

Overview
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**European Public
Procurement Landscape
Overview Booklet.**



Pronto

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Rationale.

The European Union is constantly looking for new ways to respond to increasingly complex societal needs and meet the demand for specialised products and services. It strives to promote innovation and technological advances that might lead to new and more adapted

solutions by supporting the public sector to act as early adopter and 'pool' innovation in our everyday lives. Public procurement is one of the means to achieve this goal.

Public Procurement

Refers to the **purchase of goods, services and processes/works by governments and state-owned enterprises**, covering everything from army uniforms to highways and schools, from medical equipment to cleaning contracts and professional services. In fact, a substantial part of public investment is spent in our economy through public procurement, **representing 14% of the EU GDP**, making it a fundamental element of the investment ecosystem¹.





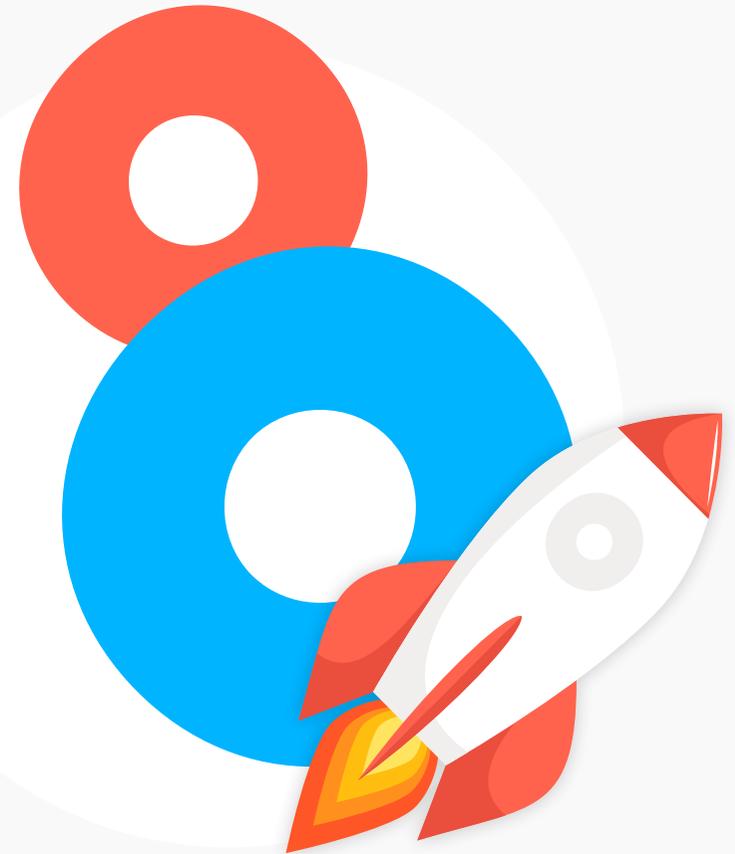
Public authorities can use the public procurement lever in a strategic manner to obtain better value for each euro of public money spent and contribute to a more innovative, sustainable, inclusive and competitive economy. However, there still remain many areas where improvements would decisively contribute to competitiveness and efficiency gains.

The possibilities of public procurement as a strategic tool to modernise services and support sustainable social policy objectives and innovation are not used to their full extent by Member States.

For example:

- Public procurement is still regarded as a mere administrative procedure, with **55% of these procedures today perceiving the lowest price as the only award criterion**².
- Contracting authorities are rarely buying together, with **only 11% of procedures being carried out by cooperative and centralised procurement**, overlooking the fact that buying in bulk (in other words bundling demand up) may lead to better prices and offer an opportunity to exchange know-how in order to obtain better quality. Although not all types of purchases are suitable for aggregation, overall low aggregation rates suggest lost opportunities.

2. Ibid.





Innovation Procurement .

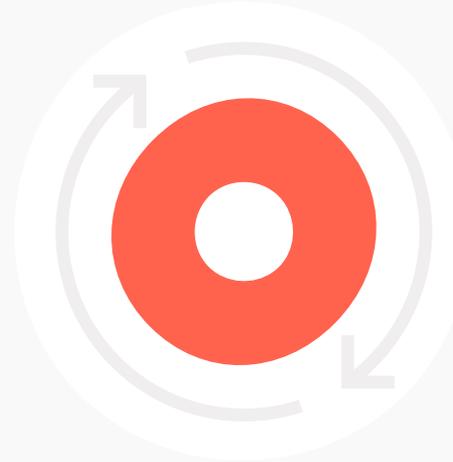
Public procurement is a strategic instrument for each Member State. It is imperative, however, for it to turn away from its **traditional two-dimensional rationale**:

More specifically:

1. **Public procurement requires a shift from a purely administrative approach to a strategically and needs-driven one**, in full compliance with the EU and national rules.
2. **It needs to go a step further and start using more differentiated parameters and criteria** that enhance quality-oriented, sustainable and long-term financially advantageous results, not just taking exclusively short-term cost into account.
3. **Instead of predefining the solutions to a given situation, it should rather provide a description of the actual needs**, allowing for a greater margin of potential solutions.

Traditional Rationale.

Focusing almost exclusively on final cost and any additional services offered along



A rigid definition of the solutions to be provided

This is where
Innovation Procurement
comes to play.





Innovation can and should play a decisive role in this endeavour. It can take on multiple meanings³ but it is all about **finding new and better ways to deal with ordinary but also emerging challenges.**

"Innovation procurement" introduces the notion of buying either the process or the outcome of innovation.

In other words, having specified their needs, public procurers must decide whether available products, services or works can meet their expectations. Oftentimes those needs are met, but there are instances when the procurers come to realise that the market lacks any appropriate solutions or, in case these exist, they are still quite new and not available on a commercial scale. Depending on the case, public procurers can resort to three possible alternatives:

1. **When products, services or works available on the market do not cover their specific needs, public buyers have to buy R&D services in order to get new solutions developed and tested.** They describe what they need, prompting businesses and researchers to come up with and develop innovative solutions to

tackle that specific need. This is known as Pre-Commercial Procurement (PCP). The contracting authority or entity is given the opportunity to 'test' several solutions on a small scale (i.e. more than one solution providers are funded) in order to define which one better addresses its needs or what remains to be resolved before proceeding with a full-scale purchase.

2. **In other instances, public buyers' needs can be met with innovative products, services or works that already exist or are new on the market and contain substantially novel characteristics but are not yet available on a large-scale basis and may require conformance testing.** In both cases, public buyers resort to **Public Procurement of Innovation (PPI)** acting as lead customers (early adopters).

3. **EC Directive 2014/24/EU** defines public procurement of innovation as 'the implementation of a new or significantly improved product, service or process, including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations inter alia with the purpose of helping to solve societal challenges or to support the Europe 2020 strategy for smart, sustainable and inclusive growth';

The OECD's Oslo Manual defines innovation as 'the implementation of a new or significantly improved product (good or service), or process, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations'.

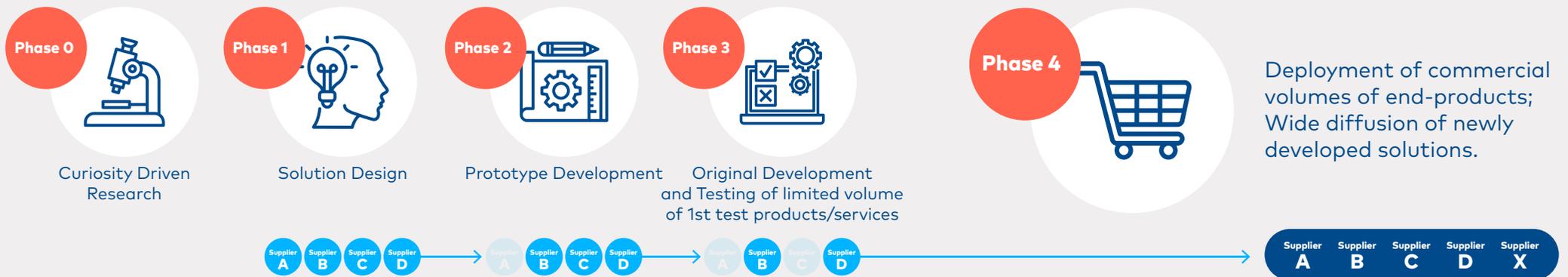


The key feature of PPI is that contracting authorities do not define detailed technical specifications for the sought-after products or services, but describe instead the final result (i.e. the expected benefits) they wish to obtain.

This approach enables potential suppliers to focus more on the characteristics of their solution instead of just the cost, as price is no longer the most important selection criterion in PPI.

The possibility of joint procurement should also be mentioned, which can facilitate cooperation between contracting authorities, thus allowing for risk and benefit-sharing in innovative projects and the pooling of demand.

Innovation procurement phases.





In some cases, public procurers may wish to **purchase both R&D and its resulting products or services**, with both elements tailored to public requirements and with specific rules to ensure equal treatment and transparency. This is called an **innovation partnership** and takes place in three phases:

A. Competitive;

B. Research and Development;

C. Commercial.



This procedure should, however, only be used in limited circumstances when the goods, works and services that are sought after are innovative, and when there is an intention to include both the development and purchase elements in the procedure, provided they correspond to agreed performance levels and maximum costs.



Public Procurement of Innovation (PPI).

A GAME CHANGER.

Public Procurement of Innovation can:



Address many of Europe's major challenges, especially in **creating sustainable growth and jobs** ;



Enable investments in real economy and stimulate demand to increase competitiveness, as highlighted in the European Commission's Industry Communication ;



Support the transition to a resource-efficient, energy-efficient and circular economy , fostering sustainable economic development for more equal and inclusive societies.





Although public procurement primarily aims at acquiring products, services and works economically, by going beyond the concept of the 'better-price offer' and introducing among the award criteria parameters and notions such as whole-life and life-cycle costs, MEAT (Most Economically Advantageous Tender - allowing for more prominence to quality), risk sharing, as well as environmental and societal considerations (notably circular economy), public procurers can enhance cost-efficiency over the medium or long term and boost performance, thereby initiating cost savings. It is simply a question of achieving the best cost-benefit ratio.

Innovative products and services often result in concrete improvements of administrative procedures and the concomitant enhancement of service quality, as well as user friendliness and satisfaction. PPI also allows for the development of knowledge, skills and techniques and the rapid introduction of newer technologies into the market - subsequently applied to several future projects - and contributes to attain positive publicity and acknowledgement.

4. https://ec.europa.eu/commission/priorities/jobs-growth-and-investment/investment-plan_en

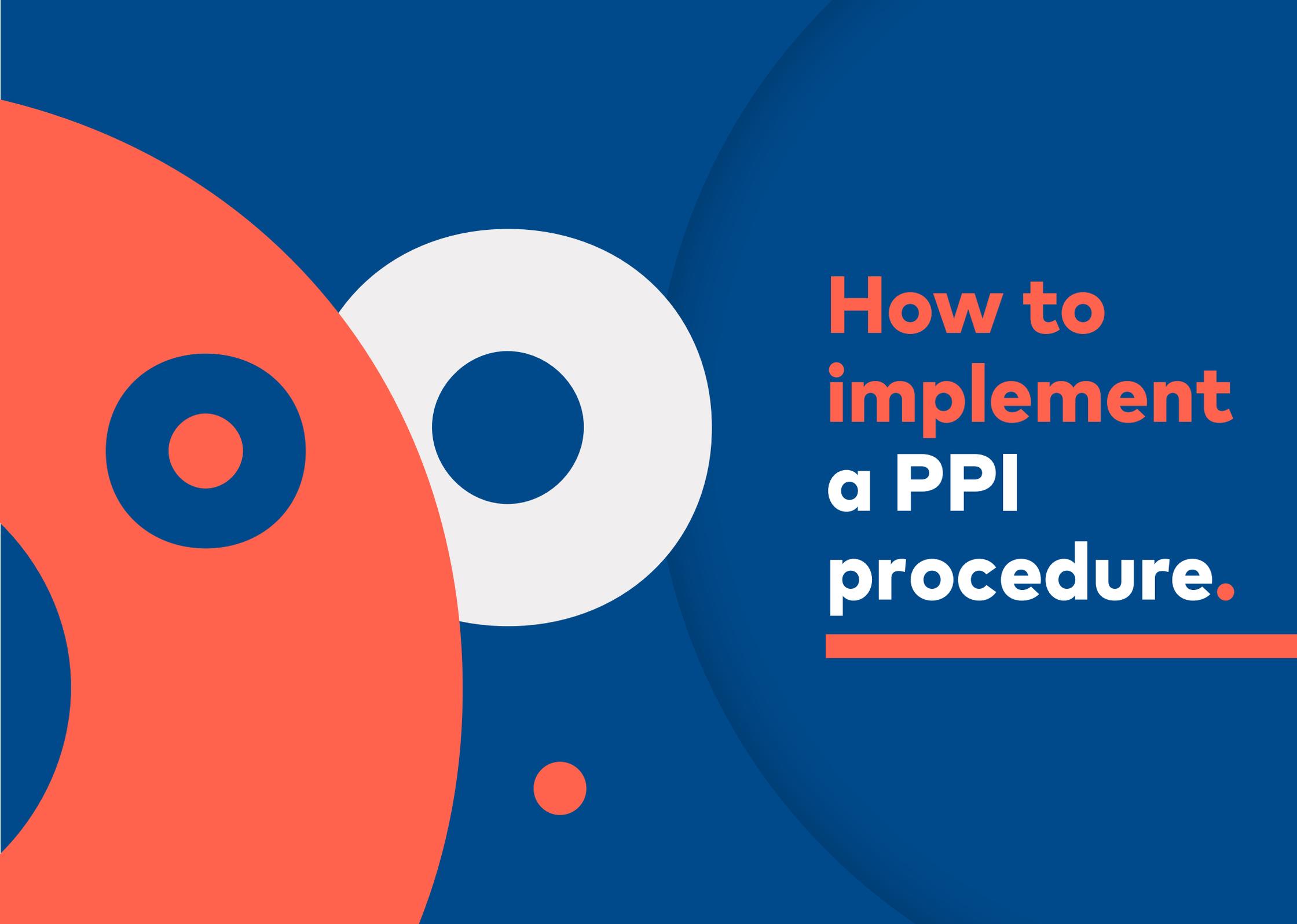
5. "Investing in a smart, innovative and sustainable Industry. A renewed EU Industrial Policy Strategy", COM(2017) 479, 13/9/2017,

6. "Towards a circular economy: A zero waste programme for Europe", COM(2014) 398, 2/7/2014

By developing a forward-looking innovation procurement strategy,

public procurers can drive innovation from the demand side, thus enabling the public sector to modernise its services faster, while simultaneously creating opportunities for companies in Europe to gain leadership in new markets.





**How to
implement
a PPI
procedure.**

Step 1.

Assessment of public buyers' needs

The first and most crucial step is to carry out a thorough **needs assessment** and decide whether to:

A.

Opt for the current, established goods or services, limiting yourself to replacing outdated equipment with more of the same;

B.

KEEP AN OPEN MIND
and envisage introducing modifications and innovative solutions.



Instead of immediately drafting technical specifications, **public procurers should start by clearly defining their needs in terms of functionality or performance to improve.**

Having sorted out the ones for which clear-cut solutions already exist, they have to **prepare a business case** for the remaining needs. This will allow them to determine if there is enough economic justification to start the procurement and, if so, set the parameters to maximise the expected impacts whilst keeping the costs and risks to a predefined acceptable level.

The business case should compare costs & benefits for three main scenarios, i.e. the *business-as-usual* one – when the buyer does not undertake any innovation procurement and chooses the risk-averse approach, the *best case* scenario and the *worst case* one. It should also include both the *internal expected benefits* (e.g. savings, modernisation of public services, functionality or performance improvements) and the *external* ones (e.g. end-user satisfaction, environmental and societal impact).

It is imperative to keep in mind that the external environmental and social impacts of innovation procurement occur over time and, therefore, **both short and long-term benefits should be considered** in the business case, including methodologies such as circular economy, Life Cycle Costing (LCC), Total Cost of Ownership (TCO), etc.

It will also constitute a useful tool to decide on how to monitor the suppliers' performance and face any unexpected events within or related to the project, thus ensuring the viability of the latter.





Under such circumstances, the public procurers have the possibility to choose between two similar procedures, with their main difference lying in the degree of maturity of the project:



The competitive procedure with negotiation

Is addressed to **public procurers who already have a more precise idea of the nature and the subject matter of the public procurement contract and can therefore define the specifications they require.** In some cases, however, the contract cannot be awarded without prior negotiations and an element of adaptation, design or innovation, due to risk or complexity. This procedure aims to bring public procurers closer to the industry by initiating a direct dialogue on specific characteristics of the solutions to be developed, setting functional or performance requirements, appropriate award criteria in terms of quality and other measurable indicators, possibly including a prototyping phase.



The competitive dialogue

Is addressed to **public procurers who know their needs, but important choices remain to be made and, therefore, specifications cannot be clearly defined.** It is a two-stage procedure. The public procurer should first describe its needs in a descriptive document, setting the minimum requirements for candidates and defining the contract award criteria based on Best Price Quality Ratio (BPQR). Then, after verifying the selection criteria for candidates, the public procurer initiates a competitive dialogue with the participants that meet the minimum requirements. When the competitive dialogue has reached an optimal stage according to the public procurer, each bidder is invited to submit their offer. This procedure requires that the public procurer carefully sets the quality criteria in the initial stage before starting the dialogue, so as to ensure that they are objectively measurable and comparable.



Step 2.

Market consultation for solutions that are already available or under development.

A **Preliminary Market Consultation (PMC)**

refers to the process of conducting research with a view to preparing the procurement and informing prospective bidders of the contracting authority's plans and requirements. Both a good understanding of the potential supply chain and some market research are essential tools for any tender and its final outcome.

Step 3.

Evaluation of the project's complexity and whether technical specifications can be precisely determined or not.

A **negotiated procedure** is a possible recourse for public contracts pertaining to large or complex projects, when the needs of the contracting authority cannot be met without adaptation of readily available solutions or when technical specifications cannot be established with sufficient precision.

Step 4.

Early market notice and engagement.

A **Prior Information Notice (PIN)** can prove to be essential to ensure that the innovation procurement will really achieve the expected benefits and cost reductions. A PIN is a notice published in the Official Journal of the European Union (OJEU), announcing early on a contracting authority's purchasing intentions. It may be used to reduce the time periods associated with tendering, to give the market advance notice of requirements, to initiate a preliminary market consultation or as a call for competition. It does not oblige the contracting authority to proceed with a procurement process, but informs the market that they should expect a procurement to be commenced in the coming period.

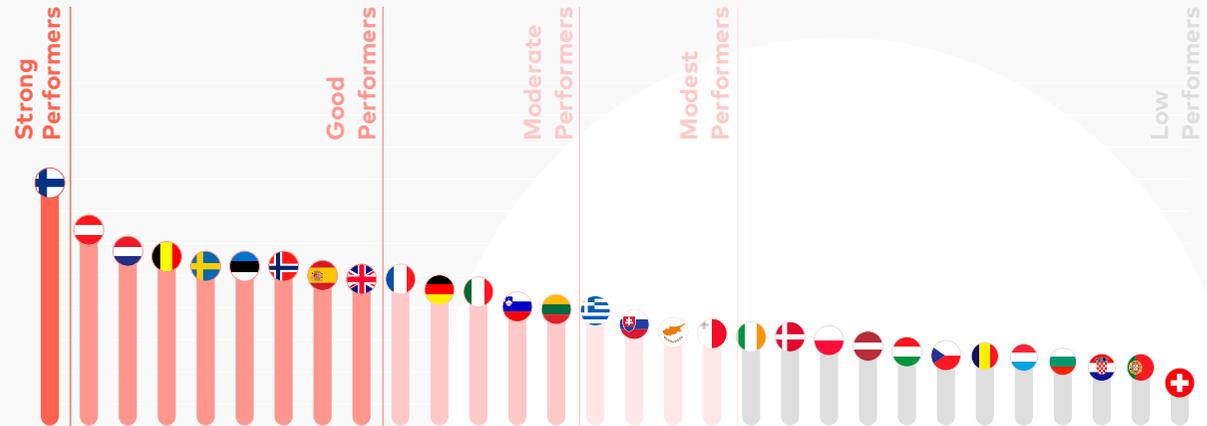
Policy framework and definitions of PPI in Europe.

Individual countries across Europe have reached different degrees of advancement as far as the **innovation procurement policy framework** is concerned, with it, however, being rated as rather immature on the whole. This was revealed in the evaluation of each country's performance in the field and the assessment of their policy systems maturity carried out during the "Benchmarking (2018) of national innovation procurement policy frameworks across Europe" study .



In fact, the innovation policy framework across Europe is working at just above one fourth of its potential power and

there is still significant progress to be made.



Overall ranking and clustering of national policy frameworks for innovation procurement

Source: "Benchmarking of national innovation procurement policy frameworks across Europe" study

A number of similarities, disparities and trends come to light. Although most countries have official definitions or at least a legal basis for R&D procurement, PCP and PPI -meaning that they are ready to develop corresponding strategies -, **innovation procurement is not defined across Europe in a sufficiently clear and accurate way** and there seems to be a common misinterpretation that innovation procurement only encompasses the innovation partnership procedure.

The endorsement of **innovation procurement** as a mechanism for enabling structural reforms and public sector modernisation needs to be improved across all countries, namely through policies for competition and entrepreneurship. **It needs to be embedded as a strategic priority in policy frameworks and action plans related to all public sector activities.** It is currently only embedded in some sectors, notably those of the environment, health and social services.

7. <https://ec.europa.eu/digital-single-market/en/news/benchmarking-national-innovation-procurement-policy-frameworks-across-europe>, SMART 2016/0040 study contract





Action plans and policy initiatives fostering PPI.

There is also much to be done as far as action plans for innovation procurement are concerned.

Most countries have not yet developed dedicated action plans with specific measures, coordinated policy objectives, procedures and resources.

They lack an overall umbrella strategy to foster innovation procurement more widely.

So far, only 4 countries (AT, BE, FI, NL) have adopted dedicated action plans, identifying concrete actions and targets and defining clear timelines. Specific objectives and targets can vary from raising awareness by drafting portfolios of projects and good practices to fostering dialogue between demand and supply, matching public procurers and potential suppliers of innovative solutions, and stimulating public organisations to participate in EU opportunities of innovation procurement, such as Horizon2020. They may appoint responsible actors for each action to be implemented and tackle issues like risk management, skills development and information sharing.

For the European public sector to become as innovation friendly as other regions of the world, **a spending target for innovation**

procurement needs to be adopted and implemented, involving formal commitment by key procurers. It should be accompanied by support and monitoring activities and be embedded in a number of strategic projects so as to create an innovation procurement market. It should target not only central government authorities, but also regional and local ones, in an attempt to meet the targets fixed and make public procurers embrace the commitment. This endeavour also calls for the creation and implementation of an adequate monitoring system in order to measure and evaluate the progress of each country and its respective innovation procurement expenditure. **Such a system has not been fully developed and to expenditure measurement is still carried out in a non-systematic way, if at all.**



Another means of coaxing public procurers to opt for more innovation procurements is to **set a number of incentives, financial or personal ones, which could be applied nationwide or regionally, for pilot projects or larger scale innovation procurement.** Finland, for instance, provides grants to public authorities via a dedicated financing instrument. All public procurers are eligible for funding and the grant covers 40-50% of total costs in the preparation stage of procurement, covering namely development, piloting and adoption of new products and services. The grant should be used to build collaboration, undertake market consultation and bring together prospective providers and end users. The Finnish financial incentives apply both when co-financing can be attained (e.g. from EU programmes) and in instances when it cannot. There also exists a prize plan in some countries to reward top performances

among contracting authorities and bonuses when targets are reached. Once again, the above-mentioned incentives vary from one country to another and are not comprehensive or fully developed.

With a view to overcoming obstacles related to expertise and experience, **some European countries have come up with measures to provide assistance to public procurers in implementing innovation procurement projects.** Such measures aim at capacity building and encompass a variety of activities, like setting up central websites, organising trainings and workshops, presenting good practices, preparing handbooks or setting out guidelines, coordinating actions, building synergies and networking between procurers.



Nevertheless, such initiatives are generally not designed and addressed to mainstream innovation procurement on a large scale, and the number of countries that provide advanced types of assistance is limited. Case specific, full-scale practical implementation, template tender documents and coordination support are still scarce in most countries.



EU Legal Framework.

In January 2014, the European Parliament adopted new public procurement directives, which all EU Member States had to transpose into their national law by 18/4/2016:

DIRECTIVE 2014/24/EU ON PUBLIC PROCUREMENT

DIRECTIVE 2014/25/EU ON PROCUREMENT BY ENTITIES OPERATING IN THE WATER, ENERGY, TRANSPORT AND POSTAL SERVICES SECTORS

DIRECTIVE 2014/23/EU ON THE AWARD OF CONCESSION CONTRACTS

These included changes to procurement procedures which were designed to facilitate the increase of innovation procurement, namely:

Increased flexibility and simplification on the procedures to follow, negotiations and time limits.

Clearer conditions on how to establish collaborative or joint

procurements which, through bulk purchasing, can provide the necessary demand to launch new solutions.

Strengthening the use of life cycle costing, which describes all the phases through which a product passes from its design to its marketing and the discontinuation of its production.

The creation of innovation partnerships which enable a public authority to enter into a structured partnership with a supplier with the objective of developing an innovative product, service or works, with the subsequent purchase of the outcome.

The exemptions for procurement of R&D services currently included in the new Directives (which are the basis for PCP) will be maintained. Public procurers can therefore continue to undertake pre-commercial procurement.





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Boosting public procurement
for sustainable innovation

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["Analysis of Public Procurement of Innovation in EU"](#)

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