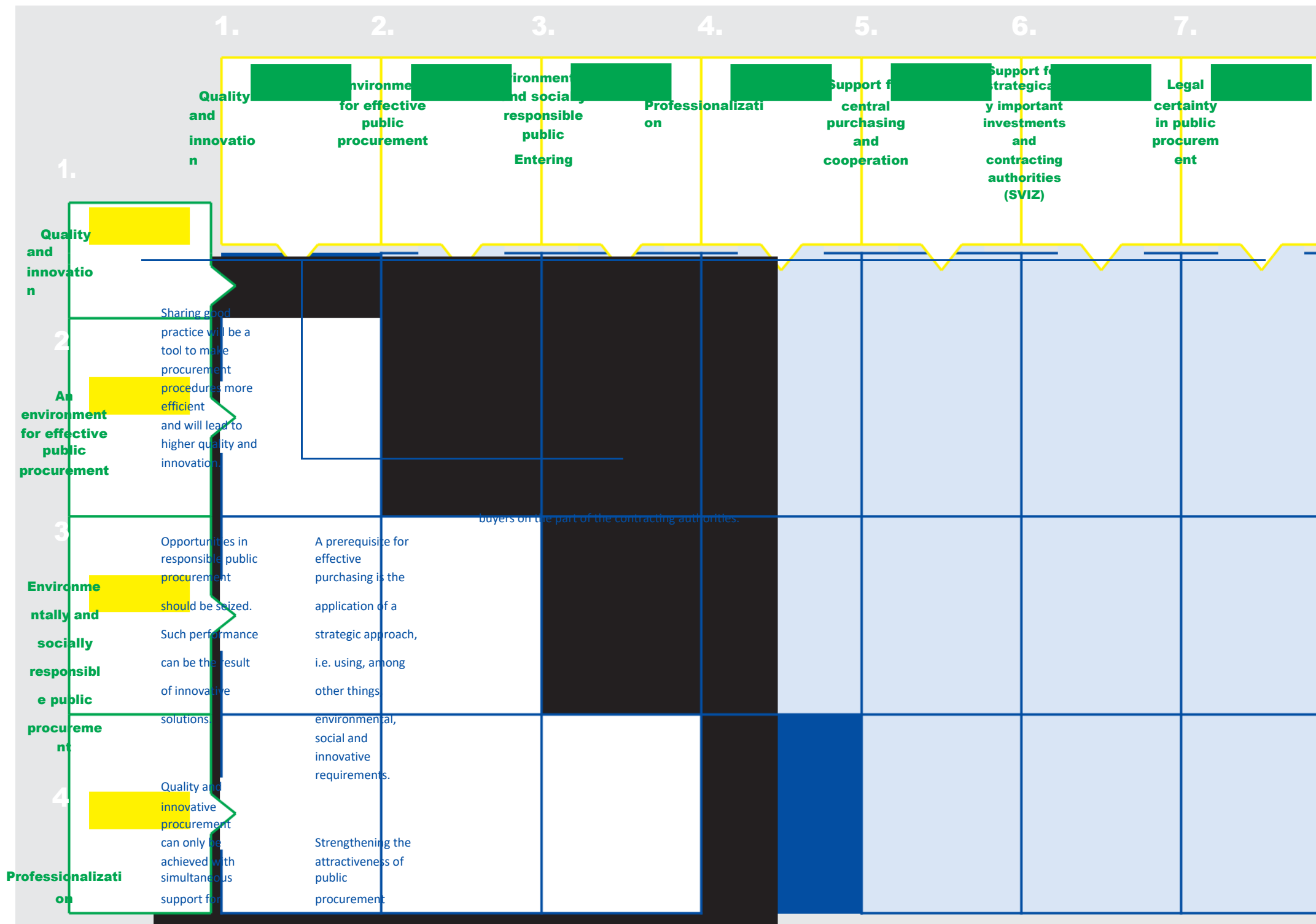


Both contracting authorities and suppliers will have easier access to individual applications of the entire NIPEZ infrastructure - bank identity, ICU, etc. will be used for logging in. As a result, the applications will be more accessible, they will not place such high demands on supplier registrations, access control at the contracting authority.



9

**Interrelationships
between the
subject headings**



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will contribute to
the use of
the potential of the contracts.

	<p>1.</p> <p>Quality and innovation</p>	without co-operation and co-ordination with representatives of control and supervisory authorities.	<p>2.</p> <p>Environment for effective public procurement</p>	<p>3.</p> <p>Environmentally and socially responsible public contracting</p>	lead to certainty for contracting authorities, suppliers and inspection bodies.	<p>4.</p> <p>Professionalization</p>	question of the need to train those responsible for control. The possible involvement of contracting authorities in the control of subsidised
<p>5.</p> <p>Support for central purchasing and cooperation</p>	The availability of proven designs and their use by valuers is a prerequisite for a widespread improvement in the ability to obtain		Improving the attractiveness of public procurement and a reduction in administrative complexity is a common denominator for the establishment	Implementation of environmentally and socially responsible public procurement into practice will help to exploit the potential also in price-		In order to be able to strengthen the role of centralised procurement, it is necessary to have an appropriately educated apparatus.	contracts is also linked to professionalisation.
<p>6.</p> <p>Support for strategically important investments and contracting authorities (SVIZ)</p>	adequate value for money.		of rules related to centralised procurement.	oriented purchases.		The support of the SVIZ implies the active involvement of trained members of the commissioning team. At the same	
<p>7.</p> <p>Legal certainty in public procurement</p>	to support the quality of and innovation even more urgent in the commissioning.		Unification and optimization in the area of review will lead to more efficient procurement.	specific strategic projects.		time, representatives of the contracting authorities will be motivated to share their project experience.	
	The development of good practice in the use of qualitative and innovative criteria cannot be done			Contracting authorities must be sure that the use of OER is desirable in public contracts and will not be sanctioned without justification. Minimum standards for OHS will		The interconnection of chapters relates in particular to the	

5.

Support for central purchasing and cooperation

require a maximum level of legal certainty, otherwise end-users will not be willing to subscribe to price purchasing.

6.

Support for strategically important investments and contracting authorities (SVIZ)

7.

Legal certainty in public procurement

Lessons will be drawn from the JISP support projects and will also be reflected in recommendations to the central contracting authorities.

Central purchasing will necessarily

In the case of the JISC, delays are not only extremely costly but also potentially threatening to the performance of essential state tasks. By speeding up, potential damage can be reduced.

9. Interrelationships between subject headings

10

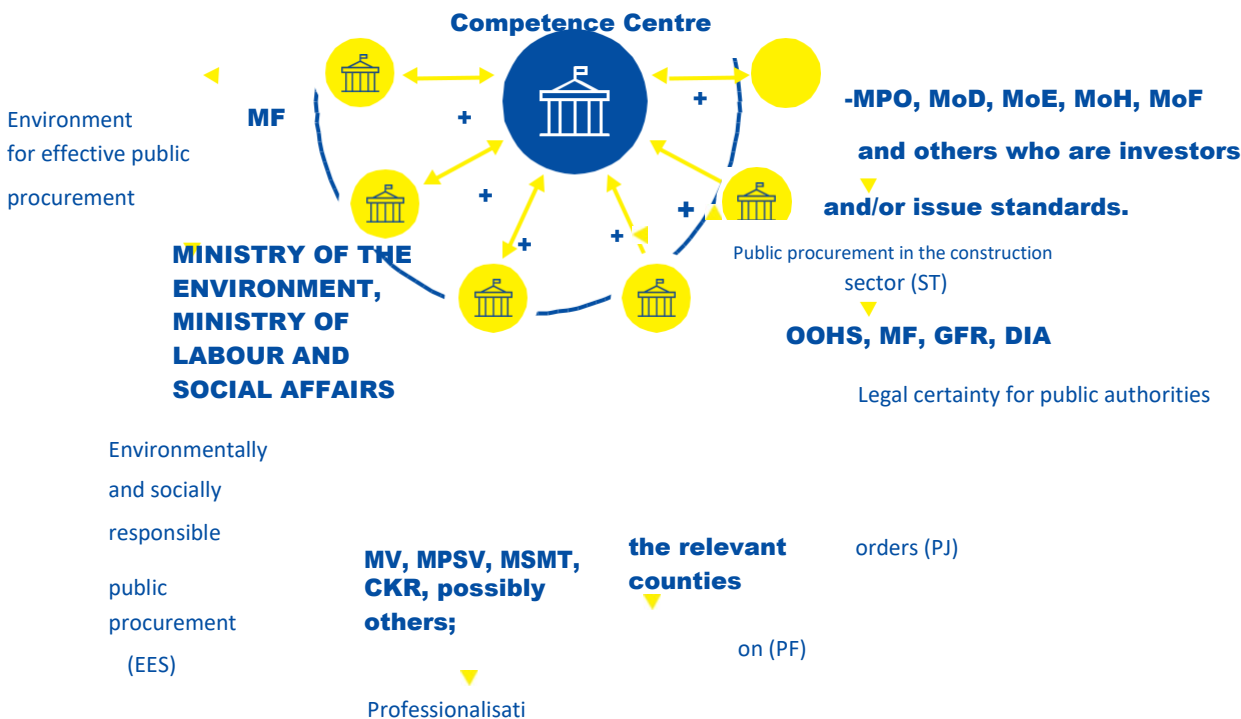
Method of implementation

10

Responsibility for the implementation of the Strategy

Competence centre for knowledge management and transfer, including preparation of guidelines, methodologies, model texts, training of all parties, operation of the infrastructure for access to information, or consultative support - the MMR will be generally responsible for implementation. A Competence Centre will be created within the MoF, responsible for the implementation of a large part of the measures of this Strategy.

In addition to the Ministry of Regional Development, other institutions may be involved in the implementation through cooperation or other activities:



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10. Method of implementation

Working groups composed of representatives of relevant institutions will be established for individual issues as needed. As an example, a working group on innovation of public procurement procedures in the construction sector is envisaged, which will include the MIT and other ministries mentioned above, professional chambers and other relevant professional organisations active in construction. Similarly, working groups will be set up to prepare minimum standards for responsible public procurement for the objects of performance (in the first phase, this will include the provision of environmental cleaning, food supply, catering and events).

10.1 Timetable



10. Method of implementation

● Education of contracting authorities in the field of environmentally and socially responsible public procurement	
● Database with examples of good practice	
● Minimum standards for responsible public procurement I and II	
● Monitoring and evaluation of the use of minimum standards for responsible public procurement in eForms	
● Honourable mention for contribution to environmentally and socially responsible procurement	

4 PF




● Working Group on Human Resources and Professionalisation in Public Procurement	
● Setting up and developing a framework for the public procurement function (procurement administrator/purchasing profession in the public sector)	
● Developing the theme of public procurement in education, science and research (universities, public and research institutions)	
● Mapping staff capacity and self-assessment in public procurement	
● Provision of training to public contracting authorities within the direct activities of the Ministry of Regional Development	
● Education of contracting authorities outside the framework of	
● direct MMR activities Examination of the possibility of adjusting	oru

the remuneration of purchasers in the public sector

5

CENT



● Stakeholder involvement

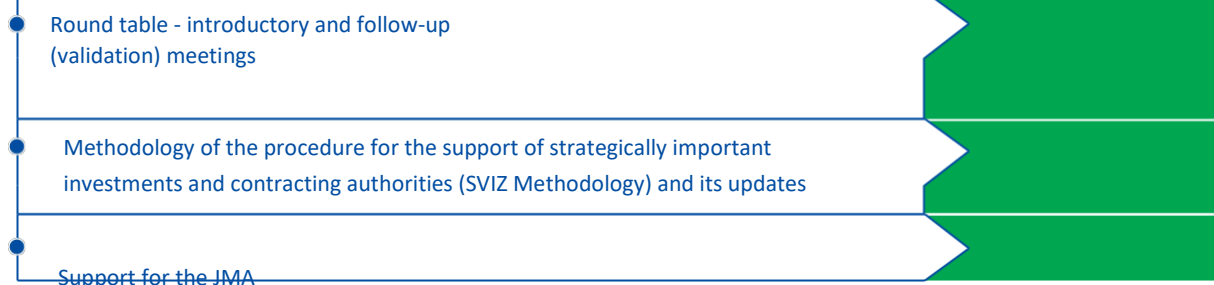
● Setting up and implementation of the regional centre model Analysis

● of the possibility of creating an online tool (e-shop, marketplace)

● Setting up monitoring and evaluation

10. Method of implementation

6 SVIZ



7 PJ



of the Ministry of Finance of the Czech Republic

2024


Analysis of possibilities to extend the use of simplified reporting methods

8 ST



10. Method of implementation

• Support for pilot projects	
• Analysis of existing contractual practice and working group on contractual terms and conditions	
• Methodology for contract management	

9	DD		
• Single place for submission of tenders		06/2025	
• Easy migration of contracting authorities between electronic tools		12/2024	
• Simplified demonstration of basic qualifications		06/2025	
• Unified authentication to NIPEZ tools		06/2024	

10. Budget and sources of funding

The Ministry of Regional Development, as a beneficiary of the National Recovery Plan (NRP) under Pillar 4 - Component 4.1 Systemic Support of Public Investments, pushed for the approval of full financing in the amount of CZK 117 987 200.00 for the implementation of the PUBLIC PROCUREMENT REFORM under Sub-Component 4.1.2 Methodological support and modernisation of public procurement, within which measures will be implemented which are based on this National Strategy for Public Procurement in the Czech Republic, to the elaboration but especially to its implementation the Government committed in the Programme Declaration of the Government in March 2023.

The funds are to be drawn down over the period from 1 July 2023 to 30 June 2026.

The funds are used for the preparation of this Strategy and will subsequently be used for the implementation of the measures resulting from this Strategy.

The resources invested will be outweighed by the benefits in the following categories:

1 KI

- the needs of the contracting authorities and subsequently the general public will be met by the supply of quality products and services. By reducing the damage caused by poor quality performance associated with awarding only on the basis of the lowest tender price where this is not appropriate, savings of public funds can be made. The objectives set out in the follow-up strategies listed earlier in this document will be more easily achieved. By supporting innovation and SME development, the Czech economy will maintain its competitiveness.

10. Method of implementation

2 EZP

– through the implementation of the proposed measures, the entities concerned will be able to realise savings from a reduced administrative burden and will gain economically from increased transparency in terms of resolution times.

3 ESOVZ

– appropriately chosen environmental aspects will contribute to the objectives of the Green Deal for Europe, for achieving carbon neutrality in 2050 and for the green transition objectives. Socially responsible public procurement will promote social cohesion, help the development of social entrepreneurship, support companies in their efforts to be socially responsible, and become a unifying element in its positive impact on the community, employment and the economy at regional or local level. The standard use of OER by public administrations and local authorities, which will set an example with their purchases and share examples of good practice, can also inspire co-procuring authorities and the market. If VPPs are commonly used by central procurers at national and regional level, this will contribute to achieving economies of scale.

A frequent argument against the application of the OVZ is the higher primary price of performance. It is true that, e.g. typically for services (in particular security or cleaning services), where the lowest bid price has been disproportionately reduced by long-term pressure on the lowest bid price, the price of performance may increase. However, the reduced price was often passed on to the implementation team of the selected contractor or its subcontractors, may have bordered on an abnormally low tender price and may have led to a reduced quality of performance. Negative externalities are also not included in the price of the performance, costs related to e.g. environmental pollution are not included and are passed on to other entities (other ministries), but are always borne by the company in the end. Therefore, it is advisable to focus on life cycle costs, taking into account not only the acquisition price but also operating costs, post-warranty repair costs, etc. The total life cycle costs of e.g. eco-labelled products can thus be lower for the company. In addition, the requirement for environmentally and socially responsible aspects of the object of performance or their consideration in the evaluation is not necessarily always associated with a higher price of performance.

Public administration can also positively influence the market through its sustainable purchases and contribute to the development of social entrepreneurship or sustainable food systems⁹². Thus, if a certain proportion of organic food is required as part of the minimum standards of the OVZ, this will lead to an increased demand for organic products (organic food) by the state and local government. Such a signal to farmers regarding marketing opportunities may positively influence the market in question and, as a result, lead to lower prices for organic food. Similarly, encouraging social enterprises to participate in tendering procedures for the procurement of goods offered by social enterprises can have a similar effect. This will bring them more stable sales and give them room for further development.

⁹² According to the FAO, a sustainable food system (SFS) is a food system that provides food security and livelihoods for all in a way that does not compromise the economic, social or environmental basis for achieving food security and livelihoods for future generations.

10. Method of implementation

4 PF

– Human resources are a key input for any productive process. Their quantity as well as quality is a formative element in any system. It is therefore essential to promote the professionalisation of those responsible for participating in the procurement and implementation process. Improving the human capital of all parties involved will translate into both value for money for ^{society}⁹³ and savings in wasted resources.

5 CENT

– The benefits of the measures proposed under this heading will take the form of improved conditions for the involvement of smaller contracting authorities, simplification and streamlining of purchases and the resulting savings, unification of contractual settings and the associated greater transparency and ease of use, and the possibility of monitoring and adjustments to the system thanks to newly collected and evaluated data sets.

6 SVIZ

– a substantial and quantitatively absolutely not insignificant benefit will be the benefits obtained by fully exploiting the potential of strategic contracts.

7 PJ

– greater legal certainty is always reflected in cost savings for all parties concerned.
In the case of this subject area, the following should be implemented:

- more uniformity in deposit practice, professionalisation, easier communication with the Office of the Public Prosecutor, the Ministry of Finance and the General Financial Directorate;
- speeding up design procedures, reducing the risk of stopping the implementation of public contracts;
- Extension of applicable case studies of decision-making practice;
- linking know-how between contracting authorities and procurement controllers;
- improving the clarity of the rules for subsidised contracts; reducing corrections and ineligible entries;
- facilitating public debate on the contradictions between the decision-making practice of the Office of the Procurement Authority, the procurement control bodies and the audit conclusions of the audit body;
- reducing the number of public procurement audits;
- reducing input fragmentation, etc.

8 ST

– Stakeholders will benefit from the ease of procurement using desirable innovative principles with greater legal certainty. Standardised contractual clauses will significantly reduce the time and financial costs for contracting authorities and in

⁹³ See footnote 6

10. Method of implementation

tend to create more balanced contractual relationships. Proper and timely implementation of construction projects will contribute to significant savings. The integration of ESG and taxonomy principles into construction projects will contribute to their sustainability and, in turn, allow for more appropriate financing.

9 DD

- The IT infrastructure of public procurement is a prerequisite for its very functioning. It also contributes significantly to their efficiency. Part of the above benefits should therefore be allocated to this area.

10. Evaluation of the degree of achievement of the objectives

To enable ex post evaluation of the degree of achievement of the set objectives, the MMR will monitor and evaluate, among others, the following indicators.



An environment for effective public procurement

- ⇒ **the proportion of contracts awarded on the basis of economic desirability** for the market as a whole and for selected sectors;
- ⇒ **proportion of contracts taking into account the recommended quality criteria** in selected sectors;
- ⇒ **openness of the public procurement market** - the share of contracts won by a) firms outside the established circle of public sector suppliers b) small and medium-sized enterprises (measurement of the rigidity of the market as a whole and of different sectors - VZMR, under-limit, over-limit), share of foreign participation. Benchmarking against selected EU countries;
- ⇒ the number of small and medium-sized suppliers who have successfully bid in a public procurement;
- ⇒ the average number of tenders in naturally competitive sectors monitored separately under the Act and the LRA.



Support for central purchasing and cooperation - The level of use of central purchasing across all procuring entities in the Czech Republic will be monitored, with a particular focus on selected commodities. The indicators monitored for each commodity will be:

- ⇒ **the share of centrally procured contracts** in the total volume of commodities
- ⇒ purchased; the **number of central procuring entities** procuring different

commodities;

10. Method of implementation

- ⇒ **the number of contracting authorities in charge** (estimated), the number of contracting authorities procuring a given commodity outside central purchasing and outside the procedures through the LASMR;
- ⇒ **the share of the central purchasing structure compared to EU practice.**



Environmentally and socially responsible public procurement

- ⇒ **share of contracts in selected sectors awarded in accordance with the Strategy** - the practical impact of the Strategy on procurement practice will be identified.



Legal certainty in public procurement

- ⇒ **the structure of the findings of the subsidy bodies** - the frequency and severity of the types of misconduct in public procurement reflecting the most common problems.

10. Method of implementation

11

Strategy development process

Work on the development of the Strategy began shortly after the adoption of the Programme Proclamation of the Government in March 2023 and followed on from the work of the Responsible Approach to Public Procurement - Strategic Public Procurement Project (reg. no. CZ.03.4.74/0.0/0.0/15_025/0015727), which dealt with the concept of strategic public procurement and its implementation in practice at the Ministry of Labour and Social Affairs of the Czech Republic in 2020. The activities of this project were a smooth continuation of the 2016 project Support for the implementation and development of socially responsible public procurement (reg. no. CZ.03.3.60/0.0/0.0/15_018/0000732).

The first step was the creation of the Sustainable Purchasing Action Plan and with it the identification of performance objects and minimum standards for contracting authorities. In order to verify the setting of standards, communication was conducted with entities related to the individual topics, with contracting authorities and the issue was also communicated with suppliers of selected commodities through roundtables.

In parallel, the topic of central purchasing was developed.

Inspiration was drawn from foreign experience.

The preparation of the Strategy was open to wide discussion and stakeholders were given the opportunity to comment. The Strategy was communicated with representatives of the Office for the Protection of Competition, professional associations and public procurement experts from various areas of their activity.

11.Strategy development process

12

Abbreviations

AK	Association of Regions
API	Application programming interface
ARES	Administrative register of economic entities
AVI	Academy of Public Investing
BBG	Bundesbeschaffung GmbH
BIM	Building information modelling
OHS	Health and safety at work
BVA	Best value approach
CNPK	Central Purchasing of the Pilsen Region
CPV	Common Procurement Vocabulary
CZECH REPUBLIC	Czech Republic
DIA	Digital and Information Agency
VAT	Value added tax
EC	European Commission
EMAS	Eco-Management and Audit Scheme
ESG	Environmental, social, governance
EU	European Union
FAO	Food and Agriculture Organization
FIDIC	Fédération Internationale Des Ingénieurs-Conseils
GFD	General Financial Directorate
GPA	Government Procurement Agreement
GPP	Green Public Procurement
GDP	Gross domestic product
ICT	Information and Communications Technology
IT	Information Technology
ILO	International Labour Organisation
ICU	Single identity space
JMK	South Moravian Region

12. Abbreviations

KPI	Key performance indicator
LK	Liberec Region
MEAT	Most economically advantageous tender
MEPA	PA Electronic Market
MD	Ministry of Transport
MF	Ministry of Finance
MMR	Ministry for Regional Development
MIT	Ministry of Industry and Trade
MLSA	Ministry of Labour and Social Affairs
MV	Ministry of the Interior
MSP	Small and medium-sized enterprises
MOE	Ministry of Education, Youth and Sports
MOE	Ministry of the Environment
NEN	National electronic tool
NIPEZ	National procurement infrastructure
NPO	National Recovery Plan
OTK	Sectoral market consultation
OECD	Organisation for Economic Co-operation and Development
OVZ	Responsible procurement
PTK	Preliminary market consultation
SFS	Sustainable food system
SMO CR	Union of Towns and Municipalities of the Czech Republic
SMS CZECH REPUBLIC	Association of Local Governments of the Czech Republic
SN	Joint purchase
SVIZ	Support for strategically important investments and procurers
TCO	Total cost of ownership
TSI	Technical Support Instrument
OFFICE OF THE PUBLIC PROSECU TOR	Office for the Protection of Competition
ÚSC	Territorial self-government unit
VVZ	Public Procurement Bulletin
VZ	Public procurement
VZMR	Small-scale public contracts
ZZVZ	Act No. 134/2016 Coll., Public Procurement

ZMV	Simplified reporting methods
ZPŘ	Simplified sublimit procedure

13

Attachments



Description of the existing legal situation



13.1.1

Strategic documents of the Czech Republic and the EU (or global level)

Government Programme Statement - adopted in January 2022, amended in March 2023; in the area of public procurement, the government committed to develop a National Strategy for Public Procurement in the Czech Republic, to set up a functional model for central commodity purchasing by 2024, to simplify public procurement, to strengthen professional expertise in strategic procurement, or to support local, seasonal and nutritionally rich food in public catering. An essential part of this is also a commitment to improve the preparation, control and acceleration of procedures for the review of tenders and public contracts and the ability to bid for funds from centrally managed EU programmes, and to promote the efficient use of EU funds in the Czech Republic.

National Recovery Plan Component 4.1 Systemic support for public investment, subcomponent 4.1.2 Methodological support and modernisation of public procurement

The systemic support for public investment is aimed at reforming public investment in order to strengthen the public administration's capacity to prepare and implement investment programmes financed from public funds, to improve the efficiency of public investment in the regions with regard to EU objectives in the field of green and digital economy, or to accelerate the readiness of projects in line with EU objectives, incl. Modernization of strategic public procurement.

The objective of Sub-Component 4.1.2 is to set a national public procurement strategy that includes clear, data-driven and measurable public procurement priorities.

Other relevant sources of the legal framework are:

13. Attachments

- **UN 2030 Agenda** - Sustainable Development Goals: the UN Sustainable Development Goal 12: Responsible Production and Consumption includes a specific target 12.7 Promote sustainable procurement practices in line with and linked to national policies and priorities;
- **Strategic Framework Czech Republic 2030** - Part 6.2 - Long-term Effectiveness of Governance, and the 2nd Implementation Plan of the Strategic Framework Czech Republic 2030 (for 2022-2025)⁹⁴;
- Strategic Framework and Action Plan **Circular Czech Republic** ²⁰⁴⁰⁹⁵;
- **Digital Czech Republic**, especially the part defining the Information Concept of the Czech Republic (architecture of the eGovernment of the Czech Republic);
- **New European Bauhaus**;
- Concept of client-oriented public administration for the period 2021-2030, part of Effective public administration institutions;
- Comprehensive e-procurement as a means of modernising public administration - Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 1 July 2013 - COM/2013/453;
- European Data Strategy - Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 19.2.2020 - COM/2020/66;
- The European Commission's Farmer-to-Consumer Strategy for Fair, Healthy and Organic Food Systems (COM/2020/381 final of 20 May 2020), Annex contains a measure: Identify the best ways to set minimum mandatory criteria for the procurement of sustainable food to promote healthy and sustainable diets, including organic products, in schools and public institutions;
- The Action Plan of the Czech Republic Partnership for Open Government for the period 2023 to 2024 approved by the Resolution of the Government of the Czech Republic of 15 February 2023 No. 117, where the public procurement is referred to in points 4.5 and 4.6 of the Action Plan;
- State Environmental Policy of the Czech Republic 2030 with a view to 2050, Chapter 4 Cross-cutting instruments;
- National Action Plan for Adaptation to Climate Change in the Czech Republic;
- Action Plan of the Czech Republic for the Development of Organic Agriculture in 2021-2027, point 8.2.1. p. 23, Annex, point 2 Market, p. 29;
- Policy of architecture and building culture of the Czech Republic.

13.1.2

EU legislation

- **Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on the award of public contracts and repealing Directive 2004/18/EC**;

⁹⁴ <https://www.cr2030.cz/wp-content/uploads/2022/10/Implementac%CC%8Cni%CC%81-pla%CC%81n-2022-2025.pdf>, see also https://www.mzp.cz/cz/strategie_dokumenty_v_gesci_prehled

⁹⁵ https://www.mzp.cz/cz/cirkularni_cesko#:~:text=Documents%201%20Ak%C4%8Dn%C3%AD%20pl%C3%A1n%20Cirkul%C3%A1rn%20

C3%AD%20%C4%8Cesko%202040%20Dne,%C4%8Ceska%20a%20co%20pl%C3%A1nujeme%20ud%C4%9Blat%20pro%20jeho%20
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13. Attachments

- **Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014** on the award of concessions;
- **Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014** concerning the award of contracts by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC;
- **Commission Implementing Regulation (EU) 2016/7 of 5 January 2016** establishing a standard form of the **Single European Procurement Certificate**;
- **Commission Implementing Regulation (EU) 2019/1780 of 23 September 2019** laying down standard forms for the publication of notices in the field of public procurement and repealing Implementing Regulation (EU) 2015/1986 (electronic forms);
- Council Directive of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the **review procedures for** the award of public supply and public works contracts (89/665/EEC);
- Directive 92/13/EEC of 25 February 1992 on the coordination of the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in **the water, energy, transport and telecommunications sectors**;
- Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directives 89/665/EEC and 92/13/EEC with regard to **improving the effectiveness of** review procedures for the award of public contracts;
- **Regulation (EU) 2022/1031 of the European Parliament and of the Council of 23 June 2022** on access for third-country economic operators, goods and services to the Union's public procurement and concessions markets and on procedures to support negotiations on access for third-country economic operators, goods and services to the Union's public procurement and concessions markets (International Procurement Instrument);
- **Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022** on foreign subsidies distorting the internal market;
- **Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022** on a fair minimum wage in the European Union;
- **Directive (EU) 2022/2381 of the European Parliament and of the Council of 23 November 2022** on improving gender balance among members of the boards of listed companies and related measures;
- **Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009** on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting entities in the fields of defence and security;
- **Regulation (EC) 1370/2007 of the European Parliament and of the Council** on public passenger transport services by rail and road.

In particular, the following sectoral (sectoral) regulations are currently under discussion, which largely concern aspects related to sustainability and resilience in the construction sector:

- Proposal for a Regulation of the European Parliament and of the Council establishing a framework for measures to strengthen the European ecosystem for the production of zero-emission technology products (**Zero Emission Industry Act**);

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- Proposal for a Regulation of the European Parliament and of the Council establishing a **framework for the setting of ecodesign requirements for sustainable products** and repealing Directive 2009/125/EC;
- Proposal for a Regulation of the European Parliament and of the Council laying down **harmonised conditions for the marketing of construction products**, amending Regulation (EU) 2019/1020 and repealing Regulation (EU) No 305/2011;
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2019/1242 as regards the tightening of CO2 emission performance standards for **new heavy duty vehicles** and the inclusion of data reporting obligations and repealing Regulation (EU) 2018/956.

13.1.3 Legislation of the Czech Republic

- **Act No. 134/2016 Coll.**, on public procurement, as amended (hereinafter referred to as "ZZVZ") including implementing regulations;
- **Act No. 360/2022 Coll.**, on the promotion of low-emission vehicles through public procurement and public services in passenger transport (hereinafter referred to as the "Act on the Promotion of Low Emission Vehicles");
- The Act on the Promotion of Low Emission Vehicles was a follow-up to the Government Resolution No. 685 of 26 July 2021 on the introduction of the Rules for the Promotion of Low Emission Vehicles through Public Procurement and Public Services in Passenger Transport (the "Rules"), on the basis of which a number of contracting authorities started to comply with the minimum share of low-emission vehicles in the first reporting period as of 2 August 2021;
- **Act No. 69/2006 Coll.**, on the Implementation of International Sanctions, as amended, **Act No. 240/2022 Coll., amending** Act No. 69/2006 Coll., on the Implementation of International Sanctions, as amended, and other related acts.

The Act on the Promotion of Low Emission Vehicles was a follow-up to the Government Resolution No. 685 of 26 July 2021 on the establishment of the Rules for the Promotion of Low Emission Vehicles through the Procurement of Public Contracts and Public Services in Passenger Transport (the "Rules"), on the basis of which a number of contracting authorities started to comply with the minimum share of low emission vehicles in the first reporting period as of 2 August 2021.

13.1.4 EU methodologies

Methodologies and guidelines for Responsible Public Procurement in the EU

- Social Buying - A guide to social considerations in public procurement (2nd edition, 2021)⁹⁶; Criteria for green
- public procurement in the European Union⁹⁷;

⁹⁶ See DocsRoom - European Commission (europa.eu)

⁹⁷ See Voluntary GPP Criteria: GPP Criteria and Requirements (europa.eu), in Czech under "other languages"

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- Criteria for green public procurement in the sectoral legislation of the European Union⁹⁸; Public
- Procurement for Circular Economy, European Commission⁹⁹; Gender
- Responsive Public Procurement¹⁰⁰; Communication from the EC. Public
- procurement for a better environment¹⁰¹.

13. Basic data about the military

The following subchapters describe the size and structure of the public procurement market in the Czech Republic, for which a set of selected indicators calculated on the basis of data from the ISVZ and other publicly available sources (e.g. the Monitor information portal, etc.) is used. More space is devoted to the market of public procurers, as their share in the total volume of public procurement is dominant.

13.2.1 Volume of public procurement and other public sector practices

According to the data from the accounting statements, in 2022 the contracting authorities (including "sectoral") purchases and investments in the amount of CZK 990 billion. In the Public Procurement Bulletin, these purchases are recorded at CZK 426 billion, with an additional CZK 51 billion on the contracting authority profiles (small-scale regime), these basic figures are presented in .

The difference of more than CZK 512 billion between the total volume of purchases and investments and the sum of public contracts published either in the Public Procurement Bulletin or on the contracting authority profile is due to other categories of data implemented outside the procurement procedure under the PPA (e.g. vertical and horizontal contracting, security exceptions, legal services), and part of the PPA is already detected directly on the contracting authority profiles.

⁹⁸ See GPP in sectoral regulations: GPP Criteria and Requirements (europa.eu)

⁹⁹ Public Procurement for a Circular Economy | European Circular Economy Stakeholder Platform (europa.eu)

¹⁰⁰ Gender-responsive Public Procurement: step-by-step toolkit (europa.eu)

¹⁰¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Public procurement for a better environment COM 2008/400

Purchases of contracting authorities by mode used

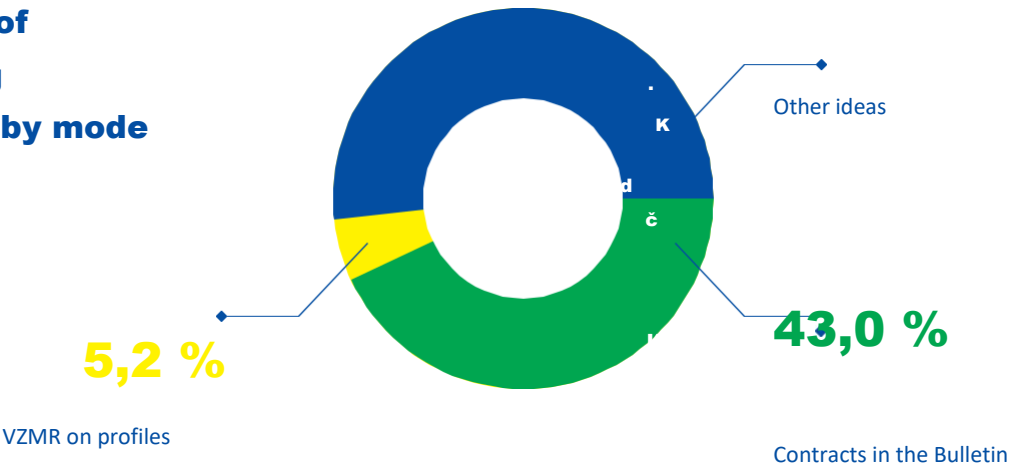


Figure 10: Comparison of the volume of Jinjch purchases in 2022 (outside the tendering procedure or outside the public procurement), the volume of under- and over-limit contracts under the ZZVZ and contracts under the VZMR regime. (Source: Annual Report on Public Procurement 2022)

A more detailed breakdown of these data by type of contracting authority is presented in Figure 11. For each category of contracting authority, it measures the volume of contracts awarded through the tendering procedure against the total volume of purchases. The most significant volume of public procurement is carried out by public administration organisations (CZK 120 billion), followed by municipalities and cities (CZK 65 billion). They, together with sectoral contracting authorities, account for the largest volume of purchases made outside the standard procurement procedure under the ZZVZ.

Proportion of purchases under the ZZVZ for different contracting authorities

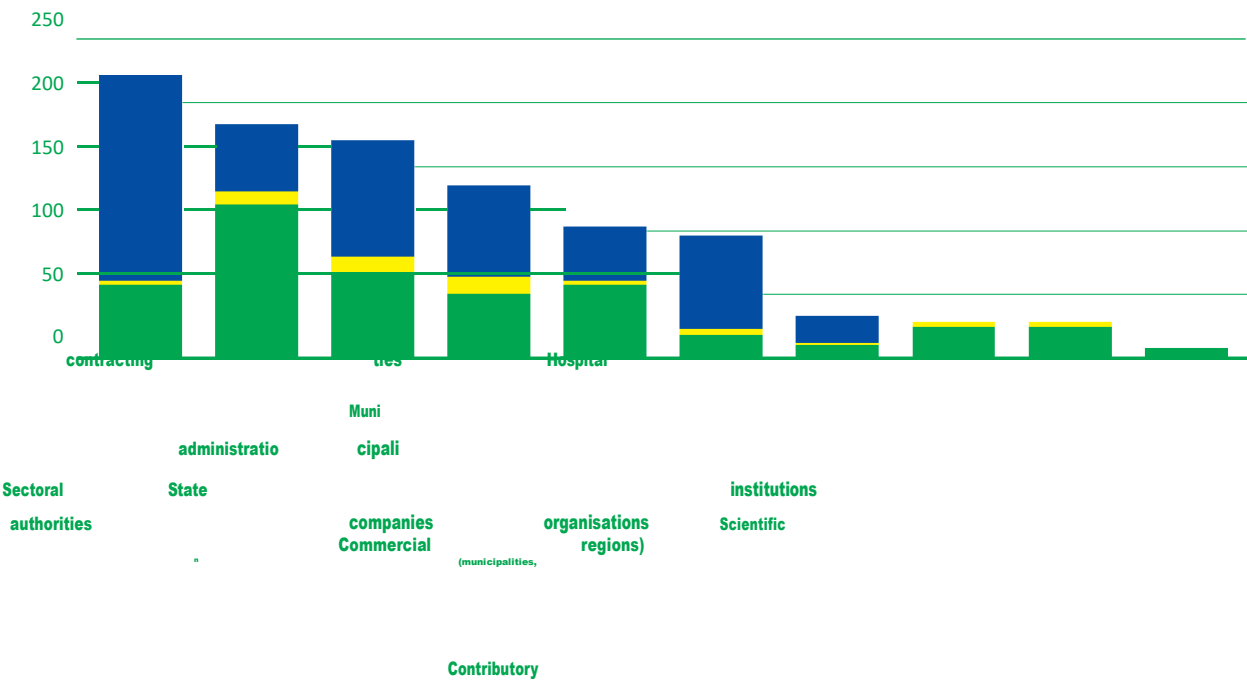


Figure 11: Volume of purchases for 2022 according to data from the Treasury or from the accounting statements, in the ZZVZ regime

in
contracting
authorities

Other

Subsidised
contracting

authorities

context of the volume of public procurement published in the

Public Procurement Bulletin and on the Procuring Entity's profile (source: Annual Report on Procurement 2022).

- Other purchases
- VZMR on the profile of the
- contracting authority Mode
- ZZVZ

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13.2.2 Use of non-price criteria

This section aims to map the extent to which evaluation criteria focusing on different aspects of public procurement are used. In the Czech Republic, approximately 75% of contracts are currently competed on the basis of the lowest tender price, and the remaining 25% on the basis of more economic viability criteria. However, in these contracts the evaluation is not necessarily focused on quality - the Annual Report on Public Procurement 2022 shows that life cycle cost evaluation (i.e. cost of maintenance, cost of inputs) is most often used. From the data in the annual report, we estimate that quality criteria are used in 12% of the contracts (this includes not only criteria for assessing the quality of the performance offered, but also criteria for supplier qualification, environmental, social).

Percentage of contracts awarded by the MEAT

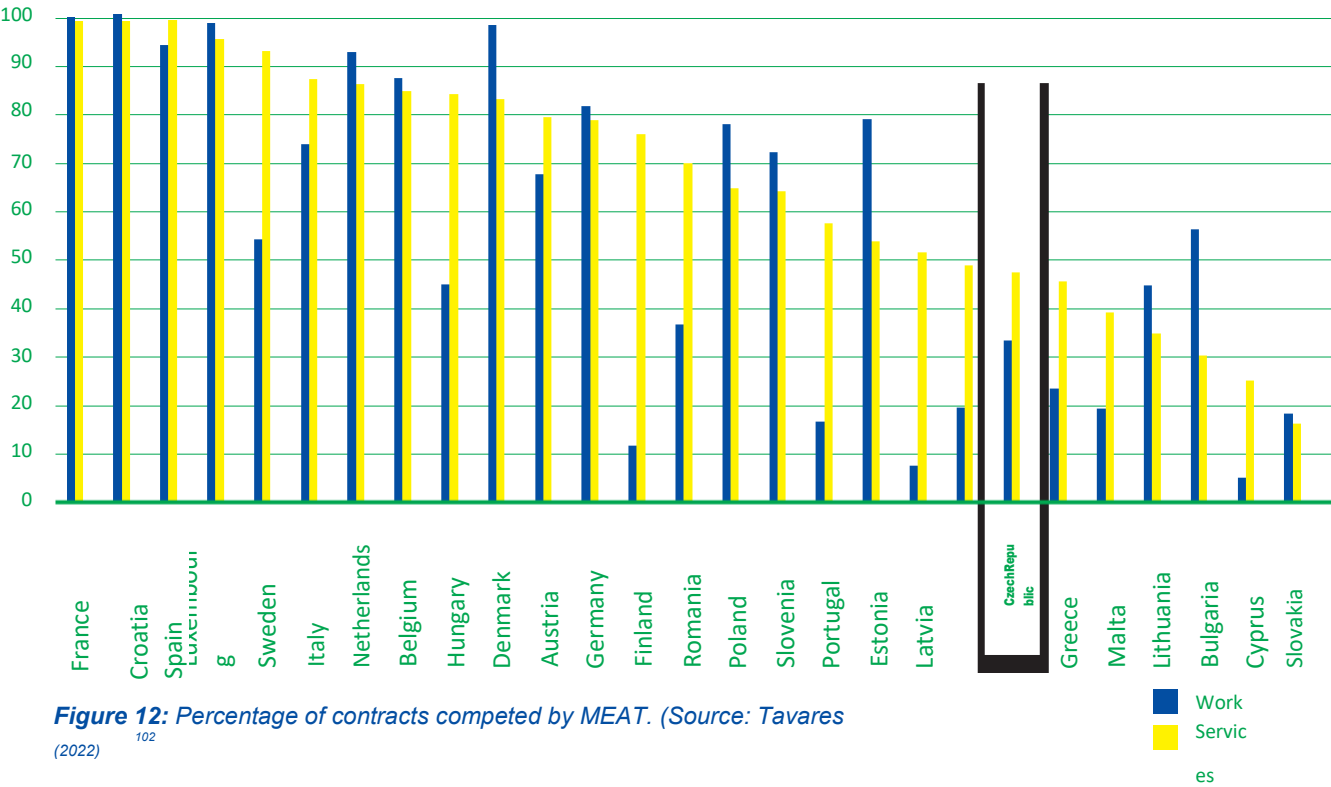


Figure 12: Percentage of contracts competed by MEAT. (Source: Tavares (2022))

¹⁰² Tavares, L. V., Ferreira, J. A., & Ricardo, A. (2022). A multicriteria model to evaluate tenders for green procurement of public works. European journal of public procurement markets, 4, 23-50.

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Use of non-price evaluation criteria over time

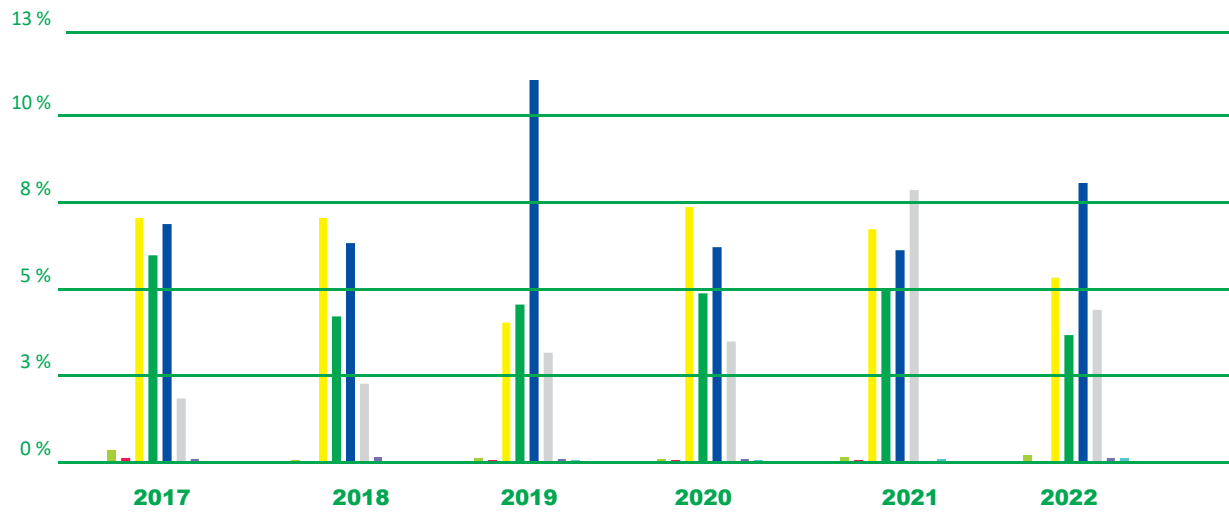
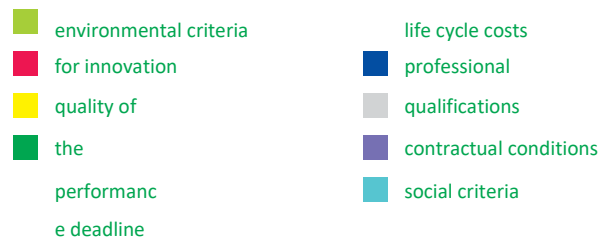


Figure 13: Temporal evolution of the volume of contracts using a given type of criterion (source: Annual Report on FP 2022)



As shown in Figure 13, the most used non-price evaluation criteria in the long term is mainly the life cycle cost group (including e.g. fuel consumption, service cost estimates), which appears in 8% of public procurement contracts. The other 3 long-term preferred types of criteria are performance deadlines, requirements for the professional qualifications of the team members and requirements for the quality of the requested subject of the contract - in all cases these are represented in 4-8% of the contracts awarded in recent years. In general, it cannot be said that there is any significant trend in the use of non-priced criteria. The environmental, social and innovation criteria, highlighted from 2022 in the provisions of Article 6(4) of the PPA, are used only in a minimum of public contracts (less than 1% of contracts in total).

Use of non-price criteria by type of contracting authority

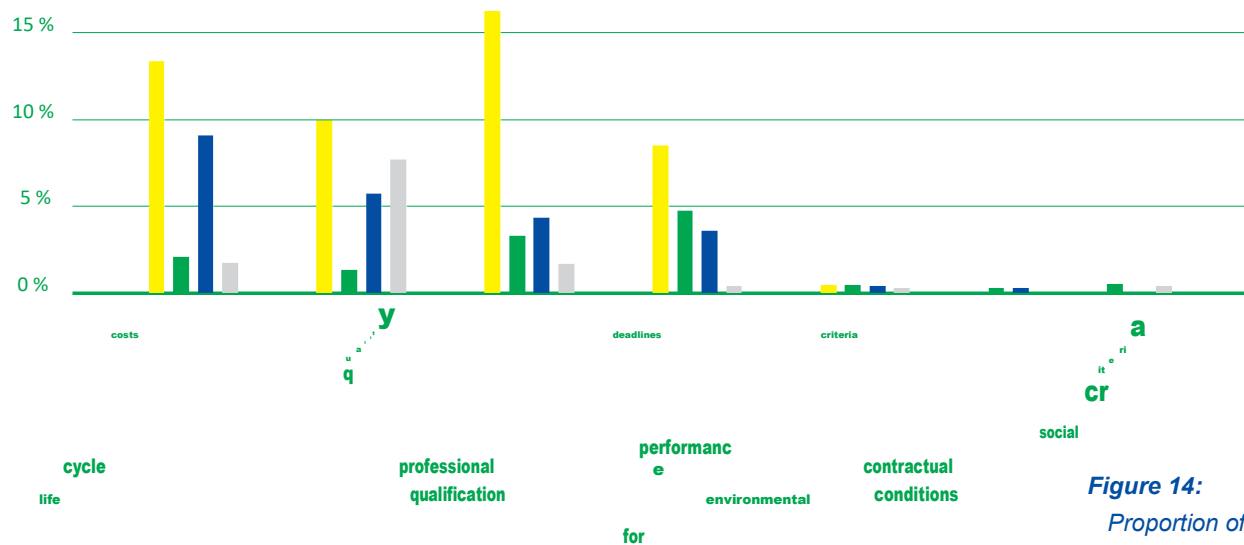


Figure 14:
Proportion of

contracts using a given evaluation criterion in the total volume of contracts of a given type of contracting authority (source: Annual Report on Procurement 2022)

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A look at the type of contracting authority using different non-price evaluation criteria in 2022 is provided in Figure 14. We can see that the use of different criteria varies significantly by type of contracting authority - the graph shows that of all the types observed here, the regions (including the capital city of Prague) clearly use non-price criteria most often, in all categories of criteria. The state administration generally prefers life cycle cost and quality criteria, municipalities prefer time limits for the performance of public contracts and other contracting authorities primarily assess the quality of the subject of public contracts.

In practice, the possibility of applying non-price evaluation criteria in a public contract varies significantly depending on the subject of the contract. In 2022, engineering products were the most "quality-driven" in terms of volume, accounting for 27 % of the value of all public procurement contracts with this subject matter. Health, social and educational services, clothing, footwear and other equipment and, finally, IT and telecommunications are also around the 20% mark. At the other end of the spectrum are energy supplies, which were evaluated almost exclusively on the basis of the lowest price criterion.



13.2.3 Central Purchasing

The aim of this section was to map the intensity of the use of the central purchasing institute, not only within state institutions (where the situation is described more extensively e.g. in the historical reports of the Ministry of Finance and the Ministry of Economy), but also within regions, cities and other contracting authorities.

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Figure 16 describes the volumes of purchases over time by type of central procuring entity. It shows that the most significant purchases in terms of volume are made by the state administration (CZK 23 billion), however, especially in recent years, the share of cities and their contributing organisations (CZK 4.5 billion) and regions and their contributing organisations (CZK 3.4 billion) is also growing - all data for 2022.

Volume of central purchases over time

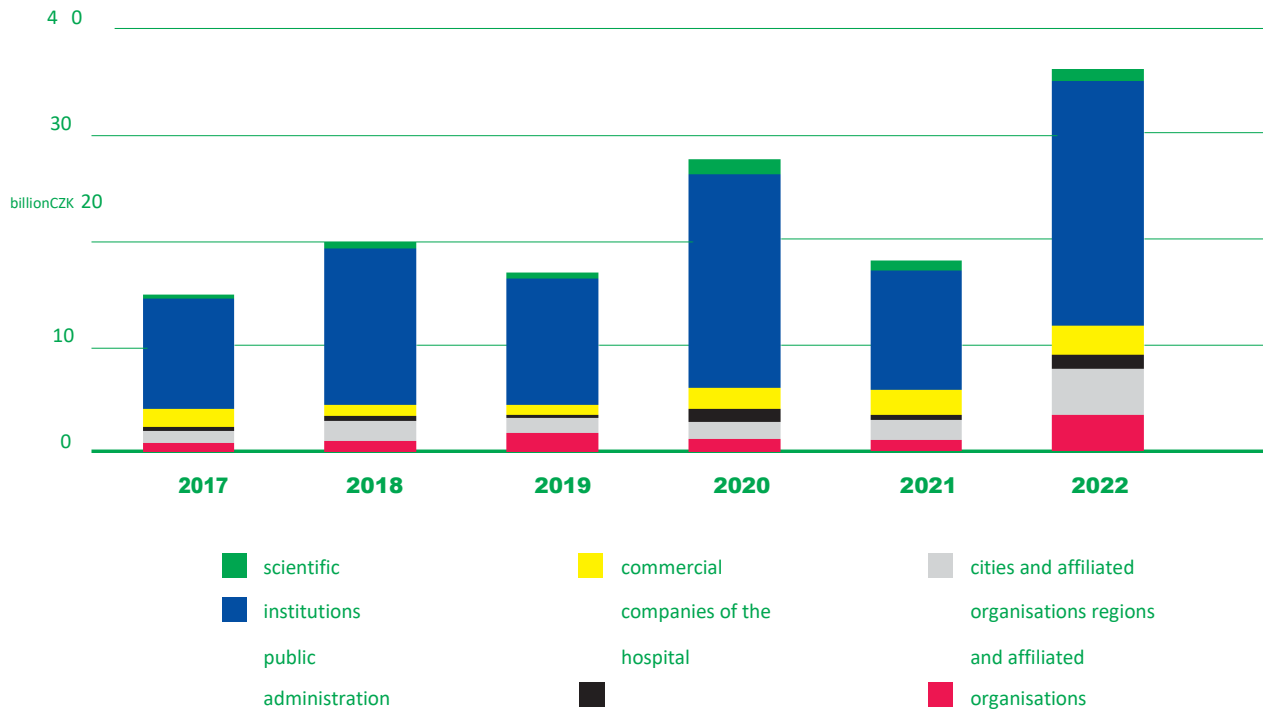


Figure 16: Volume of public contracts awarded by the contracting authority acting as central year by year. It covers only central contracting authorities, not delegating contracting authorities. In the case of framework agreements and DNS, only according to the performance of the PPA.

Number of central contracting authorities 2020-2022

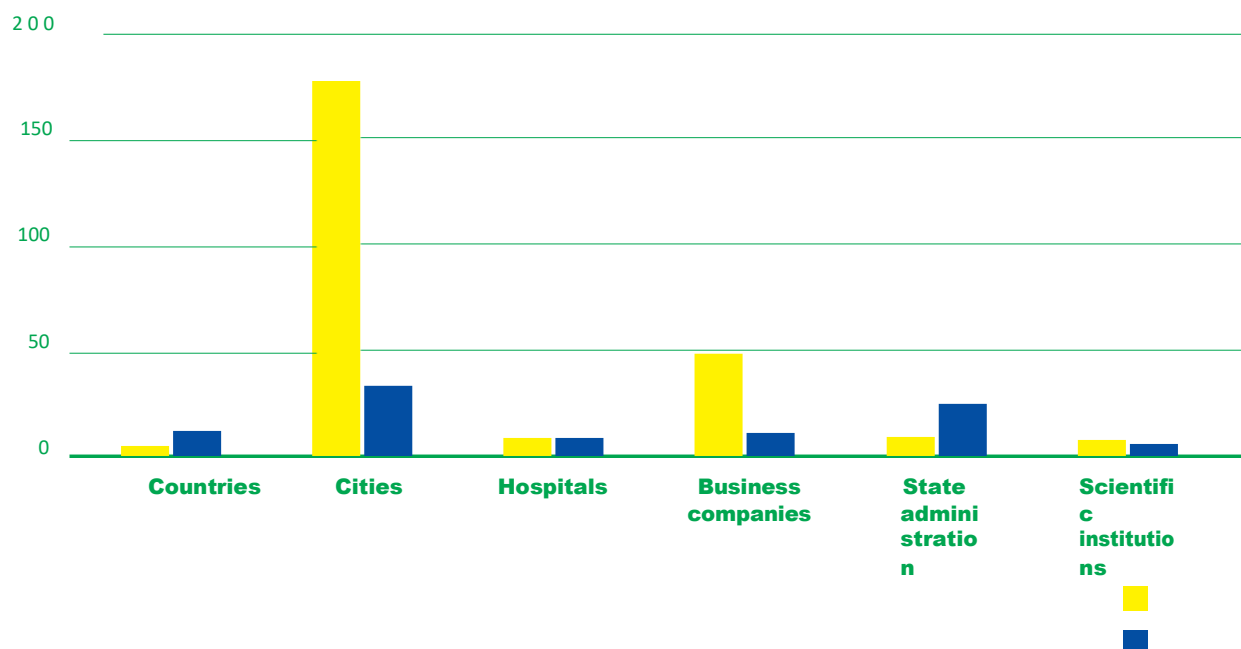


Figure 17: Number of contracting authorities acting as central in 2020-2022 contracts by category (source: Annual Report on Procurement 2022).

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From the point of view of centralised contracting, what is important is both the volume of public contracts awarded and the sheer number of contracting authorities acting as central contracting authorities. Figure 17 illustrates that in 2020-2022 we record a total of 350 different contracting authorities acting as central contracting authority in at least one contract. Although the largest volume of centrally procured public contracts is accounted for by the state administration, in terms of the number of contracting authorities, the most important group is small cities, where we record 177 different cities.

Volume and sector of centrally procured contracts over time

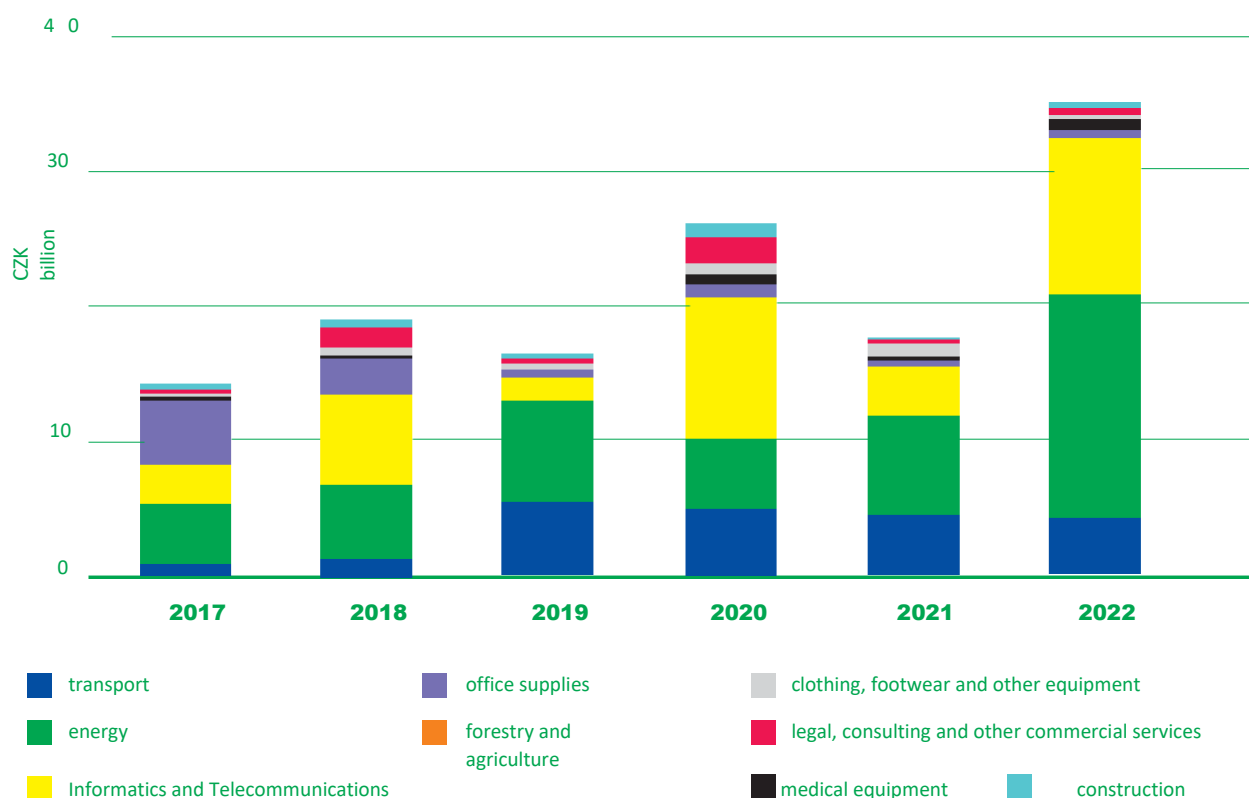


Figure 18: Evolution of the volume of centrally procured contracts by their sectoral classification (based on the CPV code shown). In the case of Framework Agreements and DNS, only according to the performance of the GPA (source: Annual Report on Procurement 2022).

The practical application of centralised procurement also varies considerably according to the type of subject of the public procurement - an overview is provided in Figure 18. The two most important groups of subjects of centralised procurement in the long term are energy (CZK 16.5 billion) and IT and telecommunications (CZK 11.6 billion) (2022). Together, these areas account for almost 80% of all centrally procured procurement in 2022.

Other market indicators are published in the Annual Report on Public Procurement or from other analyses carried out within the framework of the project Support for the Implementation and Development of Socially Responsible Public Procurement and the follow-up project Responsible Approach to Public Procurement - Strategic Procurement, namely Analysis of Non-price Criteria in Public Procurement in the EU or Mapping of Public Procurement Volumes.

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