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CZECH RECOVERY PLAN

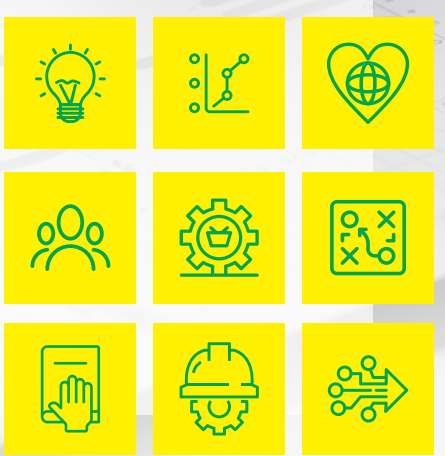
MINISTRY OF REGIONAL DEVELOPMENT CZ

NATIONAL PUBLIC PROCUREMENT STRATEGY

NATIONAL PUBLIC PROCUREMENT STRATEGY

in the Czech Republic

for the period
2024 to 2028



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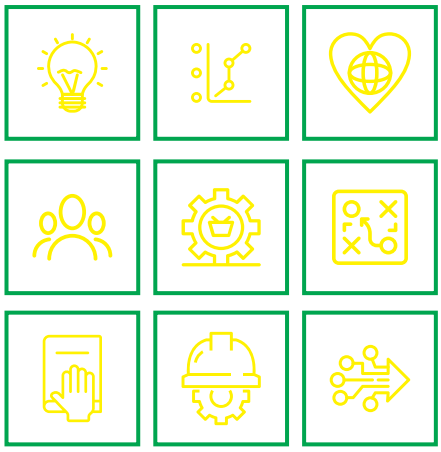

Ladies and gentlemen,

You are holding a document entitled the National Public Procurement Strategy for 2024–2028. The Government has committed itself to preparing and implementing such document in its Policy Statement.

In terms of scope and complexity, it is the first truly conceptual document relating to public procurement in the Czech Republic.

Public purchases amount to almost a trillion Czech crowns annually, accounting for roughly 15 % of GDP. In terms of non-mandatory state and local government spending, it is the most important tool for public policy implementation.

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

The Strategy is based on cost-effectiveness, sustainability of public purchases and full digitisation. Contracting authorities will appreciate a more simplified and predictable approach in public procurement, which will bring maximum effect to them. The crucial point is that the very method of preparation and the procurement process itself encourages the market to enhance their offerings. With high-quality, secure and innovative solutions, we will exploit the full potential of public procurement.

Our motto when preparing the Strategy was: „Let's buy what we really need. Fast, quality and fair. With the future in mind."

Ivan Bartos
Minister of Regional Development
and Deputy Prime Minister for Digitisation in Petr Fiala's Cabinet

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1 Basic Information about the Strategy

Strategy name	**National Public Procurement Strategy in the Czech Republic for 2024 – 2028**
Strategy category	**National, medium-term, with society-wide impact**
Strategy sponsor	**Government of the Czech Republic**
Strategy development manager	**Ministry of Regional Development**
Strategy development coordinator	**Ministry of Regional Development**
Year of Strategy development	**2023**
Strategy approved by	**Government of the Czech Republic**
Strategy approved on	**21 February 2024**
Form of approval	**Resolution of the Government of the Czech Republic No. 117 of 21 February 2021**
Latest update	–
Strategy implementation time	**Ministry of Regional Development**
Responsibility for implementation	**1 January 2024 – 31 December 2028**

1. Basic Information about the Strategy

2 Strategy Development Context

Public sector purchases amount to CZK 990 billion annually[1], i.e., approximately 15% of the Czech Republic's GDP. Public purchases and investments thus represent a crucial driving and shaping force for the national economy and the Czech market. In terms of non-mandatory spending by the Czech government and local authorities, it is the most important tool for implementing public policies.

This purchasing power can be used strategically in response to pan-European and global trends and associated **economic, social, digital, environmental and energy-climate transformation as leverage to deliver on visions and objectives in priority national policy areas**. The current economy and the way the markets function are changing fundamentally and on a large scale in Europe and globally. There are new expectations from the financial community regarding the sustainability and resilience of investments, and we are experiencing the advent of omni-present 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 operational in the future, it will have to respond adequately to these new formative phenomena.

[1] Ministry of Regional Development (2023). Annual Report on e-Procurement and the State of Public Procurement for 2022. Available from: https://portal-vz.cz/vyrocni-zpravy-a-souhrnne-udaje-o-verejnych-zakazkach/vyrocni-zpravy-o-stavu-verejnych-zakazek/

Well-managed public procurement can deliver strong societal outcomes and impacts in this transition process. In particular, it can foster innovation, including energy, climate, environmental or social innovation, support the development of SMEs, encourage the adoption of sustainable solutions, contribute to the growth of employment and well-paid, high value-added jobs, and enhance the sustainability and resilience of public infrastructure. Purchasing innovative products, public 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 transform to more sustainable business models.

It should also be noted that the strategic concept of public procurement is taking on a more significant role in the current situation of socio-economic crisis, and it is important that the state and local governments use their purchases to assist in the recovery of the economy.

The method of preparation and the public procurement process itself should therefore encourage the market to offer quality, sustainable, safe, resilient and innovative solutions so that their implementation fully exploits the societal potential, in terms 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, these efforts on the part of contracting authorities must include encouraging the participation of as wide a range of relevant suppliers as possible in tendering for public contracts, so that these suppliers are confident that contracting authorities are sincerely seeking the best possible solution to their needs and that the contract awarding practices are efficient and fair, i.e., properly prepared and transparent.

The principles of responsible public procurement were built into the public procurement landscape by the applicable EU Directives in 2014[2], and indirectly by the GPA in 2012[3]. More than a decade ago, the purpose of public procurement, which until then[4] had focused only on the development of the single market through the principles of transparency, non-discrimination and equal treatment, was extended to include the principle of competition, leading to significant pressure on price and supplier protection. As is also evident in the current legislative and methodology developments in other EU Member States, public procurement is entering a new phase which requires a change in the approach of the actors concerned and an overhaul of 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 the wake of the 2015 Paris Climate Agreement and the Green Deal for Europe[5] as the basic 30-year

[2] See Chapter 11.1.3.

[3] The Agreement on Government Procurement. It is a multilateral agreement within the WTO to secure 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 in 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

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

- Become climate-neutral by 2050;
- Protect human life, animals and plants by reducing pollution;
- Help secure a just and inclusive transformation;
- Help companies become world leaders in clean products and technologies.

These long-term goals thus reflect the climate, environmental, innovative and social aspirations of the European Union 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, which will require 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 motivation of contracting authorities to use the available space (including small-value contracts) to benefit the purpose for which they were established, thus strengthening the relative balance, stability and performance over longer time horizons, not only for themselves, but in the case of local governments, among others, also for their registered entrepreneurs and investors. For them, the ability to innovate and develop more sustainable business will be the alpha and omega of their future competitiveness on the internal 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 embrace a strategic approach to public procurement is adopted by as wide a range of contracting authorities as possible, and that efficient 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 practices should be simplified and standardised as much as possible and, where appropriate, supplemented by additional means of support for contracting authorities, including the development of professionalisation, support for the centralised 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 control authorities, this National Public Procurement Strategy for 2024–2028 ("the Strategy") should present a set of **clear and practical measures to modernise public procurement and to introduce the appropriate good practice quickly and efficiently.**

Basic facts about the public procurement market in the Czech Republic

Volume of public purchases

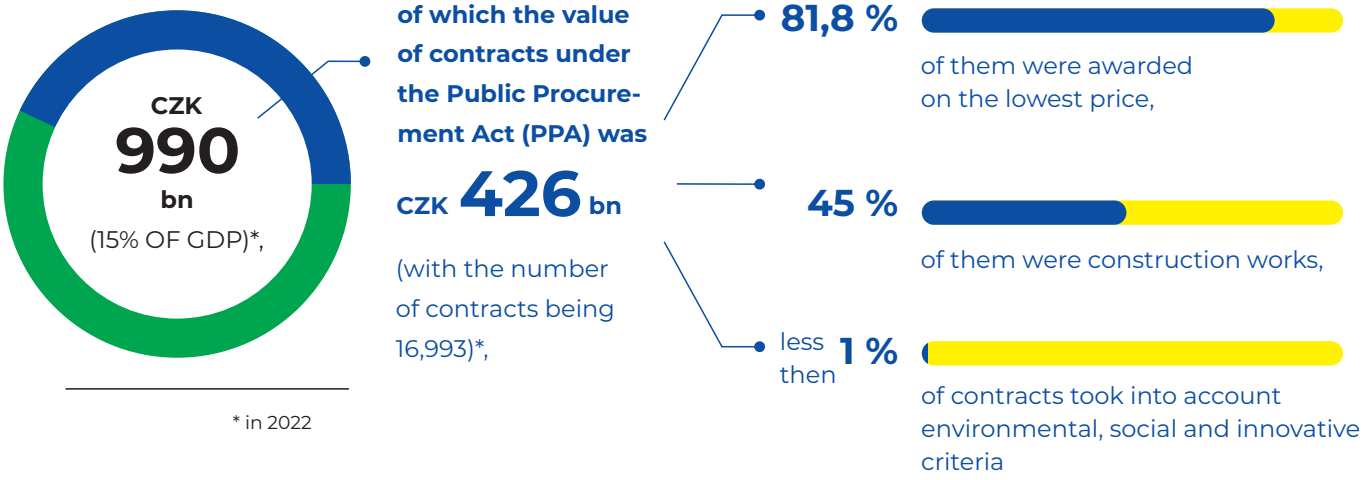


Figure 1: *Volume of public purchases in the Czech Republic. (May 2022)*

3 Vision

Public purchasing takes place in a **predictable environment**, oriented towards **maximising value for money**[6]. Such purchasing leads to better services for citizens and businesses, more consolidated public budgets and more competitive companies. A key aspect of procurement is general economic efficiency in terms of time and personnel including legal certainty, open and transparent communication with the market, **sustainability, resilience, innovation** or other socio-economic benefits, as well as consideration of the impact on the **local economy**. The procurement process is **fully digitised** with the possibility of centralisation at national and regional level and is conducted by **regularly trained teams of professionals** with appropriate methodological, legal and subject matter expertise. Emphasis is placed on the **preparation** of the public procurement procedure and **contract management**. Suppliers understand and trust contracting authorities' practices and have a well-functioning and effective defence tool where legitimate reasons exist, which contributes to wider competition for public contracts and the possibility to obtain more favourable bids. Due to this set-up, the Czech economy gains in competitiveness.

[6] **Value for money** is a concept based on the (mandatory) 3E, the MEAT (the most economically advantageous tender) concept, the price vs. quality ratio or the TCO (total cost of ownership) approach. To implement this concept, it is crucial to take it into account as early as during the preparation of 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 on the implementation of challenges of **economic, social and digital transformation** in a changing economy;

B. Along with **green transformation** and measures addressing **energy–climate challenges;**

C. And in line with the strategic goals stemming from the Government's Policy Statement, the Ministry of Regional Development ("MoRD") aims to set an effective and measurable government strategy for public procurement in order to:

1. Improve the quality of performance provided to public sector operators and the value for money[7] obtained, including the application of 3E principles and respect for the principle of due diligence, with an emphasis on sustainability, smart solutions and innovation;
2. Create and further develop an environment that opens the way for environmentally responsible, climate-friendly, socially sustainable purchases[8] that promote the development of SMEs, social enterprises or local communities;
3. Continuously increase awareness, knowledge and skills of responsible persons, including the setting up of a National Competency Framework;

[7] See footnote 6.

[8] In addition to the mandatory requirements in the 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 others, 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. Set up a system that collects relevant data and generates practical outputs for management and public control, as well as for the contracting authorities and suppliers themselves without a significant administrative burden placed on users;

5. Optimise conditions to increase the centralised purchasing possibilities and cooperation among entities, especially at regional level, including support for national and sectoral centralisation;

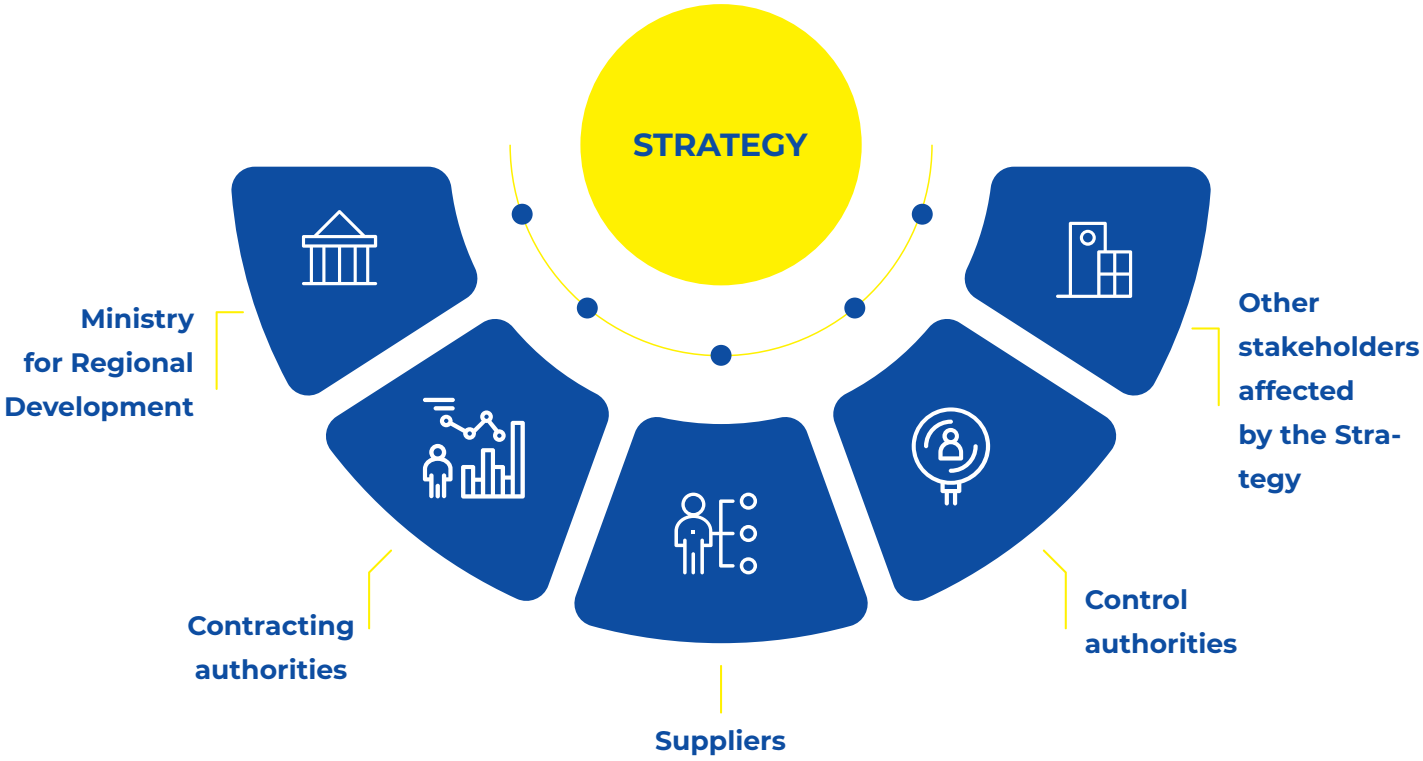
6. Increase legal certainty and predictability (including in terms of time and cost) for both contracting authorities and suppliers, and reduce formalism, including the gradual harmonisation of decision-making and assessment practices;

7. Focus on key sectors and strategic contracts to promote quality, sustainability, resilient innovation, smart solutions and digitisation.

In order to fulfil the purpose of the Strategy, the MoRD, as a beneficiary of the National Recovery Plan under Pillar 4 – Component 4.1 Systemic Support for Public Investment has pushed through the approval of financing of reform steps for the implementation of the public procurement reform under Sub-component 4.1.2 Methodological Support and Modernisation 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 operating expenditure of the Ministry of Regional Development and no additional claims for financing from the state budget will be made.

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

5 Stakeholders Directly Affected by the Strategy



Ministry for Regional Development

The Ministry of Regional Development, as the administrator of the Public Procurement Act and coordinator of digitisation and public procurement and the use of European funds, plays a key role in the creation 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 proposed therein, will be primarily intended for contracting authorities as defined in the PPA, regardless of their size and type.

5. Stakeholders Directly Affected by the Strategy

Suppliers

The Strategy also has ambitions towards suppliers in terms of supporting the broader purpose of public purchasing. Suppliers should be incentivised to come up with innovative, sustainable and socially appropriate solutions. This encourages companies to prepare better bids and ultimately promotes their competitiveness.

Control authorities

The control and supervisory authorities have a major influence over the practices of contracting authorities, especially as guardians of the legality of their procedures in terms of both substance and form, or as arbitrators in disputes with suppliers. The approach of control and supervisory authorities in real-life practice will be crucial for the fulfilment of the Strategy's objectives. Contracting authorities should be prepared to undergo control processes without fear that supervisors would focus on (alleged) misconduct that has no real impact on the competitive environment or transparency of procurement, and with confidence that the supervisory authorities - within the space provided by the legislation – are aware of trends, market dynamics and contracting authorities' needs. The Strategy aims to promote a broad discussion on these trends and needs, including with representatives of the control authorities, and to contribute, in a proactive 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, among others, for the group of less experienced contracting authorities.

Other stakeholders 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 public procurement training, providers of e-procurement systems, non-profit organisations, but also 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 society-wide scale and to raise awareness of successful projects and positive effects among the general public.

6 Definition of the Issue to be Addressed

The Czech Republic has long and consistently been criticised by the European Commission for key indicators in public procurement even though public sector purchases amount to CZK 990 billion[9], i.e., roughly 15 % of the Czech GDP.

Although public procurement is an important tool for delivering public services and consolidating public budgets as well as for meeting environmental, social and economic objectives, the Czech Republic has so far not sufficiently exploited this strategic overlap and potential.

1. According to data from Datlab s.r.o., for example, public contracts awarded solely on the lowest price clearly dominate, accounting for 80 % of the total, and to a large extent they do not favour awarding on the life-cycle costs of the goods, works or services purchased. The remaining contracts take into account more than one criterion. In 9 % of them, these criteria relate to quality – subject-matter of the contract, implementation team, innovative solutions, environmental or social impact. Thus, for about 91 % of the contracts under the PPA, quality is not subject of tender evaluation. The prevailing evaluation criterion is price, with 11% of contracts taking into account a detailed breakdown of price, or life cycle costs, deadlines and other contractual conditions. This makes it difficult for companies that offer, for example, innovative solutions, to enter the public procurement market.

2. The potential of sustainable procurement in areas with a significant environmental impact is not exploited, in particular in relation to energy efficiency of products and circular economy criteria, or the use of nature-friendly measures and blue-green infrastructure.

[9] Ministry of Regional Development (2023). Annual Report on e-Procurement and the State of Public Procurement in the Czech Republic for 2022.
Available from https://portal-vz.cz/vyrocni-zpravy-a-souhrnne-udaje-o-verejnych-zakazkach/vyrocni-zpravy-o-stavu-verejnych-zakazek/

3. Along with this comes the method and degree of professionalisation of public buyers. Even in this area, the emphasis to date has often been on the formal correctness of tender specifications rather than on knowledge and skills in purchasing methods, quality of performance and value for money.

4. Due to the high number of public contracting authorities in the Czech Republic, public procurement is conducted in an extremely decentralised manner, which entails the risk of lower levels of expertise and experience of those responsible for purchasing and may have secondary impacts on the failure to take advantage of economies of scale, transaction costs, etc.

5. The motivation to make environmentally-friendly, innovative or socially responsible purchases is reduced by placing emphasis primarily on procedural correctness (in addition to monitoring real outputs measured by value for money).

6. The lengthy procurement process in an environment of high legal uncertainty leads to a failure to use the potential that could otherwise be gained in the implementation of public investments, especially those of high volume or otherwise significant. This requires a more ambitious setting of criteria and conditions in procurement procedures, the use of international good practice, modern capacity building programmes for public buyers, and the strengthening of the role of centralised purchasing tools and platforms.

In summary, it can be said that public procurement in the Czech Republic has so far focused mainly on the procedural aspects, and now it is imperative to focus more on obtaining the best value for money and responding sensibly to the challenges of the new era[10].

[10] Making use of risk management tools, due diligence, strategic approach to public procurement.

7 Intervention Logic

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

In summary, the headings below cover all aspects required for the establishment of a well-functioning support system for both contracting authorities and other stakeholders. The basic pillars are:

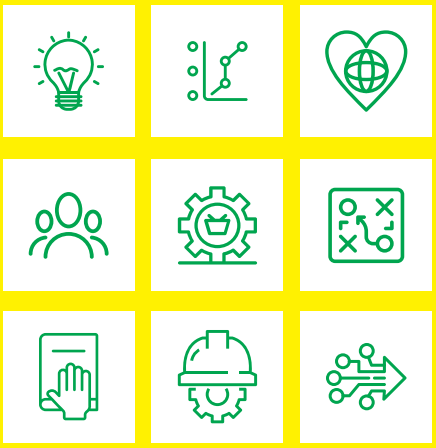
Headings: *"Public Procurement in the Construction Sector"* and *"Data and Digitisation"* are cross-cutting chapters.

Each chapter is broken down into the following sections:

1. Background
2. Why the Issue Needs to be Addressed
3. Setting Objectives
4. Overview and Description of Measures

8

Objectives and Measures under Each Subject Heading



8. 1 Quality and innovation

8. 1. 1 Background

Promoting quality and innovation in public procurement can be achieved in various ways: by setting fixed parameters and requirements (YES/NO assessment) as part of qualifications or minimum technical conditions, while maintaining the principle of proportionality and non-discrimination, or by setting evaluation criteria ("more/less compliant"). The evaluation may reflect life-cycle costs or take into account the quality and sustainability of deliverables in another manner.

However, according to the available analyses, awarding on the basis of lowest price still prevails in the Czech Republic (see Figure 12 on page 115). This reflects a strong dependence on pure purchase cost-based procurement. At the same time, international studies recommend the use of quality-based evaluation, including sustainability criteria, to promote market growth for better quality performance and innovation.

At present, quality and/or innovation (where appropriate) are only relevant for those contracting authorities who are willing to invest in training and the dissemination of good practice. Getting the more advanced participation or selection criteria right requires careful and timely preparation of the tender specifications, and this in turn requires the ability of the contracting authority to justify and defend these criteria or less commonly used practices, whether in discussions with its own management or superior organisation, in relation to suppliers or, last but not least, to the staff of control authorities

[1] van 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, file reference No. 1 Afs 20/2008-152 ("... The ideal solution in the given case remains such a procedure where the contracting authority sets the qualification criteria or basic parameters for public procurement less strictly in order to avoid unnecessary discrimination against some eligible suppliers, but reflects its requirement for the highest possible quality of the public contract in its evaluation by means of the quality evaluation criteria pursuant to Section 116 of the Act.")

(in line with the so-called golden rule "I know what I am doing and why I am doing it"). According to the saying "It's only those who do nothing, do not make mistakes", the easiest form of selection is often preferred, with only basic qualifications, basic level of performance parameters and possibly with price as the only award evaluation criterion.

In terms of the development of criteria and procedures leading to the selection of qualitatively more valuable or innovative solutions, a survey conducted in 2021 by the Platform for Responsible Public Procurement ("PRPP") with approximately 2,000 respondents specified the following as significant barriers:

- Uncertainty about the right approach to dealing with situations and inconsistent approach of control authorities, especially in subsidised contracts;
- Lack of structured methodological support;
- Absence of a clear national policy;
- Insufficient training system in public procurement.

This Strategy should help to remove these barriers.

8. 1. 2 Why the Issue Needs to be Addressed

In the current socio-economic climate, a strategic approach to public procurement is becoming more relevant. It is important for the state and local governments, in particular, to 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 promote fair relations in the supply chain or decent working conditions and, last but not least, not to needlessly give up on promoting 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, where appropriate, carbon sequestration), and that the resulting investments, especially the infrastructure to be built, are **resilient to current and prospective future climate conditions**.

At the same time, one cannot ignore the new global trend in investing, which considers sustainability and investment resilience as crucial. Within the European Union, this benchmark is the so-called “Taxonomy for Environmentally Sustainable Economic Activities” (EU Taxonomy), which also makes it possible to differentiate between ordinary purchases and “taxonomic purchases”, i.e., those that meet the requirements set by EU regulations for sustainability. It is clear that 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.

The value for money must be perceived not only in terms of the cost of deliverables, i.e., the "entry" purchase price. When purchasing, it is imperative to take into account the full life-cycle costs and sustainability of the products and services offered, and to create a sustained pressure to increase the value for money offered in public contracts tendered as well as during their performance. It is clear that, with few exceptions, awarding public contracts solely on the lowest price in terms of acquisition costs does not take into account the actual total costs to be incurred by the contracting authority in connection with the deliverables to be procured. At the same time, there is a need to promote solutions and approaches that contribute to strengthening the position and confidence of the contracting authority towards developing positive environmental and social impacts of the public money spent.

More frequent use of the criteria and practices that promote innovation and quality, including those aimed at sustainability and sustainable financing, will only be achieved if contracting authorities are encouraged to make more efforts already at the early stages of public procurement. At the same time, it is necessary to make quality and innovation-promoting practices so much a matter-of-course in procurement practice that contracting authorities do not have to defend their decision to promote quality or innovation per se in the procurement procedure (why, if at all), but at the same time are sufficiently well prepared to argue for the selection of specific criteria and have this argumentation competently discussed as well (whether with the superior bodies or control authorities or market participants), and of course ensure that these aspects are monitored and evaluated also during the public contract implementation.

8. 1. 3 Setting Objectives

Objective:

To develop an environment in which contracting authorities will be able to purchase **high value for money goods and services**[12] as standard, while receiving **quality, sustainable and innovative** solutions.

Procurement with an emphasis on quality, in particular sustainability and resilience, as well as on fostering innovation, requires early and high-quality preparation of the procurement procedure and thus, where appropriate, a move away from awarding on the basis of the lowest bid. At the same time, an open and transparent discussion with the market should be secured and promoted as much as possible, as well as the resulting enhanced motivation for wider competition among suppliers. If these principles are properly applied, the risks associated with poor-quality deliverables should be reduced.

- In the target state, practical models for the setting of
- technical parameters and conditions of participation (including certificates and labels, green brands, etc.);
- contractual terms and conditions (including monitoring of subsequent performance in the context of contract management;

[12] See footnote 6.

- with recommendations for the selection of specific procurement procedures and communication with the market, including procedures for preliminary market consultations should be available and used.

A safe environment for contracting authorities should be ensured with the help of a range of user-friendly models, templates and methodologies, complemented by a practical methodological assistance landscape easily accessible by contracting authorities who could rely on them as models prepared with the use of professional capacities of the Act administrator, which have been discussed with experts, with the market and/or have already been tested in practice. This will create environment for better predictability and activation of the innovation potential from the suppliers' perspective, for promoting sustainable deliverables and obtaining better value for money on the contracting authorities' side. This environment should be created systematically and ambitiously, rather than in isolation and on a small scale.

The Czech Republic is ranked the 20th[13] in using the lowest bid price criterion within the EU, which is actually one of the front positions. The Strategy should help to increase the percentage of above-threshold public contracts that use criteria other than price to the EU average, which currently stands at 40 % of the number of above-threshold public contracts monitored. At the same time, price has a weighting of 60 % in the current EU average[14]. Also, the number of bids in these procurement procedures will be monitored and surveys (consultations with industry associations or individual suppliers) will be carried out to determine their interest or barriers to participation in the procurement procedures.

8. 1. 4 Overview and Description of Measures

Platform for sharing good and bad Practices | **01/2024–12/2026**

The MoRD will set up a platform to share experience and networking among contracting authorities and will secure its active management, thus building on the former Platform for Responsible Public Procurement (RPP).

It is expected that the Platform will be joined by representatives from among 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 contracting authority

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

[14] Datlab s.r.o. for the Ministry of Labour and Social Affairs (2019). Non-price criteria in EU public procurement.
Available form https://datlabinstitut.cz/files/2019/07/2019-07-22-MPSV%20-%20studie%20kriteria.pdf. Also, Single Market Scoreboard.
Available form https://single-market-scoreboard.ec.europa.eu/business-framework-conditions/public-procurement_en. Similarly, also the 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

should have the ambition to actively develop and use the know-how for at least two projects per year, ensuring that they are properly prepared and that the recommendations from the MoRD discussed on the Platform are implemented. Subsequently, the contracting authorities should share experience and contribute to its evaluation.

The Platform will make sure that representatives of the contracting authorities meet regularly. Two face-to-face meetings per year are foreseen, as well as several online meetings as needed.

This will be accompanied by communication between the contracting authorities' representatives and the staff of the Competence Centre (see Chapter 10 for more details) during the procurement procedure; the contracting authority's team will have access to consultations with the Competence Centre representatives as needed. The purpose is to provide effective support to the projects developed within the Platform and to successfully implement the recommendations.

The Platform will also seek to engage with senior contracting authorities' officers to support the setting of appropriate KPIs[15] for the contracting authorities' team members to align with the objectives developed within the Platform.

The Platform will also support the sharing of know-how, collaboration and the leveraging of synergies through the mutual (cross) involvement of experts and members of contracting authorities' teams in specific projects.

The Platform will also facilitate the sharing of international best practice within similar structures at EU level, namely the Public Buyers Community Platform.

Supporting pilot projects	**01/2024–12/2026**

The pilot projects should bring and show concrete practical results of the collaboration between contracting authorities and the Competence Centre within the Platform. Each contracting authority involved in the Platform will, through its management, agree with the management of the Competence Centre to select a specific project or projects for a given period of time on which they jointly collaborate, in particular through (i) the use of the know-how, consultations and recommendations of the Competence Centre, (ii) the personal involvement of a guiding Competence Centre expert as a member sent out to the working team and committees of a given contracting authority, (iii) other support (e.g., (iii) assistance in providing external expertise, foreign know-how, market consultations or media support). The key requirement will be an active approach by the contracting authority's staff to the proper preparation and organisation of the project (procurement procedure), the support of the contracting authority's management, exemplary cooperation and efforts to put the recommendations into practice.

[15] *Key Performance Indicators* (KPIs).

Developing and setting up the methodology and model management

01/2024–06/2025

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

- General procurement methodologies promoting quality/innovation/ sustainability/ resilience, including the preparation of models and templates (checklists);
- Methodologies and recommendations for dealing with vendor lock-in situations[16] for selected most common categories of deliverables;
- Models for each of the key instruments, in particular for:
    i. Preliminary market consultations,
    ii. Life cycle costing,
    iii. List of works with GHG emissions report,
    iv. Advanced sub-conditions to allow for bid variations, as well as for negotiations in a negotiated procedure with publication, competitive dialogue or design competition,
    v. Quality evaluation criteria,
    vi. Selected contractual arrangements and clauses.

Providing Comprehensive Training

04/2024–12/2026

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

Under the Professionalisation heading, an extension aimed at supporting progressive contracting authorities is planned: setting up a pilot capacity building programme for members of public and sectoral contracting authorities' working teams, focusing on innovation and quality, including sustainability and resilience; planned for 20 participants (in two runs, including a live online broadcast/recording format).

[16] A 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 change is required.

Sectoral market consultations (SMCs)

01/2024–12/2026

The purpose of sectoral market consultations (SMCs) is to make sure that contracting authorities are not reliant solely on their own initiative and efforts, but that instead of consultations being conducted individually and in a non-coordinated manner, 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 a properly targeted section of it, in a harmonised 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 maximising the efficiency and reliability of the conclusions. Professional associations should also be involved in the consultations, depending on the topic. The results of the SMCs should be made available in an appropriate format so that contracting authorities can use them when formulating the tender specifications.

It is assumed that the SMC schedule will be set for selected deliverables with a frequency corresponding to the nature of the services/products demanded and the market dynamics. The SMC schedule will be publicly available and will provide market participants with information on when and how there will be opportunities to discuss the terms and conditions of public purchases in a given area. The schedule will be open to modifications or additions, as currently needed. The SMCs will take the form of questionnaire surveys, round table discussions, etc. In the run-up to the relevant SMC, both contracting authorities and suppliers will have the opportunity to provide input, which will then be addressed during SMCs. After the SMC, a controlled update of the methodologies and models will be carried out.

Honorary awards for inspirational teams of contracting authorities

01/2024–12/2026

Inspirational procurement teams will be acknowledged annually for the existing projects and/or for the preparation of their own project, to increase their motivation and the prestige of the buyer's role. In addition to the experience gained, emphasis will also be placed on open sharing of knowledge, including those elements that have not proven effective, as an important part of the know-how transfer. This will include making these projects more visible to the market in general and to the wider public.

As part of this measure, a methodology will be prepared on how to select projects suitable for acknowledgment and recognition, as well as a communication and media plan.

In conjunction with this activity and the Platform management, senior contracting authorities' executives will be approached and involved with the intention of stimulating discussion on setting up the appropriate KPIs[17] for public procurement teams.

[17] *Key Performance Indicators* (KPIs).

8. 2 Environment for Effective Public Procurement

8. 2. 1 Background

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

- Uniform and comprehensible rules for both contracting authorities and suppliers;
- An electronic environment for efficient, transparent, innovative and secure public procurement;
- Well-functioning competition, i.e., suppliers' interest in winning public contracts;
- A partnership approach between the public and private sectors involving fair treatment of firms by contracting authorities;
- Sufficient communication starting from the procurement preparation phase, including contract management and building trust through communication with unsuccessful bidders for public contracts.

Small-value public contracts represent a significant part of the volume of public purchases, however, in terms of the number of purchases made and the range of suppliers involved, they clearly prevail over the contracts under the PPA. This entails a need for greater clarity as there are significantly larger numbers of people involved on the part of the contracting authorities and suppliers, who, moreover, often do not specialise in public procurement. In reality, however, potential suppliers are faced with inconsistencies in rules and procedures depending on the contracting authority or funding provider, which is particularly true for subsidised public procurement.

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

The intuitiveness and efficiency of electronic tools also play a significant role in making the environment more attractive for suppliers. Although some steps have already been taken to consolidate information from multiple tools in one place, there is still room for improvement of the electronic environment for suppliers. The e-Procurement Strategy for 2022 – 2030[18] 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 Digitisation 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] or rather by 1 – 4%[20]. In addition, increased competition can also have an impact on the non-price aspects of the contract 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 procedure. There was a year-on-year decrease (3.4 in 2021). According to the subject matter of public contracts, the highest average number of bids was in public works tenders – about 4.3 bids per tender, 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 Data and Digitisation chapter. However, their achievement is the key output of the measures described in both chapters.

The MoRD implements a range of methodological support activities. However, there is a need to reinforce the well-functioning activities and adapt them to the real needs of contracting authorities and suppliers, with an emphasis not only on the correct interpretation of the Public Procurement Act, but also on the common practice of administration and on commodity specialisation in procurement.

8. 2. 2 Why the Issue 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.

[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). Vliv počtu nabízejících na cenu stavebních zakázek v oblasti dopravní infrastruktury 2004–2007. Transparency International ČR, Praha. (The Impact of the Number of Bidders on the Price of Construction Contracts Related to Transport Infrastructure 2004–2007. Transparency International, CR, Prague).
[20] Soudek, J., Skuhrovec, J. (2013). Public Procurement of Homogeneous Goods: The Czech Republic Case Study. IES Working Paper 05/2013
[21] MoRD (2023). Annual Report on e-Procurement and the State of Public Procurement in the Czech Republic for 2022.
Available from https://portal-vz.cz/vyrocni-zpravy-a-souhrnne-udaje-o-verejnych-zakazkach/vyrocni-zpravy-o-stavu-verejnych-zakazek/
European Court of Auditors (2023). Public Procurement in the EU. Less competition for contracts awarded for works, goods and services in the 10 years up to 2021.

Contracting authorities that focus primarily on minimising the risks associated with the procurement process lose both potential benefits (qualitative improvement of the bid) and opportunities to avoid 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 among 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 before the tender opening. The trend towards the use of preliminary 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's strategic objectives, in particular the EU taxonomy and ESG.

A special report of the European Court of Auditors entitled "Public Procurement in the EU"[22] highlights the importance of effective competition. It states that, despite the efforts of the directives to increase the flexibility of public procurement, to improve companies' access to public procurement and to support a more strategic approach, the data at the pan-European level has confirmed that procurement procedures continue to be a significant administrative burden, the percentage of small and medium-sized enterprises participating in public procurement has not increased significantly and strategic (e.g. environmental, social and innovative) aspects are rarely taken into account in public tenders, while overall the number of single-bidder procurement procedures has increased.

In terms of long-term competition, small-value contracts are crucial for policies to focus on, as this segment clearly has the lowest entry barriers for new suppliers (especially from the point of view of required references, administrative complexity).

8. 2. 3 Setting Objectives

Objective

Making Public Procurement More Attractive

In order to achieve the above-mentioned objective, it is necessary to make **maximum use of the e-procurement potentia**l. An electronic environment for effective, transparent, innovative and safe public procurement practices in the Czech Republic is a precondition for enhanced availability of

[22] European Court of Auditors (2023). Public Procurement in the EU. Less competition for contracts awarded for works, goods and services in the 10 years up to 2021.

information for suppliers about opened tenders and enhanced availability of information for new suppliers about the possibility to submit a bid.

The goal is to have information about all public contracts available in one place, to allow suppliers to submit a bid from one place and keep a summary of all their submitted bids, and to enable anyone to set up notifications about opened tenders according to the selected parameters.

Another sub-objective is to **increase the flexibility of public procurement and reduce the administrative burden by simplifying the procedures**. The legal regulation will support effective purchasing, i.e., that obligations beyond the European directives are only imposed in justified cases. In order to achieve this sub-objective, the Strategy foresees an amendment to the Public Procurement Act that will further simplify procedures as far as possible up to the level of the EU directives. At the same time, it is necessary to have a discussion on updates to financial limits for the below-threshold procedure in connection with the discussions on increasing the limits for small-value contracts.

There is also a need to focus on **small-value public contracts**, which represent a significant part of the public purchase volume. In addition to the aim to adjust the limits, which have remained unchanged for a long time (despite significant inflation and increased cost of deliverables), a **uniform approach to the publication of key information on public procurement** and a unified **environment for the award of small-value public contracts** should be secured. This is considered by the administrator of the Act to be a key aspect for increasing their attractiveness for suppliers and thus broadening competition to include this type of contracts.

8. 2. 4 Overview and Description of Measures

Amendment to the Public Procurement Act	01/2024–06/2026

The purpose of the amendment will be to strengthen the flexibility and simplify public procurement practices so that the requirements under the EU directives are not as extended or exceeded, if possible. At the same time, a proposal will be made to increase the financial limits for small-value public contracts.

Searching for contracts and notification syste	01/2024–06/2025

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

Updating public procurement methodology	01/2024–09/2024

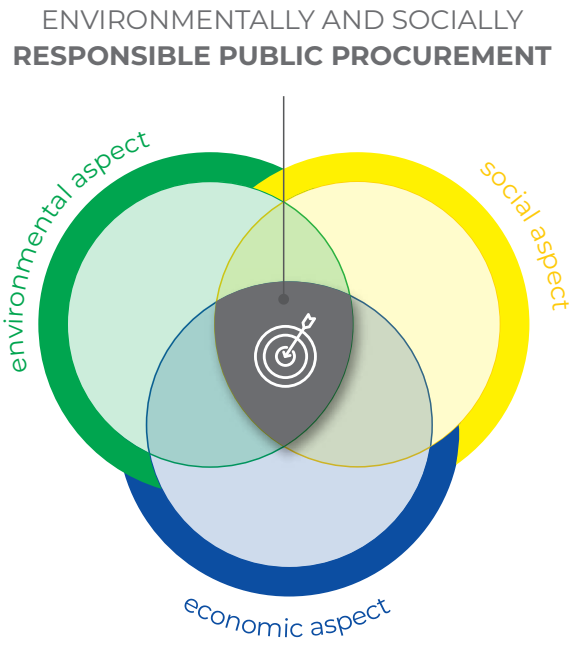
Methodological Guideline No.3 of the Central Harmonisation Unit will be updated in cooperation with the Ministry of Finance of the Czech Republic in compliance with the applicable legislation. It will be extended to include information and approaches related to activities prior to the start of the procurement process, in particular needs assessment, as well as practices leading to the purchase evaluation. It will also be supplemented with specimens of internal documents to prove 3Es before, during and after the procurement process, as well as best practice examples.

Other measures with a cross-cutting impact on the accessibility of procurement for suppliers are described in the Data and Digitisation chapter.

8. 3 Environmentally and Socially Responsible Public Procurement

8. 3. 1 Background

The essence of environmentally and socially responsible public procurement (RPP) is the **strategic use of the influence** the contracting authorities can exert with their purchasing power on the market. It is based on the public administration's responsibility for efficient use of public funds (3E principles). Responsible public procurement thus consists in **public administration organisations purchasing the products, services and works they need, while achieving maximum value for money[23] by generating benefits to society and the economy, whilst minimising damage to the environment**[24].



[23] See footnote 6.

[24] Based on the definitions from 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."*
The definition of sustainable public procurement in the ISO 20400 guidance standard reads as follows: *"Sustainable procurement [is] procurement that has the most positive environmental, social and economic impacts possible over the entire life cycle."*

The application of environmental and social considerations in public procurement was reinforced by the adoption of the Procurement Directives in 2014, when (in addition to innovation), environmentally and socially responsible procurement including the 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. The **adoption of the new principles of environmentally and socially responsible public procurement and innovation**[25] became an important milestone in their introduction into domestic procurement practice with effect from January 2021.

According to the 2023 amendment to the PPA, the obligation to apply the principles of socially and environmentally responsible procurement and innovation does not apply to small-value procurement. Although it is not an obligation, it may nevertheless be appropriate to apply these principles in many cases, as some small-value contracts may be a suitable tool for achieving positive social or environmental impacts, as evidenced by a number of good-practice examples[26]. In relevant procurement processes, they may also contribute to the implementation of procurement effectiveness principle, if properly applied.

Structured **data** in relation to the responsible public procurement has not yet been systematically collected. The analysis of the Public Procurement Volume mapping[27], which focused on the fifty largest contracting authorities responsible for 62.56% of the volume of public procurement contracts awarded in procurement procedures over the long term, showed that qualitative environmental, social and innovative criteria were identified in **less than 1 % of contracts**. This was also confirmed by the Annual Report on Public Procurement[28] (see graphical representation in the Annex).

The existing, indicative results of the research on municipalities[29] in Plaček's study (2023/2024)[30] show that 14 % of municipalities hold regular discussions on sustainable public procurement between 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 Ecolabel or other certificates as a source of information on products and services when preparing a procurement procedure. 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 regards the importance of certain parameters for the purchase of goods and services by municipalities, these parameters are as follows:

[25] Section 6(4) of the Public Procurement Act (PPA) (as amended in 2023) in conjunction with Section 28(1)(p) to (r) of the PPA.
[26] Examples of good practice published so far on the sovz.cz website, in the future on the Public Procurement Portal.
[27] Datlab s.r.o. for the project entitled Strategic Public Procurement Policy in the Czech Republic (Effective Investing) (Reg. No.: CZ.03.03.01/00/22_021/ 0001141). Analysis of Public Procurement Volume Mapping.
[28] (MoRD (2023). Annual Report on e-Procurement and the State of Public Procurement in the Czech Republic for 2022). Available form https://portal-vz.cz/vyrocni-zpravy-a-souhrnne-udaje-o-verejnych-zakazkach/vyrocni-zpravy-o-stavu-verejnych-zakazek/
[29] These are the results of the first phase of data collection (several rounds will take place). Of 6,253 municipalities contacted, 288 have responded so far, which presents a risk of a relatively high statistical error. It should also be borne in mind that responses may be biased by the fact that the respondent chooses options that they assume to be socially appropriate and that responders are 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.

	Very important	Important	Moderately important
Price	**75 %**	**23 %**	**2 %**
Environmental impact	**7 %**	**21 %**	**26 %**
Reducing greenhouse gas emissions	**7 %**	**21 %**	**27 %**
Life cycle costs	**9 %**	**25 %**	**25 %**
Purchasing from a local company	**24 %**	**27 %**	**31 %**

Table 1: *The importance of parameters for the purchase of goods and services by municipalities. (Source: Plaček 2023/2024))*

It is therefore clear that although sustainability considerations are seen as important (with an even greater emphasis on the involvement of local businesses), the primary cost of products or services remains very important for three quarters of respondents and important for a further 23 %. In comparison, e.g., the full life cycle cost of goods or services is very important and important for only 9 % and 25 % of respondents respectively. The technical specification of the subject-matter 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 the respondents rate the overall implementation of sustainable purchasing in the municipality/city as "neither successful nor unsuccessful".

8. 3. 2 Why the Issue Needs to be Addressed

A broad survey on **barriers** to the development of sustainability in public procurement as part of projects implemented between 2016–2023[31] revealed that in addition to barriers such as concerns about inconsistent interpretation of audits, administrative complexity or reluctance to make any changes whatsoever, there is strong legal uncertainty about "what is sustainable" as well as in line with the 3E principles.

The use of some social criteria, in particular encouraging the participation of social enterprises in procurement procedures, is hampered by the fact that the Czech Republic has not yet adopted a law on

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

social entrepreneurship. The possibility to define social enterprises by means of subsidy entitlements (so-called recognition features[32]) is used by contracting authorities only in a very limited number of cases[33]; rather, contracting authorities associate social aspects in public procurement with the provision of 'substitute supply', where 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 of progressive contracting authorities and education provided in the Czech Republic since 2016 within the framework of the RPP[34] projects, methodological support at the methodological days of the Office for the Protection of Competition (OPC) and a number of other platforms have not succeeded in making environmentally and socially responsible public procurement a standard used systematically in all public procurement where appropriate.

Thus, in the Czech Republic, the potential of environmentally and socially responsible public procurement remains untapped despite some **successful examples of good practice**[35].

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 Czech Republic's climate commitments and minimisation of negative environmental impacts of purchases, 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 caused by long-term practice of awarding on price only or problematic aspects in sub-contractor chains. Public administrations should not give up on their responsibilities and should not accept deliverables that are threatened by risks such as non-compliance with labour and health and safety regulations in subcontractor chains, indecent 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 financial as well as non-financial benefits. These may be positive social impacts not included in the price of deliverables (negative externalities that have not been 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 farming, circular economy, social entrepreneurship, etc. Data to assess the impacts of RPP considerations have not yet been systematically collected and particular financial savings cannot be predicted at present. It is also not possible to estimate them in a qualified manner due to a wide range of applicable RPP considerations, and we cannot predict which of them will be chosen by contracting authorities and for what financial volume of procurement they will be applied. Measurements of RPP benefits will only have information value when the use of RPP is consistently monitored through new forms based on eForms at the level of individual procurement procedures. This will also be helped by defining harmonised minimum RPP standards, their introduction into practice and monitoring their use.

[32] For more information see Set of Indicators for a Work Integration Social Enterprise (WISE)ejména v zakázkové praxi MPSV

[33] In particular, in the procurement practice of the Ministry of Labour and Social Affairs.

[34] See the Responsible Public Procurement Portal (sovz.cz).

[35] For example, the Supreme Audit Office for its good practice example - Construction of a New Headquarters with the Lowest Life Cycle Costs | SOVZ – was awarded 2nd place in the Procura+ award, the South Moravian Region received an Honourable Mention in the same competition for the construction of a treatment centre for children with respiratory diseases, a public contract for the purchase of textiles preventing violations of ILO Conventions by the Ministry of Labour and Social Affairs and the provision of cleaning services at Czech Television are mentioned as examples of good practice in the EU publication Making Socially Responsible Public Procurement Work.

The experience of a number of EU member states that have adopted public procurement strategy[36] shows that **public procurement is an important tool and can be a leverage for the economy, steering it towards sustainable production and consumption patterns and contributing overall to achieving 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 budget spending on support for the unemployed. With respect to the long-term low level of unemployment in the Czech Republic, it is possible to focus on supporting the disadvantaged by promoting the development of the social economy. The practice of the Platform for Sustainable Procurement in Austria (naBe) has shown that in order to promote and develop the application of sustainable solutions in public procurement, it is necessary to have a single set of specific and easy-to-apply minimum sustainability standards, which will secure legal certainty to contracting authorities, provide sufficient guidance to suppliers, but will also be a guide for supervisory and control authorities and contribute to more uniform control outcomes.

Last but not least, a large number of suppliers, but also some contracting authorities, will already be subject to the new EU rules under the Corporate Sustainability Reporting Directive (CSRD) for the financial year 2025. When preparing public procurement, tendering procedures and contracts, it will therefore be necessary to take these contexts into account and prepare appropriate conditions within the framework of this Strategy to enable obliged persons to fulfil their sustainability reporting obligations reliably, including evidence, i.e., not to rely solely on the creativity and improvisation of contracting authorities and suppliers.

8. 3. 3 Setting Objectives

Objective:

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 public procurement as set out in Section 6(4) of the PPA at the level of organisations. Contracting authorities need to be given both the support and tools (minimum standards, model texts, shared good practice examples, support in the use of the so-called GPP or Green Public Procurement Criteria of the European Commission[37]), but also the necessary skills to apply the

[36] For example, Austrian Actionsplan und Kernkriterien: naBe-Kriterienkatalog, sustainable criteria: naBe criteria - naBe, National Public Procurement Strategy of Sweden: Sweden_national_public_procurement_strategy_english_web.pdf (oneplanetnetwork.org) and sustainability criteria: Find sustainability criteria | The National Agency for Public Procurement (upphandlingsmyndigheten.se), Sustainability criteria in the Netherlands: Sustainable Public Procurement Webtool (mvicriteria.nl), Sustainability criteria in Germany: Recommendations for your tender | Umweltbundesamt, Finnish strategy, Sustainable Public Procurement Strategy in Ireland.

[37] Green Business Knihovna (europa.eu)

principles of environmentally and socially responsible public procurement where appropriate and where it will bring societal benefits[38].

At the same time, suppliers must be sufficiently informed about the interest of the state administration and local governments to buy in this manner; in particular, consultations with the market can be used in the preparation of minimum RPP standards, as well as sectoral market consultations, events such as Meet the Buyer, Meet the Potential Bidder, preliminary market consultations, etc.

The Strategy and its implementing measures place emphasis on

Social aspects

e.g., supporting the participation of social enterprises in procurement procedures, employing people disadvantaged on the labour market, decent working conditions, complying with the basic principles of International Labour Organisation Conventions, promoting gender equality at work and other

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, as well as the prevention, elimination and use of waste, dismantlability and reparability, reducing energy intensity and considering the entire life cycle of products, etc, in line with the related strategies of the Czech Republic[39] and using the EU Taxonomy and technical screening criteria defining levels of significant contribution and levels of "do no significant harm" in relation to the six EU environmental objectives.

The opportunities for environmentally and socially responsible public procurement, the potential of which is desirable to exploit in public procurement if related to the deliverables and if their application is appropriate for the respective public contract, or if the contract is financed or is to be financed using sustainable financing instruments, include in particular:

- **Climate change mitigation and adaptation measures;**
- **Environmentally-friendly solutions, including the use of renewable energy sources and the circular economy, the sustainable use and protection of water resources, and the protection of ecosystems and biodiversity;**

[38] The greatest societal benefit in the preparation of a major investment project will not come from the requirement for the paper on which the design documents are submitted to be environmentally friendly; rather, it is more appropriate to focus on the designed building itself, or its preparation, including pre-demolition audits, the widest possible use of construction supervision, life cycle costs, construction materials, etc. Similarly, it makes no sense to require compliance with ILO Conventions for the supply of office paper in the sub-contractor chain where there is no risk of violation for this particular product (unlike textiles, ICT, coffee, cocoa, etc.).

[39] As far as environmental criteria are concerned, they are coordinated with the activities of the Ministry of the Environment. (see https://www.mzp.cz/cz/strategicke_dokumenty_v_gesci_prehled), in particular the Strategic Framework and the Circular Czechia Action Plan.

- **Employing people disadvantaged on the labour market;**
- **Supporting training, internships and retraining;**
- **Decent working conditions;**
- **Promoting the participation of SMEs in public procurement;**
- **Promoting the participation of social enterprises in public procurement;**
- **Ethical purchasing and human rights;**
- **Fair relations in the supply chain;**
- **Gender aspects;**
- **Participation and positive impact on the local community.**

In order to implement RPP, it is necessary to start **systematically** taking into account both environmental and social aspects, or a combination of both, for such deliverables

- where **the greatest environmental and/or social impact** can be expected (typically the most emission-intensive deliverables such as public works, including emphasis on the preparation of design documents[40] and, on the other hand, deliverables that are suitable for promoting social entrepreneurship or where there is a risk of violating ILO Conventions or decent work, etc.);
- where **there are already practice-proven solutions, model texts, tried and tested examples of good practice**;
- which offer relatively **simple solutions** (so-called low-hanging fruit), such as the purchase of seasonal fruits and vegetables and foodstuffs from the surrounding area in the small-value procurement for kindergartens and primary schools where applicable;
- where contracting authorities intend to use sustainable financing instruments to finance the contract.

This may include public procurement of supplies with a label within the meaning of the Public Procurement Act, that is, e.g., with an eco-label certification or certifying that the product in question comes from fair trade if sufficiently represented on the market, supplies with a recycled content, support for the participation of social enterprises in procurement procedures for the purchase of suitable deliverables, e.g., catering at events, caring for greenery, etc., using tools such as the Catalogue of Social Enterprises[41].

Based on the above, in implementing the Strategy for individual sectors (e.g., office paper[42], cleaning, security, food supply, events, ICT[43]) specific targets related to environmental and/or social aspects (or a combination of both) will be defined in broad and participatory discussions with experts, contracting authorities and suppliers as part of the **minimum RPP standards**, which belong to measures discussed in this chapter.

[40] Public procurement in the construction sector is comprehensively addressed in Chapter 8.8.
[41] A catalogue of social enterprises is available on the sovz.cz website here.
[42] As part of the pilot testing of procedures in the project entitled Strategic Public Procurement Policy in the Czech Republic - Effective Investing, in relation to office paper, discussions with experts, contracting authorities and suppliers have concluded that it would be advisable for the minimum RPP standards for office paper to include recommendations for minimising printing (emphasis on digitisation) and a requirement for the EU Ecolabel as a label in accordance with Section 94 of the Public Procurement Act.
[43] Public procurement in the construction sector is comprehensively addressed in Chapter 8.8.

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

8. 3. 4 Overview and Description of Measures

Based on the National Public Procurement Strategy for the implementation of RPP

1. **The contracting authorities will be provided with existing, updated and adapted tools** for putting RPP into practice, namely methodological materials, checklists for evaluating RPP opportunities in public procurement, practice–proven model texts for tender documents, publications, good practice examples, webinars and other, see knowledge base and methodological resources below;

2. A **Sustainable Procurement Action Plan will be developed, which will create a database of harmonised minimum RPP standards including texts to be used in tender documents** in line with the proposed actions (see below), and **other measures** will be used in relation to centralised procurement at national and regional level, education of contracting authorities, and soft measures such as honourable awards for contribution in 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	**01/2024–12/2024**

Updating and adapting the methodological materials and resources currently listed on the sovz.cz web portal in line with the objectives of the Strategy for this priority. This information will be part of the upgraded Public Procurement Portal. After the changes, the portal will serve as a knowledge base for this priority.

Educating contracting authorities in environmentally and socially responsible public procurement	**01/2024–12/2026**

Gradual elaboration of basic training modules on environmentally and socially responsible procurement, including the use of sustainable financing with an emphasis on minimum RPP standards and their implementation in practice within the Academy of Public Investment (API). Building on the training and webinars provided by the RPP Institute, which are available on the sovz.cz web portal (in the future on the Public Procurement Portal).

Database with examples of good practice	**01/2024–12/2026**

In connection with the Examples of Good Practice database (still on the web portal sovz.cz), a database with examples of domestic procurement practice will be created, which will show how existing methodological materials, model texts for tender documents, and minimum RPP standards can be used. They will be available on the Public Procurement Portal.

Minimum responsiblepublic procurement standards I and II	**01/2024–09/2024** **10/2024–09/2025**

Part of the **Sustainable Public Procurement Action Plan**

For the implementation of environmentally and socially responsible public procurement, minimum standards for responsible public procurement will be developed and made available (following the pilot testing of procedures under the project Strategic Public Procurement Policy in the Czech Republic - Effective Investing) for selected deliverables, including, where appropriate, aspects of the EU Taxonomy: the first set will cover public works, including preparation of design documents44, provision of security and environmentally-friendly cleaning services, supply of office paper, supply of food and catering services, and event management. The minimum RPP standards will specify, for each deliverable, one or more environmental and/or social aspects (or a combination of both) that will meet the objectives of this chapter.

Subsequently, based on the experience with the first set of minimum RPP standards, other deliverables will be identified. The minimum RPP standards will include specific social or environmental objectives, or a combination of both, for individual deliverables, including justification and model texts for tender documents. In view of the forthcoming legislation on social entrepreneurship, deliverables appropriate for supporting the participation of social enterprises in procurement procedures will be identified and this will lead to the social mobilisation of disadvantaged people. The selection of aspects for minimum standards and their definition will be discussed with experts, contracting authorities and suppliers so

[44] Public procurement in the construction sector is addressed comprehensively in Chapter 8. 8.

that they are relevant for the given deliverables, their application is not too burdensome for the contracting authorities and the market is able to respond adequately. The MoRD intends to lead by example in the application of the minimum RPP standards and subsequently share its examples from practice.

Monitoring and evaluating the use of the minimum responsible public procurement standards in eForms	**Monitoring will be introduced following the finalisation of minimum RPP standards I and II – in two sets, evaluation once yearly in the Annual Report on Public Procurement**

Part of the **Sustainable Procurement Action Plan**

Following the creation of the minimum RPP standards, monitoring of their use should be provided, with separate monitoring of individual environmental and social aspects. Therefore, after the minimum RPP standards have been created, the eForms monitoring capabilities should be used on an ongoing basis, in relation to the deliverables for which the minimum RPP standards will be prepared. In this way, it will be possible to identify and evaluate the use of the minimum standards and make sure that they are used systematically and in a standard manner.

Acknowledging the contribution to environmentally2024–2026; and socially responsible procurement	**2024–2026; once yearly**

Part of the **Sustainable Procurement Action Plan**

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

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

8. 4 Professionalisation

8. 4. 1 Background

Work in public procurement is weighed down by, among other things, the traditionally negative portrayal of public procurement as a problem area burdened by wasteful use of public funds, lack of transparency, and the threat of corruption or conflicts of interest. In addition, working in public sector means lower pay than in the private sector. Its traditional concept and the existing education offered by the administrator of the Act provide sufficient professional training in terms of the public procurement process, but it does not cover the topic of procurement in its entirety and/or does not respond to the numerous current challenges.

The Catalogue of Jobs in Public Services and Administration does not separately regulate the position of procurement administrator. According to this document, the procurement agenda should be covered by asset management or investment officers.

The administrator's key role is to ensure that the contracting authority's procedures comply with the formal procurement rules, so his/her work is often limited to compliance with the regulations governing the procurement 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 the procurement preparation or managing the contractual relationship after the contract has been concluded. Less attention is then paid to the preparation or implementation phases. At the same time, mutual links between the different phases of procurement (including evaluation of previous tenders) is desirable.

This setup also reflects the need for and the current offer of education provided by the administrator of the Act. The education focuses primarily on the procedural aspects of purchasing and the individual provisions of the Act. (For example, even in the context of the relevant branch of the civil service, the examination questions and study

literature (in the context of Section 2 of Decree No. 162/2015 Coll., on the details of the civil service examination) are based exclusively on the knowledge of the PPA or related regulations. Other aspects of purchasing remain neglected, both in the case of procurement administrators and other persons responsible for purchasing).

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

The civil service areas include a 'Public Investment and Procurement' area. For municipal officials or rank-and-file employees, the same unified category does not exist. The position of public procurement administrator therefore shows formal differences, although the position should be basically comparable across the different types of contracting authorities (State, municipality, region, etc.) in terms of job content. The question arises as to whether it is not appropriate and possible to establish uniform conditions for procurement officers and a uniform standard for the training of such officers.

Further training in the field of public procurement is provided by the MoRD's programme within the API ("Academy of Public Investment"), as well as by commercial offerings of various training courses focused on the PPA and by non-commercial training offerings within various projects (e.g., the Responsible Public Procurement Institute) and sectors (e.g., the Czech Chamber of Architects). In recent years, activities aimed at expanding the expertise of procurement officers beyond 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 related to the development of artificial intelligence or pre-commercial procurement in support of innovation are emerging. These challenges and initiatives should be faced by the administrator of the Act by setting up a framework for the public buyer profession that would facilitate the creation of a training offering for those responsible for purchasing in the public sector.

The current set-up of public procurement education thus 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 training offerings to cover not only competencies **for the proper functioning of procurement**, but also to provide preparation for current and **future challenges** and risks associated with procurement in the public sector.

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 dedicated exclusively to procurement in public sector.

In the area of professionalisation, one cannot overlook the issue of remuneration. According to the data of 22 November 2023 published on the jooble.org website,[45] a monthly salary of a "represented employee"[46] is CZK 29,500. The average pay in the national economy in the second quarter of 2023 is reported to be CZK 43,193[47]. The remuneration for the position of a Public Procurement Administrator therefore appears to be below-average in relation to the general level of remuneration (albeit in the private sector). And it is a demanding profession in terms of expertise, stress and reputational burden.

[45] https://cz.jooble.org/salary/administr%C3%A1tor-ve%C5%99ejn%C3%BDch-zak%C3%A1zek
[46] Note.: Public Procurement Administrator.
[47] According to the date from the Czech Statistical Office.

8. 4. 2 Why the Issue 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 competence of those responsible for procurement (whether they are the contracting authority's own staff or external providers of administration services). Improving the state of public procurement in the Czech Republic should therefore include, among other things, a focus on capacity development and retention, and on education, science and research in public procurement. This also in view of the new challenges mentioned above.

Support for enhancing public procurement capacities can be found in international initiatives. According to EC guidance,[48] EU Member States should develop and implement long-term professionalisation strategies for public procurement, define a basic level of knowledge and skills necessary for the profession (and also address the professions of auditors or public procurement supervisors), 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 administrative structure;
- 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, including both specialised procurement officers and staff performing related tasks, as well as judges and auditors;
- Develop appropriate training programmes - both initial and lifelong - based on the data and needs assessments and, where appropriate, competency frameworks;
- Promote the exchange of best practice and provide support to practitioners to secure professional procurement, collaboration and transfer of expertise.

Professional development of procurement officers is also addressed in the OECD Recommendation[49]. 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. Research conducted by the OECD in 2020 found that only 13 countries (39 %) recognise the public procurement administrator as a separate profession.

Increased attention to the procurement function and the strengthening of the position and perception of administrators within the organisation should contribute to improved 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 of professional development (on the part of the contracting authorities) or 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.
[49] OECD (2015). OECD Recommendation on Public Procurement. Recommendation IX.
Available from: https://www.oecd.org/gov/public-procurement/OECD-Recommendation-on-Public-Procurement.pdf

In a broader sense, professionalisation should not only concern public procurement administrators, but all persons involved in procurement within the organisation (for example, as "internal clients"). The topic is related to the issue 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 regions should play an important role in advising local governments. Pooling of the agenda of several local authorities should be encouraged.

8. 4. 3 Setting Objectives

Objective:

Improving the functioning and image of public procurement, as well as its readiness for new challenges and risk management, by setting up and increasing the professional capacities of those responsible for public procurement.

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

- To support the development of the professional capacities of all those responsible for procurement in public administration (not only procurement administrators);
- To encourage the development of human resource management and its development in the field of procurement (from an organisation's perspective);
- To support the improvement of professional development and career planning opportunities in public procurement and in public procurement control (from an individual's perspective);
- To create an environment for the development of procurement administration services provided by external suppliers;
- To expand public procurement education opportunities beyond the knowledge of procedural rules;
- To create an environment for the coordination and development of science and research in public procurement in the context of Czech scientific, research and educational institutions;
- To support the creation and secure the management and development of an environment for information sharing and exchange of experience among contracting authorities;
- To create advisory and consultancy centres at the state and regional level and to link them also with specialisations in the field (e.g., commissioning of public building projects - establishment of a state and support for regional architects, following the example of the Netherlands and the federal states of Belgium).

8. 4. 4 Overview and Description of Measures

Working group for human resources and professionalisation in public procurement

01/2024–06/2026

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

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

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

01/2024–06/2026

Establishing a knowledge and skills framework for the public procurement function that takes into account ProcurCompEU. The definition of the framework will be regularly discussed with relevant stakeholders (within the framework of the Stakeholder Collaboration Platform to address the adequate anchoring of the role of a public sector buyer) with a view to its further development and adjustments, if any. The needs of contracting authorities in the area of professionalisation will also be continuously identified.

The framework for the profession of procurement administrator/buyer in the public sector should be defined in such a way to make it applicable across the various forms of their profession (employee, civil servant, officer of a local or regional government[50]).

[50] Territorial self-governing unit.

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

01/2024–06/2026

Supporting the development of research and involvement in international public procurement projects. Roundtables with public procurement training providers (universities, private providers). Conferences. Methodological material on public procurement education.

MoRD questionnaire survey for universities (faculties) on the approach to public procurement in education, science and research.

Mapping of staff capacities and self-assessment in public procurement

01/2024–06/2026

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

A self-assessment tool for the staff capacities will be adapted for the purposes of Czech contracting authorities and will be provided free of charge.

Selected contracting authorities will carry out a pilot self-assessment. This will provide contracting authorities with a simple tool for assessing their own staff capacities in public procurement. And they will be encouraged to undertake such assessment. Support for piloting a staff capacity analysis of selected contracting authorities (20 selected) mapping current capacities and then as of January 2026. After the pilot testing, the tool will be made available to the wider community of contracting authorities.

Providing education to contracting authorities as part of direct MoRD's activities

01/2024–06/2026

Developing a minimum level of training for public procurement within the Academy of Public Investment (API) - expanding the existing API offering to cover competencies across the breadth of the ProcurCompEU framework, including exploring the possibility of introducing topics or courses such as the Green Public Procurement Training Toolkit or Gender Responsive Public Procurement. Focusing on specific relevant fields (e.g., procurement of public works projects – they decide about government contracts worth billions of Czech crowns).

Educating contracting authorities beyond the scope of direct MoRD's activities

01/2024–06/2026

Support (especially in terms of methodology and coordination) for the development of training covering the full breadth of public procurement in the context of the set of knowledge and skills (components) for the public procurement function by organising roundtable discussions and conferences focused on public procurement training.

Exploring the possibility of adjusting the remuneration of public sector buyers

01/2024–06/2026

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

8. 5 Supporting Centralised Purchasing and Collaboration

8. 5. 1 Background

Centralisation in terms of economies of scale, time and personnel capacities, shifting legal and administrative complexity to an experienced team of the central contracting authority, shows that it can positively influence the interest from smaller contracting authorities while promoting SMEs involvement, supporting the local economy and sustainability aspects. For example, the success of the Austrian BBG Agency model[51], built on the pillars of collaboration, comprehensive customer care system, awareness raising, professionalisation and data evaluation, reflects the voluntary involvement of towns, municipalities and other entities at 58% of the total (42% are entities with mandatory centralisation). Through a simple and clear e-shop purchasing, the delegating contracting authorities obtain commodities that also take into account regionality and sustainability. In Sweden, SMEs account for up to 86% of all ca 800 suppliers involved in Adda[52] centralised procurement. The Italian marketplace MEPA[53] also offers support for direct purchasing and SME integration to complement large central contracts.

In the Czech Republic, centralised procurement at regional level is implemented by regional authorities and large cities, mainly to meet the needs of the respective authority and its contributory organisations. The approach to regional centralised procurement is not uniform, with the biggest inconsistencies seen 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 purchased commodities and services at regional level and, on the other hand, reflects the potential offer of commodities and services that municipalities and towns can join.

[51] Bundesbeschaffung GmbH, https://www.bbg.gv.at/
[52] https://www.adda.se/
[53] http://www.acquistinretepa.it/

Centrally purchased commodities
– number of contracting authorities from among regions and cities

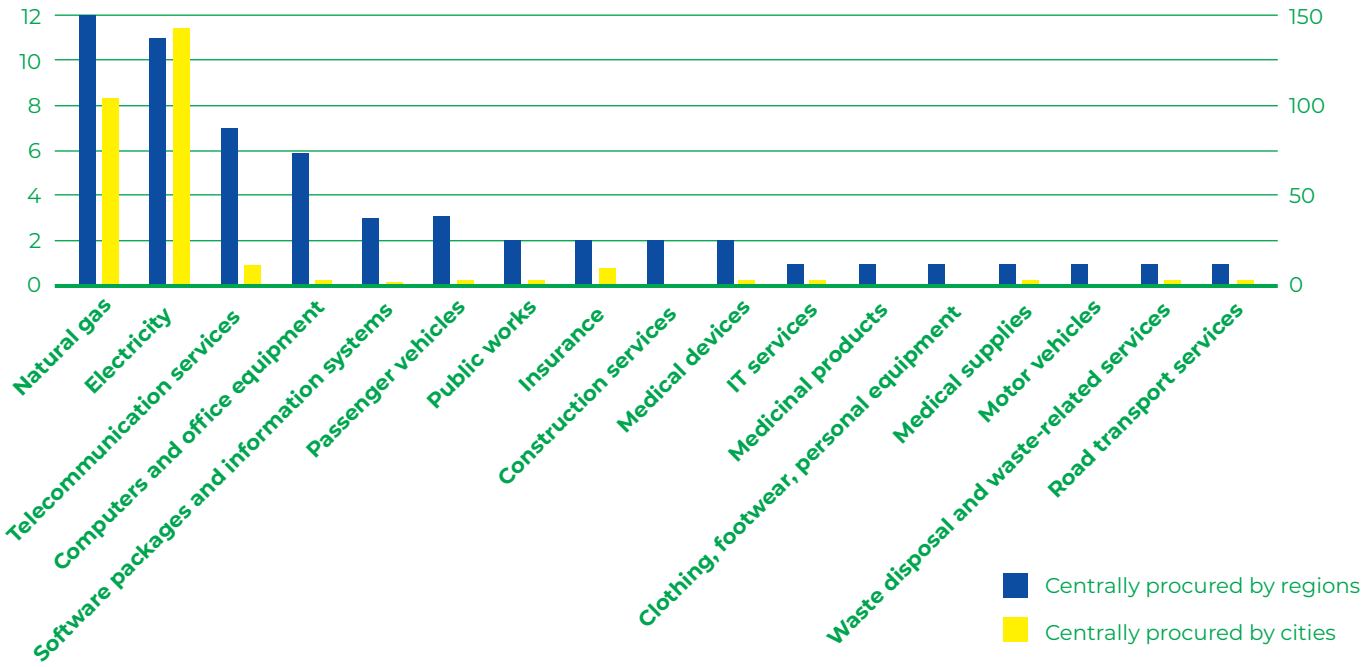


Figure 2: *Numbers of contracting authorities that centrally purchased selected commodities 2019–9/2023. (Source: Datlab s.r.o.)*

Centralised procurement at national level and joint purchasing rules are defined by the relevant government resolutions[54,55]. One of the commitments of the Joint Purchasing Rules is the preparation of the Joint Purchasing Evaluation Report by the Ministry of Finance (MoF). According to the MoF's report for 2021 and 2022, the main benefit of joint purchasing for all state and public administration entities is the cost-effective use of funds, with savings ranging from 5–35% depending on commodity and service. These savings are achieved through economies of scale and by optimising the use of limited administrative capacities. Territorial self-governing units can also participate in the MoF and MoI's central public procurement.

According to the Annual Report on Public Procurement,[56] the most significant centralised purchases in the Czech Republic are made by the state administration (CZK 23 billion), but 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 in recent years. The two in the long-term most important groups of

[54] RESOLUTION OF THE GOVERNMENT OF THE CZECH REPUBLIC No. 930 of 14 December 2011, on the minimum mandatory list of commodities obligatorily purchased using the institute of central contracting authority 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 No. 487 of 8 July 2019, on the report on the evaluation of the central purchasing of the state and the departmental systems of centralised procurement for the year 2018 and on the rules of the Joint Purchasing.

[56] Ministry of Regional Development (2023). Annual Report on e-Procurement and the State of Public Procurement in the Czech Republic for 2022.
Available from https://portal-vz.cz/vyrocni-zpravy-a-souhrnne-udaje-o-verejnych-zakazkach/vyrocni-zpravy-o-stavu-verejnych-zakazek/

subject-matters of central public procurement 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.

Compared to other EU countries, the percentage of centralised purchasing in the Czech Republic is higher when it comes to purchasing energy, software packages and information systems, passenger vehicles, telecommunication services and insurance. Good results are also achieved in the purchase of furniture, computers and office equipment and motor vehicles (other than passenger cars). However, for 13 other commodities, the percentage of centralised purchasing in the Czech Republic is not even half of the percentage in the EU countries.

Centrally purchased commodities in the Czech Republic and the EU – percentage of central purchases

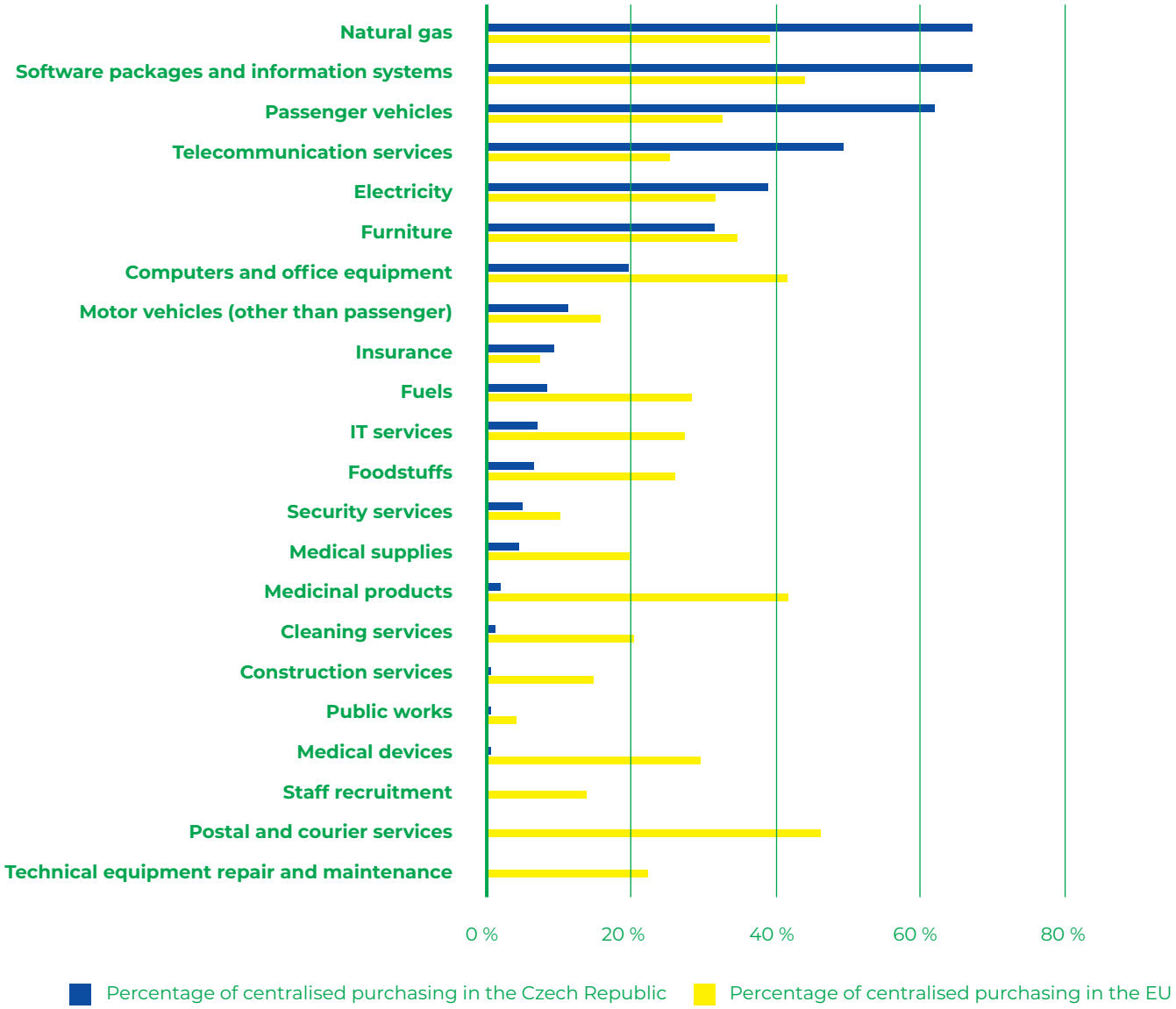


Figure 3:
The percentage of centrally purchased commodities in the Czech Republic compared to the EU average (2019 - 09/2023). Selected items are compared by volume of above-threshold procurement (central vs non-central). The approach therefore includes only larger contracts and may be inaccurate, especially with regard to possible non-use of framework agreements (Source: Datlab s.r.o.).

8. 5. 2 Why the Issue Needs to be Addressed

In August 2023, the MoRD mapped the current situation and needs of contracting authorities from among municipalities and towns in a questionnaire survey called *Defining the Needs of Smaller Contracting Authorities - Optimising Public Procurement* among members of the Union of Towns and Municipalities of the Czech Republic and the Association of Local Governments of the Czech Republic (91 municipalities and towns participated[57]). Only 27 % of the total number of respondents 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 mentioned a lack of awareness, an opinion that centralised procurement is not appropriate 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 evidenced by the questionnaire survey output regarding preferred set-up options. Contracting authorities expressed interest in the **regional centralisation model, the possibility to buy centrally from any central contracting authority (regardless of geographical affiliation) and would welcome the option to purchase selected commodities through an online tool (e-shop) and/or an online platform that publishes current calls for participation in centralised purchasing of all central contracting authorities**.

The perspective 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]. Representatives of cities and regions consider barriers to be the lack of support/awareness from political leaders, administrative complexity, reluctance of some contracting authorities and suppliers to participate in centralised purchasing, lack of flexibility and support between the delegated and delegating contracting authority. However, they agreed that centralised purchasing at regional level would be a good opportunity, and they defined steps to optimise centralised procurement:

- Strategic approach to central purchasing;
- Professionalisation, especially on the part of central contracting authorities;
- Standardisation (in particular model contracts and tender documents) and speeding up of processes;
- Resolving funding and staff capacity issues;
- Introducing technical specifications standards for relevant deliverables of centrally procured public contracts;
- Reducing the administrative burden with regard to Section 9(4) of the PPA (described in more detail in Section 3.1.3 of this report);
- Education and support from political representation.

The MoF also describes the benefits of the involvement of smaller contracting authorities, according to the Joint Purchasing Evaluation Report 2021-2022: "*A clear success of the Joint Public Purchasing*

[57] Of course, given the number of respondents, the data should be interpreted with caution.
[58] The final report was prepared within the framework of the Responsible Approach to Public Purchasing - Strategic Public Procurement project of the Ministry of Labour and Social Affairs.

(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, towns 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 Joint Public Purchasing for other public administration entities reached a financial volume of approximately CZK 0.5 billion excluding VAT, in 2021 and 2022 the value of such purchases was already CZK 1.86 billion excluding VAT."

The Government of the Czech Republic also proclaims its support for the public procurement centralisation, especially in its Policy Statement in the areas of Digitisation and Regional and Local Development. The Digital Services priority aims to strengthen the professional and personnel capacities of central authorities to implement digital process transformation, better awarding of public contracts and their subsequent project management. In addition, under the Public Procurement priority, the government has undertaken to set up a functional model for centralised purchasing of commodities in order to ensure reduced administrative burden for different levels of contracting authorities, especially on the basis of an e-shop or other effective forms of public purchasing.

The Strategy thus comes up with a proposal to create a system combining centralisation in the management of ministries and to optimise the offering of regionally centralised purchases with the potential to provide more targeted support to smaller contracting authorities, enabling them to purchase a wide range of commodities with all the advantages that centralisation brings to the delegating contracting authorities (see following chapters).

8. 5. 3 Setting Objectives

Objective:

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

The priority aims to

- Create and operate a regional centre model for centralised procurement at regional level;
- Set up a simpler and more flexible shopping experience;
- In conjunction with the subject headings Professionalisation and Environmentally and Socially Responsible Public Procurement, increase the overall expertise of central buyers in the regions;
- Set up the missing data monitoring system for the involved delegating contracting authorities (at least at regional level) to monitor the actual use of framework agreements, the achieved time and personnel savings, including the measurement of the impact of individual measures, etc.;
- Support collaboration in public procurement, including links with sectoral bodies (e.g., regional architect).

8. 5. 4 Overview and Description of Measures

Stakeholder involvement — 01/2024–06/2026

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

In cooperation with representatives of contracting authorities from regions, towns and municipalities, the Union of Towns and Municipalities of the Czech Republic, the Association of Local Governments of the Czech Republic, the Agrarian Chamber of the Czech Republic, etc., to motivate smaller contracting authorities to participate in centralised purchases, especially at regional level, through targeted communication and active participation in events (e.g., seminars, conferences, other events).

With the MoF's representatives, to look for the potential of linking national and regional centralisation with the aim of greater involvement of contracting authorities from municipalities and towns (cooperation, consultation, etc.).

To consult with experts from national and international central contracting authorities, including experts in monitoring and data, the setting of the direction for regional centralisation, description of benefits, monitoring, evaluation, etc.

With representatives of pilot projects, to define and implement a regional centre model, including the monitoring of all stakeholders.

To create partnerships with representatives of other regions and analyse potential barriers for all regions for not taking advantage of the regional centralisation optimisation.

Setting up and implementing a regional centre model — 01/2024–2Q/2025

Defining the model and preparing appropriate tools, models, standardised procedures, etc.

In centralised procurement, the regional centre will serve **also smaller contracting authorities from among municipalities and towns, to make efficient use of procurement tools and to promote cooperation across the board.** The measure will be implemented through the optimisation of the centralised purchasing system (setting up the centralised procurement process, defining functional tools, selecting appropriate commodities, setting up an e-shop, etc.) and standardised procedures. It is foreseen to introduce systematic methodological and consultative

support, sharing of examples of good practice, awareness raising to support centralisation at the level of local and national governments. By 2025, the regional centre model will be implemented at least in the regions of Pilsen and Liberec. The involvement of the South Moravian Region or other regions is foreseen.

Analysing the possibility to create an online tool(e-shop, marketplace)

01/2024–4Q 2024

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 method of purchasing. The first is a supply-driven marketplace, as an opportunity for suppliers to integrate their e-shop into an open interface to offer their goods.

The aim is to use the technical knowledge of suppliers within the specification of individual commodities. For contracting authorities, this means either a direct purchase with a justification of the choice, where the system archives alternative choices, or in the framework of a closed invitation to tender for suppliers, where the contracting authorities directly send a request and the suppliers offer a tailored quotation, delivery date, etc. This system has been in operation in Italy for almost 20 years (MEPA marketplace under Consip, Home - acquistinretepa) to support direct purchasing, the involvement of SMEs and to complement large centralised contracts. Another option is a centralised e-shop. It is an interface that integrates the results of centralised procurement from different central contracting authorities in order to aggregate demand and use the know-how of the central contracting authorities. It is envisaged that there will not be a single central contracting authority for the Czech Republic, but a single e-shop that will create a portfolio of offerings of central framework contracts or central Dynamic Purchasing Systems of central contracting authorities with the possibility of joining. The delegating contracting authority will thus be able to choose based on their needs regardless of geographical or other affiliation. The e-shop should include role management for individual delegating contracting authorities, including the possibility of a process workflow and calculation of commissions from the contract price for the delegated contracting authorities.

Monitoring and evaluation setting

01/2024–06/2026

Setting up a system for data collection and evaluation and development of centralised procurement at regional level, including the impact of measures of the Strategy's other priorities, especially professionalisation and environmentally and socially responsible procurement.

8. 6 Supporting Strategically Important Investments and Contracting Authorities

8. 6. 1 Background

A specific group of public contracts that require a special approach are those with deliverables that are specific for the Czech Republic or that require special attention for another reason. Such a reason may include the scale and complexity of the project procured, the financial value of the investment and its significant impact on the market or an increased risk of loss of funding, the type or scheme of tender specifications (e.g., PPP), the nature and complexity of financing (e.g., green bonds), the cross-border nature of the procurement or other international political aspects, a special interest in timely or increased-quality implementation of the contract because of its importance for follow-up deliverables or for securing an investment in the public interest. These contracts are considered by this Strategy as Strategically Important Public Investments (hereinafter also referred to as "SIPIs").

Typically, SIPIs are in the field of defence and security, energy and transport infrastructure, investments discussed by the Government Committee for Strategic Investments, or projects of significant value from the perspective of the Czech Republic or a particular region.

While standard deliverables can be supported by standard support and project management tools as well as generally available models or methodologies, this general assistance offering is usually insufficient for SIVIs. In practice, the contracting authorities of these projects face sub-issues that are related to the unique position of the contracting authority or otherwise go beyond the commonly available knowledge or experience from other previous cases (e.g., special specific risks), especially if

they have not yet been addressed in decision-making or interpretative practice in the Czech Republic. These gaps in competence, experience or resources need to be continuously identified and effectively addressed during the preparation and implementation of the contract so that they do not affect the time, money and activities as the typical key three elements of any project.

8. 6. 2 Why the Issue Needs to be Addressed

SIPIs financed from public funds are usually linked to the public interest, and their timely, proper and 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 significant potential to act as a major motivator for the market to develop and look for solutions, especially innovation, which is otherwise difficult to motivate the market for. It is essential that this potential is exploited and that these opportunities are not wasted. Examples include, among other things, more consistent and effective set-up of large construction projects in accordance with Circular Czechia 2040 and, where applicable, 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 these fields, involving communities in housing development and management projects, etc.

There is a risk of wasted opportunities, especially where time pressure or excessive buck-passing would lead to a cautious approach and favouring the simplicity of the procedure (e.g., "awarding on price") over a more complex solution that would result in better value for money of tenders, even in situations where the contracting authority is convinced of the benefits of a more complex approach and would be willing and, with proper support, able to make the necessary effort to set it up.

The approach *„It's only those who do nothing, do not make mistakes"* should be avoided.

8. 6. 3 Setting Objectives

Objectives:

Increase the legal certainty for contracting authorities in the application of inventive elements in the procurement of strategically important contracts and 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 the contracting authorities of strategically important investments such measures that will provide them with specific, personalised and targeted support corresponding to the needs and potential of these projects to act as a motivator for suppliers in developing innovative solutions, to offer deliverables with a particularly beneficial environmental or social effect, and at the same time to support contracting authorities in quality project preparation with regard to the increased public interest in their successful effective implementation, across all phases of the project cycle until the contract completion. These may include partial issues regarding the choice of the most appropriate procurement method for the given deliverables in specific contexts at the tender specification stage, as well as during the procurement procedure itself, or during the subsequent implementation of the public investment.

Support should be provided mainly in the form of structured regular or ad hoc expert consultations to increase the legal and factual certainty for contracting authorities so that, at key stages of the project cycle or in contentious, complex or risky situations, they choose such solutions and take such measures that can be considered the best possible in the given circumstances, not only from their own perspective but also from the perspective of a representative of the Act administrator performing the role of a consulting expert, including consideration of financial aspects. This approach will also include reinforced transparency in case of control and supervision.

The administrator of the Act will wish to provide support also to such 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 makes appropriate efforts during their preparation and implementation. An important follow-up activity will be the sharing of experience, both positive (best practice) and negative (lessons learned), in order to promote collaboration and exchange of experience among contracting authorities of major investments and the development of advanced solutions.

Due to the specificity, uniqueness, a rather long process of strategic procurement and a relatively small number of such projects, the following (rather than a measurable objective) is determined:

- At the end of the monitoring period (after 5 years), a qualitative analysis and evaluation of the development of the tender specifications' complexity in the context of possibilities provided for by the PPA will be carried out,
  - primarily assessing the impact on (i) the evaluation criteria, (ii) the conditions promoting social and environmental aspects.
- At the end of the monitoring period (after 5 years), a quantitative and qualitative analysis of the development of the MoRD's consulting activities will be carried out.

In both cases, improvements should be achieved compared to the current situation.

8. 6. 4 Overview and Description of Measures

Roundtable – initial and follow-up (validation) meetings	**1Q/2024 and then every year (until 1Q/2026)**

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

Presenting and explaining the concept of support covered in this chapter of the Strategy, discussing the possibility of extended cooperation in addition to the activities covered by the Platform. (The Platform otherwise represents a long-term and regular cooperation for the purpose of improvements in the area of standardisable deliverables).

In the following years, the MoRD will arrange for regular annual contact (in the form of a meeting or questionnaire) with contracting authorities of strategically important contracts, including potential candidates for inclusion in this group, in order to map key issues that arise among them, to discuss proposed solutions and to activate other projects for inclusion in the process of consulting of strategically important investments and contracting authorities (SIICA).

Methodology for the procedure to support strategically important investments and contracting authorities (SIICA Methodology) and its updates

Q1/2024–12/2025

The MoRD will prepare a brief methodology for the selection of strategically important investment projects and for piloting the support implementation. The methodology will set out the initial prerequisites for the inclusion of a project in the MoRD's support plan and the rules of cooperation, the method of determining the expected scope of involvement of an expert (number of hours in each phase), including the project's initial checklist and setting a timeline. The support will presuppose an active approach of the contracting authority, the professional competence of its representatives, especially from the perspective of the PPA and in terms of the content of deliverables, good open communication, wish to use the SIICA potential, including the support from the organisation's management, and readiness for procedure transparency. A MoRD's expert should have a possibility to get involved as a member of the contracting authority's core team (working group or relevant committees).

The Methodology will be issued as a basis for the initial phase of support for contracting authorities involved in strategically important investments and after the finalisation in 2025, the process will be evaluated and the Methodology adapted for the next period as needed.

To monitor compliance with government resolutions (e.g., The Architecture and Building Culture Policy of the Czech Republic).

Supporting SIICA

01/2024–06/2026

The projects admitted for support by the MoRD will be assigned an expert as a representative of the MoRD, according to the specific circumstances of the given project and agreement with the contracting authority, in accordance with an agreed timeline and collaboration format. Support can also include the mediation of foreign know-how using MoRD's contacts and communication, as well as the involvement of foreign experts through the MoRD.

In the initial phase (2024), it is expected that support will be provided for 2–3 pilot projects resulting from the proposals of the contracting authorities within the Roundtable (see above) in accordance with the assumptions and rules set out in the SIICA Methodology. Depending on the needs and expert capacities of the MoRD, the intention will be to provide guidance to 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 procurement procedure (contract award).

After the end of the project support, the presentation of the project and the sharing of experience should take place externally, especially within the Platform and for the public, in a mutually supportive manner.

8. 7 Legal Certainty in Public Procurement

8. 7. 1 Background

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

First of all, it is the Office for the Protection of Competition (OPC), which carries out supervision over compliance with the Public Procurement Act. The OPC decides in two instances and its decisions can be reviewed in the administrative justice system, where it is also possible to use up to two instances of judicial review.

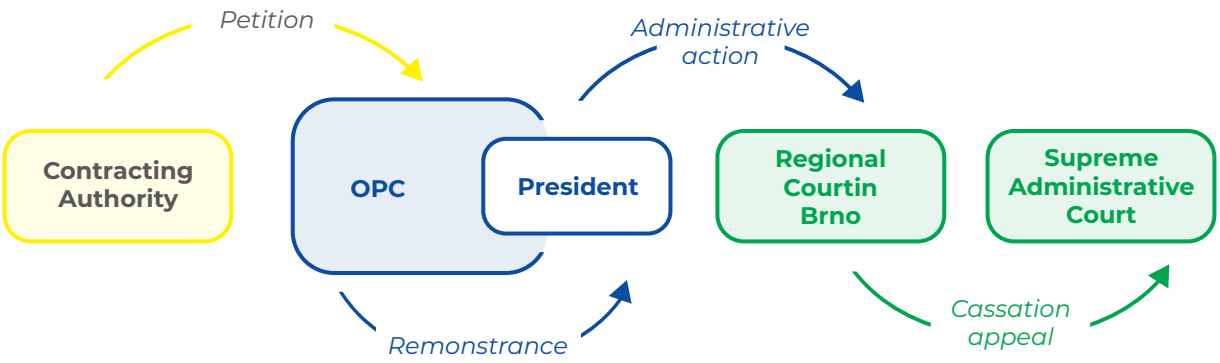


Figure 4: *A diagram of the public procurement review process (source: own resources).*

In total, a public procurement may be reviewed by up to four instances, which often leads to years of protracted litigation[59]. 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 the question is to what extent they differ in percentage terms. It follows from the annual reports of the OPC for the years 2018–2022 that, on average, the OPC's President overturns a decision and refers it back to the first instance or reverses a first instance decision in 16 % of cases. On average, the OPC fails to win the case before both courts in approximately one in three judgments.

These percentages are certainly not indicative of 'good–bad' or 'good quality–poor' quality decisions by the OPC or the administrative courts, but they illustrate the likelihood with which contracting authorities and suppliers can expect a change in legal opinion if the case is referred to the next instance. As a result, however, the professional public is confronted with constantly evolving decision-making practice and case law, which increases legal uncertainty among contracting authorities and suppliers as to which procedure is currently applicable. The logical consequence of this situation is uncertainty among contracting authorities who tend to primarily choose a procurement procedure which does not necessarily lead to the ideal application 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 contrary to the law must decide within a relatively short period of time (usually 10 days from the delivery of the rejection of objections from the contracting authority) whether they intend to contest the contracting authority's steps by filing a petition with the Office for the Protection of Competition. Such a decision is all the more complicated as the filing of a petition requires a bail payment, which, depending on the size of the public contract, may be up to CZK 10 million[60]. In the event of failure before the Office for the Protection of Competition, the bail is forfeited in favour of the state budget. Thus, the supplier 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 his case. In the event that a public procurement contract is already signed with another supplier in the course of the proceedings, the fact that the supplier wins the case may not bring him the desired benefit (conclusion of the public procurement contract) and, in view of the current decision-making practice of the civil courts, not even the right to compensation for damage.

The aforementioned 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 OPC itself has a somewhat non-standard internal set-up in European comparison, in terms of its monocratic leadership and the breadth of competences it exercises outside of the review of public procurement[61]. Similarly, the number of instances that can examine a public contract is also an issue to be considered[62].

[59] This model of administrative decision-making and judicial review can be considered as standard in the Czech context. However, it should be added that it is not the only conceivable and foreseeable model of proceedings under the Administrative Procedure Code. It is therefore legitimate to address the question whether the 'standard model' of administrative proceedings is the most optimal for the supervision over compliance with the Public Procurement Act.

[60] For the sake of completeness, it should be added that an identical bail with forfeiture effects is then required even if the supplier has been unsuccessful in both instances before the Office for the Protection of Competition and, together with the administrative action, asks the administrative court to issue a preliminary ruling in the matter.

[61] Compare with a comparative study of the functioning of public procurement supervision in the EU Member States made by the MoRD in 2020.

[62] Compare, for example the regulation at federal level in the Federal Republic of Germany or in Croatia, where the administrative authority decides in the first instance and the administrative court in the second instance.

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 Journal of Public Procurement63 was subsidised by European funds and was therefore subject to the PPA but also to the regulations and methodologies of European funds.

Percentage of subsidised versus non-subsidised publicprocurement according to the Journal of Public Procurement 2014–2022

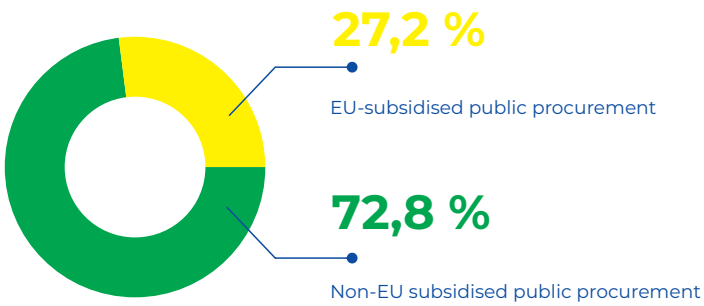


Figure 5: *Percentage of subsidised and non-subsidised public procurement (Source: own analysis of the Journal of Public Procurement)*

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

Institutions implementing cohesion policy in the Czech Republic

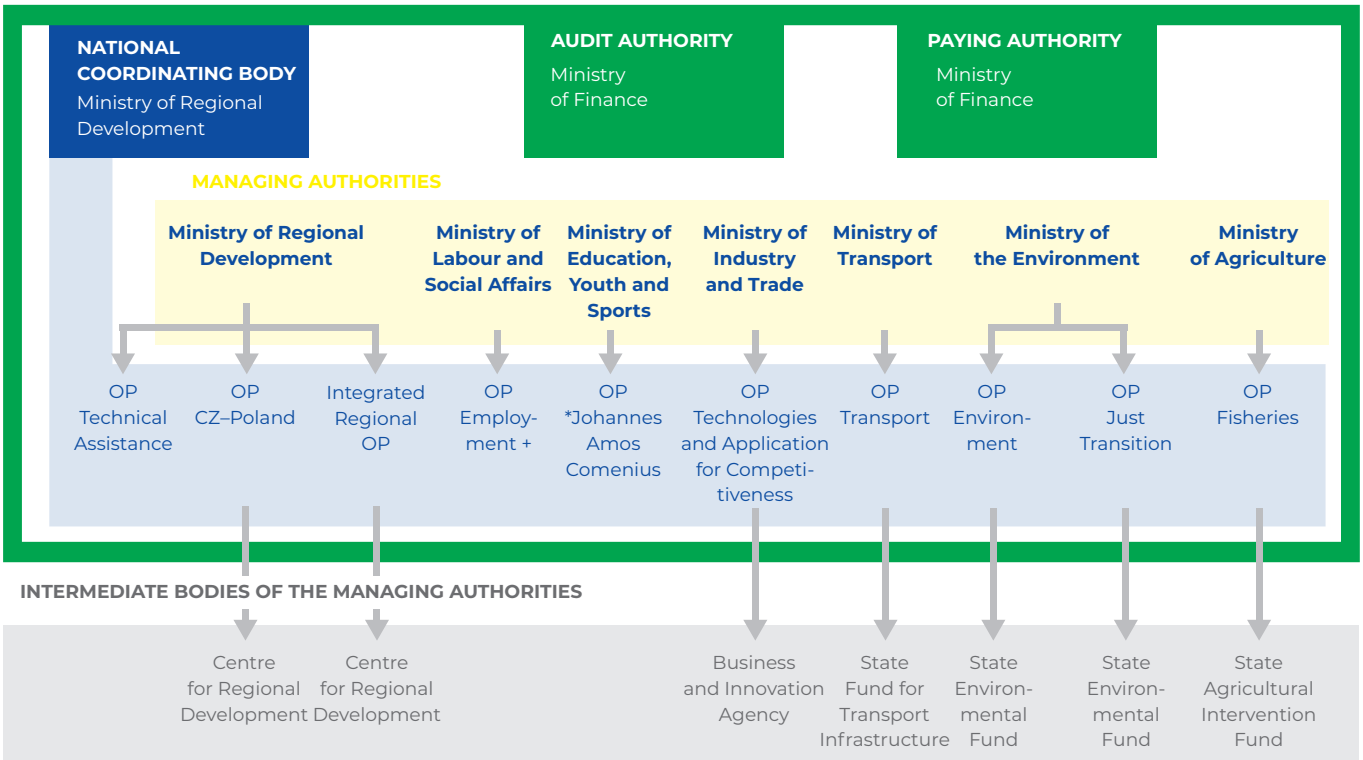


Figure 6: *Institutions implementing cohesion policy in the Czech Republic. (Source: MoRD (2022)[64])*

[63] The Journal of Public Procurement records public procurement contracts awarded under the PPA, i.e., generally not small–value procurement. The chart below therefore covers only the so called 'public procurement under the PPA'. Thus, the chart does not include subsidised small-value procurement, which is, however, also subject to the regulations governing the procedures for awarding public contracts laid down in the methodological guidelines of individual operational programmes.

[64] MoRD (2022). ABECEDA FONDŮ EU 2021–2027 (The ABCs of EU Funds 2021–2027), 1st edition, Prague 2022.

The number of controls carried out by managing authorities and intermediate bodies implies enormous administrative and capacity demands on the part of both contracting authorities and suppliers. Although the control bodies for subsidised procurement should carry out controls only on a sample of projects65, it is not unusual for the sample to represent 100% of the programme's subsidised contracts.

OP 2014–2020	No. of projects	No. of controls	Average number of controls per project	No. of findings
OP Enterprise and Innovation (MoIT)	13 577	92 667	6,83	422
IROP (MoRD)	12 717	129 545	10,19	766
OP Transport (MoT)	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 (MoRD)	261	5 326	20,41	70

Table 2: *Analysis of control activities for selected OPs 2014-2020. (Source: Datlab s.r.o.)*

The table was based on data from the MS 2014+. Partial differences in control volumes may also indicate different practices and methodologies for registering 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 number of controls associated with projects.

Public procurement contracts which may have led to a breach of budgetary discipline under Act No. 218/2000 Coll., on budgetary rules, are at a certain stage of the process subject to examination by the **revenue** administration authorities, which may again decide in two instances. It is again the administrative courts that are competent to hear actions against decisions of the revenue authorities[66].

It is evident that the Czech Republic has a truly robust system of control of and supervision over public procurement[67]. This system can thus lead to a fragmented decision-making and interpretation practice.

[65] The obligation results from the Single National Framework for the programming period 2021–2027.

[66] There is a total of eight administrative courts of first instance in the Czech Republic, not including branches of administrative courts. While the territorial jurisdiction for administrative actions against the decisions of the OPC always pertains to the regional court in Brno where the OPC is based, disputes against decisions of the revenue authorities are handled by the regional courts with territorial jurisdiction, 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 procurement subsidised by the EU is also set up with regard to the audit conditions of shared management resulting from the relevant EU regulations.

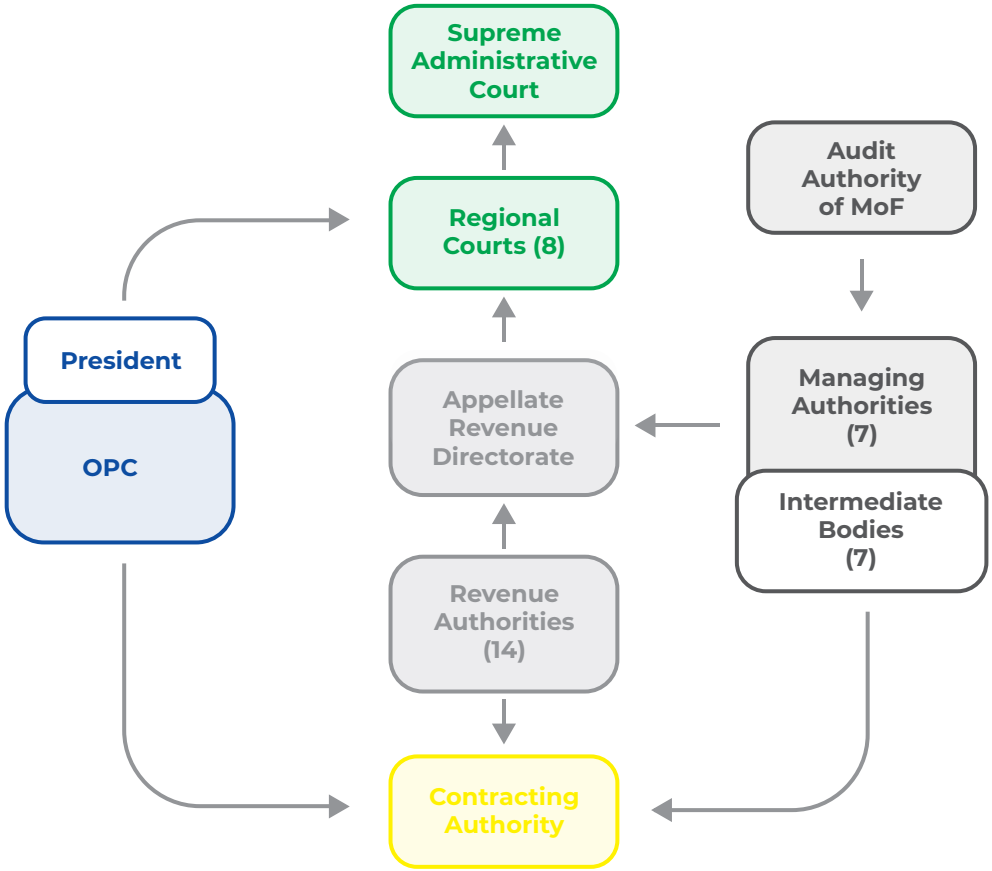


Figure 7: *The system of control of and supervision over public procurement in the Czech Republic (Source: self-compilation).*

The set-up of the system of control of and supervision over public procurement may be the reason why the individual entities described above may not respect each other's interpretations of the same provisions of the law. This is not only because different authorities may naturally have different legal opinions, but also because the individual authorities assess the contracting authority's conduct through the prism of different regulations. For example, the OPC examines whether the respective contracting authority has committed an offence under the PPA, the Audit Authority examines irregularities, and the Revenue Authority examines a potential breach of budgetary discipline. In the end, however, they assess the same conduct of the given contracting authority. This may 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 widely used awarding on the lowest bid 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, the likelihood that subsidised tenders will be cancelled is higher by roughly 50 %, in 17 % of cases[68].

It is appropriate to add that the problem of excessive administrative burden has long been addressed both at national and European level. These efforts have already led to partial progress[69] and it should be avaluated and followed-upon.

[68] It is the average of cancelled public contracts according to the Journal of Public Procurement since the PPA came into force, i.e., from October 2016 to October 2023.

[69] For example, a Planning Coordination Module has been created and is used by all institutions that carry out controls on projects funded by the European funds; the rulings of the OPC and the courts have been shared within the monitoring system, as well as audit findings of the Audit Authority are shared with the managing authorities through the APAO Information System.

Despite the robustness of control and supervisory mechanisms, according to the Eurobarometer survey,[70] the public procurement sector in the Czech Republic, or the procurement officers themselves, are rated by the public as the most susceptible to corruption of all other surveyed entities.

In this category, the Czech Republic stands out above the EU average. Thus, control and supervisory mechanisms in the Czech Republic do not seem to achieve one of their goals, namely to inspire public confidence in public procurement.

For example, a survey among beneficiaries of subsidies carried out by EY[71] as part of the Evaluation of the Methodological Environment from the perspective of the implementation structure of the EU funds shows that

55 %

of the respondents see the focus of supervisors' recommendations as being more on formal mistakes,

30 %

of the respondents have experience with repetitive or identical questions from different control authorities,

according to

31 %

of the respondents the control do not follow on from each other or

14 %

also come across conflicting findings and conclusions from different control authorities

This data also shows that there is rather a disillusionment among contracting authorities that the supervisors are often not so much concerned with quality and value for money, but with the formal procedural correctness.

As regards the issue of different interpretations across control authorities in particular, this is underscored by the fact that the authorities in question are not even aware of each other's interpretations of identical provisions.

The individual managing authorities produce their own case studies of their decision-making practice, the audit authority's conclusions form a separate interpretative source, which is, however, not available to contracting authorities. The collection of decisions of the Office for the Protection of Competition is actually available on the OPC's website, but without paid commercial services it is difficult for supervisors, contracting authorities and tenderers to use. It is thus appropriate to address the question whether the Czech Republic fulfils its obligations under the Procurement Directive towards predictability of the procurement law[73] in an ideal manner or whether it would not be appropriate to take steps towards better user–friendliness and sharing of decision–making practice in this respect.

[70] See https://europa.eu/eurobarometer/surveys/detail/2658

[71] See 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 OPC is already publicly available on the website https://www.uohs.cz/cs/verejne-zakazky/sbirky-rozhodnuti.html. However, the search mask gives you only limited search options. In order to search more efficiently, either commercial tools must be used or more advanced search methods must be mastered in web browsers, which requires users to have more advanced knowledge of the Internet work.

[73] Cf. Article 83(4) of Directive 2014/24/EU of 26 February 2014 on public procurement: "Member States shall ensure that:
a) information and guidance on the interpretation and application of the Union public procurement law is available free of charge to assist contracting authorities and economic operators, in particular SMEs, in correctly applying the Union public procurement rules; and b) support is available to contracting authorities with regard to planning and carrying out procurement procedures."

Despite the efforts to establish a uniform methodological environment,[74] the manuals for applicants for and beneficiaries of subsidies issued by individual managing authorities still differ from each other in the parts relating to the rules on subsidised public procurement, which can be illustrated, for example, by the fact that different managing authorities respond to identical legislative changes to the PPA with different time delays. This places an unnecessary administrative burden on contracting authorities that are beneficiaries of subsidies from several operational programmes.

8. 7. 2 Why the Issue Needs to be Addressed

Contracting authorities are concerned about unpredictable or inconsistent interpretations by control and supervisory authorities. This can easily lead to either excessive caution in the choice of procurement procedure or feeling that public procurement makes no sense, i.e., there is no point in searching for the most advantageous solution on the market. Public contracts that cause the greatest fear among contracting authorities are subsidised public contracts. While in the case of non-subsidised contracts it is primarily the OPC that supervises the contracting authority's procedure, in the case of subsidised contracts there are four other bodies involved: the Intermediate Body, the Managing Authority, the Audit Authority and the Revenue Authority. All of them may have different interpretations of the same contracting authority's decision.

Controls that may be conducted before and during the procurement process not only protract the whole procurement procedure[75], but also create a false sense of certainty among contracting authorities. One auditor's conclusion may not be the same as a later audit or the OPC's conclusion[76]. Moreover, the rules for subsidised public contracts are not yet fully uniform among subsidy bodies[77], which imposes excessive administrative burden on the contracting authorities for subsidised procurement and implies an unnecessary number of potential errors.

Supervisors of subsidised contracts may not have practical experience with contract awarding, and may therefore emphasise formal correctness without reflecting on whether the substance of the procurement has been followed. At the same time, the sanctions (correction)[78], which subsidy bodies may impose on a subsidy recipient for an erroneous procedure in a public procurement may be many times higher than the sanctions imposed by the OPC. *Unlike the sanctions imposed by the OPC under the PPA, the amount of the correction of the subsidy granted for a public contract can reach up to 100 % of the overall amount granted.*

[75] Social exclusion in OP Employment+, these are controls before the start of the procurement process and before the signing of the contract, where the managing authority has 15+25 working days for the control of small-value contracts (SVC) and 30+30 days for the control of public contracts under the PPA. Before signing an amendment there is the same deadline of 15 working days for both schemes. Cf. page 157 of the general part of the Rules for applicants and beneficiaries under OP Employment+, Issue No 5.

[76] The interpretations of the Audit Authority of the MoF of the Czech Republic and the OPC are by the nature of their statutory activities independent of the opinion of the inspectors of managing authorities or intermediate bodies.

[77] Although there is a Methodological Guideline for Public Procurement approved by the MoRD as the National Coordinating Body, each managing authority has their own rules for subsidy beneficiaries, which, although all based on the same Methodological Guideline of the MoRD as the National Coordinating Body, differ from each other in particulars, both in terms of language, systematic approach and specific rules or details.

[78] See European Commission Decision C/2019/3452 final, issued on 14 May 2019, laying down and approving guidelines for determining financial corrections.

Regardless of the contract financing, the disputes between suppliers and contracting authorities can last for years[79]. In fact, there are five instances for the review of a public contract (objections + 2x OPC + 2x administrative courts). Particularly in proposal processes, the consequences of lengthy decision-making can be very negative, and the fear of contracting authorities of delays in the contract implementation often increases the almost 'blackmailing' potential to challenge public procurement before the OPC on the part of suppliers.

It should be added that, in particular, controls of subsidised public procurement require a considerable amount of public administration capacities, which in turn the contracting authorities may be lacking for more rigorous preparation of public contracts. The contracting authorities themselves demand services from external administration and law firms in order to be able to carry out the procurement procedure in accordance with the law and with, for example, all “funds” regulations and to report all necessary documents for control purposes. On the one hand, procurement know-how is thus not accumulated with the contracting authorities but with external suppliers. On the other hand, considerable energy is spent on the administration and reporting of the already finalised contracts (even many years before) instead of concentrating on the rigorous preparation of future contracts.

In addition to the above mentioned, the question is whether there are not too many public administration bodies involved in the system of public procurement control and supervision. On the one hand, there are checks of the correctness of procedure for awarding public contracts subsidised by EU funds. At present, all seven managing authorities and five intermediate bodies control procedural correctness. In contrast, Slovakia has recently started unifying the control of public procurement subsidised by EU funds by making the Public Procurement Office (similar to the public procurement division of the Czech OPC) an independent intermediate body for these activities. It is thus possible to consider unification of controls into an independent administrative authority, or under the ministry that administrates both the PPA and the methodological guideline for public procurement subsidised by EU funds, namely the Ministry of Regional Development.

Another example when the appropriateness of the current legislative setting of official procedures should be reassessed is a situation where control authorities reasonably believe that the subsidy recipient has violated one of the subsidy conditions. In the event that the subsidy has not yet been paid to the recipient, the managing authority resolves this situation within the administrative proceedings that the managing authority conducts. However, if the subsidy has already been paid and the managing authority unsuccessfully[80] asked the recipient to return the subsidy (e.g., due to a breach of a provision of the methodological guideline for public procurement given by the operational programme), then this situation is no longer dealt with by the managing authority, but it is referred to the relevant unit of the revenue authority (revenue office with territorial jurisdiction), which should recover the subsidy[81]. However, the revenue authority has to subject the whole matter to its own assessment of whether there has been a breach of budgetary discipline under Act No.218/2000 Coll., on budgetary rules, implying a new assessment of the case, which has already consumed a lot of capacities on the part of the managing authority and the subsidy recipient (contracting authority). This triggers a new administrative round which, due to appeals and administrative actions, can last for years. In addition, according to the Act on Budgetary Rules, a payment for breach of budgetary discipline and the corresponding penalty can be imposed even for conduct that has occurred over the past 10 years. By contrast, infractions under the PPA, which are sanctioned by the OPC, are statute-barred at maximum 5 years of their commitment.

[79] Cf. statistics of Czech courts available from https://www.justice.cz/web/msp/statisticke-udaje-z-oblasti-justice

[80] Tj. v případě, že řídící orgán po marném vyzvání příjemce dle § 14f zákona č. 218/2000 Sb., o rozpočtových pravidlech.

[81] Tento proces se řídí Metodickým pokynem Centrální harmonizační jednotky č. 4 MF, který upravuje procesní postup tak, aby se předávání věci, pokud možno, obešlo bez administrativních nároků na příjemce dotace.

8. 7. 3 Setting Objectives

Objective:

To provide the maximum degree of legal certainty and predictability to both the contracting authorities and public contract suppliers, to lessen the emphasis on formalism in procurement and to reduce the administrative cost of the whole control process while protecting public funds from misuse.

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

- Prevention of unnecessary disputes before public authorities and the courts;
- Reducing the administrative burden for contracting authorities awarding subsidised public contracts in their communication with control authorities;
- Speeding up the OPC's decision-making process as much as possible, especially for live contracts, while maintaining the maximum degree of the decision's persuasiveness;
- Making use of the experience of contracting authorities' expert staff in control activities related to subsidised public contracts;
- Free, internationally standardised and user-friendly access to public procurement decision-making practice for both user and analytical purposes using AI tools;
- Maximum compliance with the single auditing principle for subsidised public contracts;
- Interpretation and clarification of uniform checklist questions for public contracts subsidised by EU funds;
- Conducting controls of subsidised projects on a risk-based sample and, where appropriate, using data-based 'red flags';
- Close cooperation among the MoRD, the OPC and the Audit Authority in an effort to harmonise interpretation practice;
- Regular feedback from subsidy recipients on the controls of subsidised public contracts;
- Rationalisation of the number of controls and control 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;
- Using inspirational foreign experience.

8. 7. 4 Overview and Description of Measures

Analysing options of entrusting the powers to control subsidised public contracts to a single control authority

07/2024–07/2025

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

The analysis will serve to assess options for further action, to rationalise the process of control bodies in public procurement. The possibility to unify the control authorities will also be discussed.

The analysis will also include financial implications of the proposed measures or clarification of competence-related and procedural issues, where appropriate. The analysis will be prepared in cooperation with the relevant bodies whose activities will be analysed. The implementation of the next steps will also consider their proper timing to ensure that the drawdown of EU funds in the period 2021–2027 and 28+ is not jeopardised. The powers of the MoF's Audit Authority will not be affected by the analysis.

Analysing public procurement reviews

01/2024–06/2024

The MoRD, in cooperation with the OPC, will prepare an analysis of possibilities of how to speed up administrative and judicial review of public contracts, with a focus on possible reduction of the number of instances.

The single methodological guideline for subsidised public procurement from EU funds published on the MoRD's portal

From 01/2025

The MoRD is in charge of a single official version of the Methodological Guideline for Public Procurement published on its portal; Operational Programmes will only refer to 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 particular Operational Programme, this derogation will first be approved by the MoRD and subsequently published on the MoRD's portal.

Creating a contractual framework for the involvement of expert staff of contracting authorities in the control process of subsidised public contracts

01/2024–12/2024

Expert staff of contracting authorities will be allowed to get involved in the process of control of subsidised public contracts, e.g., by using model agreements to complete a job. The supervisor 'procurement officer' will be involved in the preparation of checklists for subsidised public contracts, where appropriate.

Interpretative and decision-making practicefor subsidised public contracts

Od 06/2024

The MoRD's portal will be supplemented and continuously updated with interpretative opinions and type case studies facilitating the interpretation of the provisions of the Methodological Guideline for Public Procurement. The MoRD in cooperation with the MoF will also publish the interpretation of individual checklist questions based on the Methodological Guideline called Control of Funds Provided from EU Funds 2021–2027.

Easily accessible decision-making practice of the OPC

Od 06/2025

The OPC, in cooperation with the DIA, will create a suitable format for the OPC to publish its final decisions in order to maximise their availability to users and to assist users (contracting authorities, suppliers and control authorities) in the proper application of the law. The final decisions will be available free of charge both on the OPC's website and in open data format.

Easily accessible audit results of the Audit Authority of the MoF of the Czech Republic

Od 06/2025

The Audit Authority of the MoF of the Czech Republic in cooperation with the DIA will create a suitable format for the Audit Authority to publish its audit findings in order to maximise their availability and to assist users (contracting authorities, suppliers and control bodies) in the proper application of the law and subsidy rules related to public procurement. Audit findings will be made available free of charge, to the extent as relevant, both on the Audit Authority's website and in open data format.

Analysing possibilities of extended use of simplified reporting methods

06/2024–12/2024

The MoRD will prepare an analysis of the current experience with the use of simplified reporting methods (SRM) both in the Czech Republic and in EU Member States, with the aim of expanding the use of SRM and thus reducing administrative costs of subsidised public procurement control.

Roundtable on the possibilities of aggregating the competences of managing authorities in relation to proceedings for breach of budgetary discipline concerning subsidy funds

06/2024–06/2025

The MoRD, in cooperation with the MoF, will organise a roundtable on the results 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 procurement, and possibly on increased specialisation of these proceedings before the revenue authorities.

Regular sociological survey among contracting authorities and suppliers

Regularly from 2024

The MoRD will regularly (approximately every 2 years) carry out a sociological survey among contracting authorities focused primarily 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

8.1 Background

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 procurement is also very significant, exceeding 40% of the total financial volume of all public procurement in the Czech Republic[82]. Its impact on the national economy and sustainability is therefore crucial.

Public procurement in the construction sector is mainly represented by public works contracts, but also includes a significant part of service contracts for designers, engineers, builder's technical supervision, etc. They also include public contracts for the supply of construction materials or engineering plants.

Public procurement in the construction sector shares common challenges with the entire construction sector, which tends to be characterised as relatively conservative or lagging behind in terms of introducing digitalisation and other modern methods and which is therefore currently undergoing a major transformation referred to as Construction 4.0[83].

Therefore, the construction sector digitisation is also important for public procurement in the construction sector, which takes the form of digitisation of construction proceedings and the introduction of

[82] For example, in 2022 the percentage of public works contracts amounted to 45% of the volume of all public contracts under the PPA, their financial volume amounted to CZK 174 billion.

[83] For example, Víra, B. (2018). Stavebnictví 4.0. Časopis Stavebnictví č. 03/2018 (Construction 4.0. Construction Magazine No. 03/2018). Available from https://www.casopisstavebnictvi.cz/clanky-stavebnictvi-4.0.html

building information modelling (BIM). The digitisation of construction proceedings is introduced by the new Building 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 enable digital acts in relation to the building authority and the body concerned to be performed electronically. In recent years, the BIM method has been gradually introduced in the private sector on a voluntary basis. It is to be introduced as mandatory for selected contracting authorities[84] by the Act on Building Information Management and Building and Built Environment Information Model, the material intent of which was approved by the Government of the Czech Republic on 3 May 2023. The material intent anticipates the effective date to be 1 July 2024, however, given the state of legislative work (due to the need to address links to other related forthcoming legislation on data management and digitisation, the draft section wording has not yet been finalised), a later date may be expected.

Public procurement in the construction sector is, together with other types of public procurement, regulated by the PPA. However, there are certain specifics. The most important is Section 92 of the PPA, which establishes a legal presumption for the proper determination of technical conditions for public works contracts. A more detailed specification is then provided by Decree No. 169/2016 Coll., on determining the scope of documentation for public works contracts and the list of works, supplies and services with a bill of quantities. The legislation allows for the award of a public works contract both on the basis of construction documents with a list of works, supplies and services including a bill of quantities, and on the basis of performance or function requirements (so-called design&build). Public works contracts have specific (higher) financial limits. For public service contracts for the work of designers and technical supervision, the contracting authority is not entitled to demand economic qualification (turnover) according to Article 78(6) of the PPA. Pursuant to Section 103(3) of the PPA, the contracting authority may, in the case of public works contracts, design work contracts or design competitions, specify a mandatory requirement for the use of specific electronic formats, including Building Information Modelling (BIM) tools in tender documents.

Public procurement in the construction sector is also influenced by the legal regulation of the Building Act and its implementing regulations, especially in relation to the definition of the content of the bidding documents, the obligation of the construction manager, the technical supervision of the builder or the electronic maintenance of the construction diary. Furthermore, this area is affected by Act No. 360/1992 Coll., on the pursuit of the chartered architect profession and the chartered engineer and technician active in construction profession (Authorisations Act), as amended, in particular in relation to the definition of the content of individual chartered disciplines or the participation of foreign persons in procurement procedures.

Public procurement in the construction sector will be significantly affected by the recently adopted or forthcoming European Union regulations on ESG principles and taxonomy[85]. Although the

[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-governing units (regions) and their contributory organisations and other legal persons, if the above-mentioned obliged persons have a predominant control in them pursuant to Section 4(1)(e) of the PPA.

[85] For example, Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Commission Delegated Regulation (EU) 2019/2088 (Taxonomy Regulation), Commission Delegated Regulation (EU) 2021/2139 of 4 June 2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes not significant harm to any of the other environmental objectives or Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 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).

implementation of "green" (ESG and taxonomy compliant) projects is not mandatory, compliance with these principles will have a major impact on the future ability to obtain financing for these projects or the general willingness of suppliers to participate in their implementation. It is also likely that compliance with (some of) the taxonomy criteria will be required in EU-funded projects.

Public procurement in the construction sector is also increasingly affected by sustainability-related sub-amendments in directly applicable EU sectoral legislation. See Chapter 11.1.2 for more details.

In practice, public procurement of construction works on the basis of predetermined parameters based on a detailed specification according to the construction documents with a list of works, supplies and services including a bill of quantities, which does not allow for the incorporation of suppliers' know-how or innovative ideas into these deliverables, is significantly prevalent. The vast majority of public contracts are awarded on the basis of the lowest tender price criterion, possibly in combination with other quantifiable 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 procedure with publication or competitive dialogue or the use of design competitions, is not much 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 partial initiatives, contracting authorities do not yet have generally accepted methodologies and model tender 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 seen as risky. Contracting authorities may not feel reasonably confident that following the recommended practices will not expose them to the risk of having their procurement procedure challenged in proceedings before the Office for the Protection of Competition, cuts in subsidies or even criminal prosecution.

In recent years, there has been a widespread use of FIDIC Commercial Terms, especially by large contracting authorities (e.g., the Road and Motorway Directorate or the Railway Administration). However, these model contracts are not suitable in all cases, especially not for smaller projects; their ill-conceived modification in the form of extensive special conditions can also be a disadvantage. In practice, ordinary contracting authorities use model contracts for work of varying quality for the construction contract execution, and there is often a tendency among contracting authorities to take them over from one another without making it clear how appropriate the model contract is. The contracts are often unbalanced, transfer unmanageable risks to the suppliers and, in the contracting authority's attempt to make their work easier, can lead to increased project price, delays in implementation or discourage potential suppliers from participating.

On the other hand, the increased use of preliminary market consultations, so-called measured contracts, the more widespread procurement of design work using the evaluation of the organisation, qualifications 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 considered as positive.

The issue of pricing of construction works and project prices can be identified as a related problem. At present, the collection of information on construction work 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 practices when awarding construction contracts. It also makes it significantly more difficult for contracting authorities to identify abnormally low bids, as contracting authorities are often forced to commission expert opinions and cannot rely on reliable statistical data.

8. 8. 2 Why the Issue 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. Infrastructure is characterised by its long-term nature and long preparation time. Therefore, in contrast to the various operational and short-term deliverables, the way we define tender specifications for the design work and the actual construction work will have a major influence on the use and impact of buildings and structures for many decades. The importance of early project phases needs to be highlighted as crucial, as it is there where a substantial part of the decisions are made as to whether the contracting authority will actually get value for money, whether the building or structure will be sustainable and whether it will bring benefits for the surrounding area. At the same time, many of the buildings and spaces that are, and will continue to be used, are relatively old and will need to be refurbished to meet the required sustainability standards. At the same time, public contracts in the construction sector are of interest even to very small contracting authorities without the appropriate professional apparatus.

For economic recovery, both the rapid preparation and rapid approval of construction projects and their correct and rapid procurement are essential. On the contrary, the current situation of often lengthy preparation and approval of buildings and structures and complicated tender specifications with sometimes lengthy reviews has, especially for strategic projects, quite significant negative impacts.

Also, in terms of meeting sustainability objectives, construction procurement is very important (e.g., buildings have a major impact on energy consumption and the construction sector on waste production). Given their aforementioned long-term nature, new buildings should be thought of with a view to the needs for the next decades. However, as is evident, 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 authority[86]. The construction sector as such (construction production) generally falls under the authority of the Ministry of Industry and Trade, which is responsible for a number of related issues (e.g., metrology and state testing, but also small and medium-sized enterprises). The Ministry of Regional Development is responsible for public investment (public procurement), as well as spatial planning and

[86] See Act No. 2/1969 Coll., on the establishment of ministries and other central authorities of state administration, as amended.

building regulations. However, certain aspects of the construction sector fall within the competence of the Ministry of Transport (in relation to transport structures), the Ministry of the Environment (e.g., in relation to the environmental impact assessment of activities and their consequences, the national environmental policy in general and the EMAS programme) and the Ministry of Labour and Social Affairs (e.g., in relation to occupational safety). From this point of view, it seems to be appropriate for the Strategy to address procurement in the construction sector as a whole, as the above-mentioned fragmented competences 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 newly emerging role of sustainable financing. 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 difficult, if not impossible.

It is therefore essential that public investment decision-makers and project managers, designers and architects preparing projects, other technical, economic and legal advisors, as well as contracting authorities are aware of these procedures. In many cases, however, the different professions are now completely isolated. In future, this isolated approach must be overcome and all the areas concerned must be linked. Cooperation with professional chambers (the Czech Chamber of Architects and the Czech Chamber of Chartered Engineers and Technicians Engaged in Construction), professional and interest associations and universities is essential in this respect.

The actual purpose of awarding, however, lies only in the implementation phase and especially in the utilisation 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, evaluation of the proper performance of a public contract and the possible use of negative experience to exclude suppliers from public contract performance (including the sharing of this experience).

8. 8. 3 Setting Objectives

Objective:

To reach a state where public contracts in the construction sector are prepared, awarded and implemented as part of project management in a primarily efficient, sustainable, innovative, digital and measurable way.

All modern tried and tested practices and international best practices should be used to the greatest extent 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, appropriately linked legal regulations of the Building Act, the Public Procurement Act, the Authorisation Act and other applicable legislation, while respecting relevant EU legal regulations (e.g., the Net Zero Industry Act);

- **In accordance with the principles of sustainability, including the principles of circular economy, ESG and EU taxonomy**[87], from the very beginning of the investment project preparation, during the spatial planning processes, in the preparation of design documents, in the building permit process, as well as in the preparation of tender documents and the public contract implementation agreement;
- **In digital form** using **Building Information Modelling (BIM)** techniques; where appropriate, using **design competitions**;
- **According to international best practice in public procurement**, in particular:
    - **Involving contractors in project preparation** (preliminary market consultations, Early Contractor Involvement, etc.);
    - Using **centralised procurement** where appropriate;
    - Choosing **appropriate procurement procedures** (e.g., negotiated procedure with publication or competitive dialogue where appropriate, using qualifications systems) and **appropriate methods** (e.g., design&build);
    - Using appropriate/binding **model tender documents**;
    - Using **appropriate contractual terms and conditions**;
    - Using appropriate **qualitative evaluation criteria,** including life cycle cost or TCO;
    - Using a uniform methodology for calculating the lifetime costs of building contracts;
    - Using appropriate **certificates** and **labels**;
- while respecting **fair conditions in the supply chain, the principle of environmentally and socially responsible procurement** and **innovation**, and ensuring **support for SMEs**;
- while using appropriate **contract management** procedures in the implementation phase.

Furthermore, the aim is for the State to have **sufficient data on implemented construction contracts**, in particular on the use of essential elements (sustainability, qualitative evaluation criteria) and to be able to monitor the achievement of the required objectives.

Specifically, the State should also have sufficient data to be able to assess whether a particular project is **being implemented at an appropriate market price**, both at the stage of its preparation (determining the expected value of the public contract, or implementation costs) and bidding (including assessing the abnormally low bids, 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 under other subject headings of the concept. At the same time, a number of construction issues are related to construction procurement as such. Therefore, the implementation of some of the

[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.

sub-objectives goes beyond the scope of this Strategy (in particular digitisation and BIM or price monitoring). These objectives will be addressed separately, but ultimately, they need to be progressively integrated into the investment cycle of construction projects[88].

8. 8. 4 Overview and Description of Measures

Analysing the existing practice and follow-up developments and management of methodologies and model documents

01/2024–12/2026

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

This will be followed by the creation and management of specific methodologies and model tender documents for procuring:

- Public contracts for design work;
- Public contracts for the work of technical supervision, design supervision, OHS coordinator, etc.;
- Public works contracts (of various types).

Given the comprehensive and cross-cutting nature of this subject heading, a number of partial inputs will be produced either under other subject headings (in particular Quality and Innovation and Environmentally and Socially Responsible Procurement) or outside of this Strategy (e.g., BIM). However, all of these partial outputs need to be included in public procurement in the construction sector.

Consideration should be given to the standardisation of the model tender documents, for example, in a modular form, it means creating a kind of analogy to the business terms and conditions that would remain unchanged, and all the specifics would be listed in annexes, which would allow especially contractors to navigate tender specifications more easily.

The creation of the methodologies is planned to take place during 2024, and in the following years they will be complemented by newly created outputs and elements.

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

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

01/2024–06/2025

Recently, a number of legal regulations related to ESG and the EU taxonomy have been and are still being adopted at EU level as part of the broader topic of sustainable finance. These regulations are comprised of thousands of pages of text. It is very difficult for contracting authorities who would like or will be forced to integrate these principles into the upcoming projects, as well as for subsidy providers and others, 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 construction cost increases. The aim of the methodology should therefore be to provide practical guidance on how to prepare and implement environmentally sustainable buildings such as schools, municipal housing, swimming pools, etc. and which key aspects to consider during decision-making.

Training contracting authorities, designers and contractors

07/2024–12/2026

Contracting authorities need to be trained in the use of new procedures and tools. In addition to the traditional training of contracting authorities, interested designers need to be involved in the training process so that they are able to prepare construction projects using the innovative methods described.

There is also a need to create tools and aids (e-learning, methodologies) for public works contractors to use when they want to respond to an innovative procurement procedure (as lower interest in having training in advance is envisaged).

Supporting pilot projects

07/2024–12/2026

Innovative procedures and methodologies and model documents need to be tested on suitable pilot projects, which would then serve as a role model for other contracting authorities.

During 2024, the first projects will be identified and memoranda of cooperation signed with their contracting authorities. Expansion to other projects may occur in subsequent years.

Analysing the existing contractual practice and working group on contractual terms

1/2025–12/2026

In the first phase (in 2025), an assessment of the existing contractual practice of contracting authorities in the construction sector should be carried out as a basis for the working group's work. The analysis should compare a sample of contractual terms and 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, in particular, bad practices.

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

The working group is planned to be established in the first half of 2025.

Methodology for contract management

01/2025–12/2026

Most of the measures described in the Strategy focus on the preparation phase of the procurement, or the correct award of the contract.

It is therefore essential that a methodology is developed to guide contracting authorities (and, for information, contractors) in the implementation of best practice in contract management (contractual relationship). The aim is to ensure that contracts are also properly and timely executed and completed, without delays, cost overruns, etc. A related objective is also to obtain feedback for the contracting authorities, including sharing any negative experience to exclude ineligible suppliers from the procurement process.

8. 9 Data and Digitisation

8. 9. 1 Why the Issue Needs to be Addressed

This chapter covers the same topic as the Strategy for Electronic Public Procurement[89]. A significant part of the relevant objectives is already described and defined by that strategy. Only possible extensions or specification of these objectives beyond the scope of the strategy are addressed here. The vision presented here is to a large extent shared.

The machine data currently available does not comply with the requirements of Decree No. 168/2016 Coll. and therefore deteriorates 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 authorities' profiles is illustrated in the following chart.

[89] Ministry of Regional Development (2021). Strategy for Electronic Public Procurement for the Period of 2022 – 2030. Available from: http://portal-vz.cz/wp-content/uploads/2022/06/Strategie-elektronizace-VZ-pro-obdob%C3%AD-let-2022-2030.pdf

Data completeness on the contracting authorities' profiles (under the PPA)

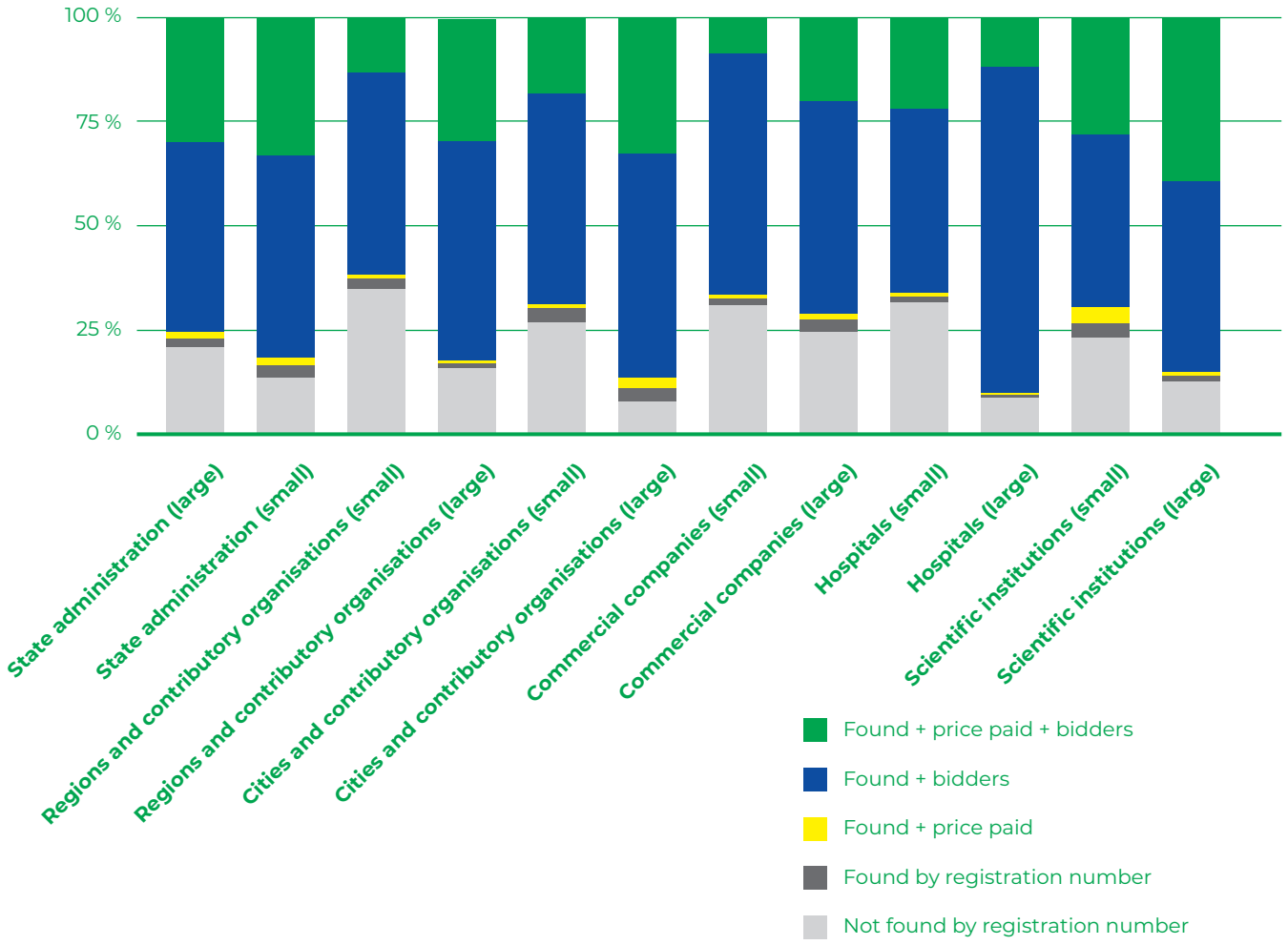


Figure 8: *Comparison of completeness of data published on the contracting authorities' profiles for 2022. (Source: Datlab s.r.o.)*

The chart indicates the quality of the data in terms of usability for the monitoring of competition, management control. It is not indicative of the degree of fulfilment of legal obligations. As a starting point, the contracts published in the Journal of Public Procurement are used. For each of them, it was determined by its Journal registration number whether the contract with the same number is published on the contracting authority's profile. Furthermore, it was examined whether the given contract contains information on the actual price paid or information on unsuccessful 'tenderers' for the public contract (if any, in the context of the information on the number of tenders from the Journal of Public Procurement).

However, another shortcoming in terms of mapping procurement practice may be small-value contracts. Their publication is (with the exception of smaller municipalities with no obligation to publish in the Register of Contracts) in fact voluntary.

Publication of small-value contracts on the contracting authorities' profiles

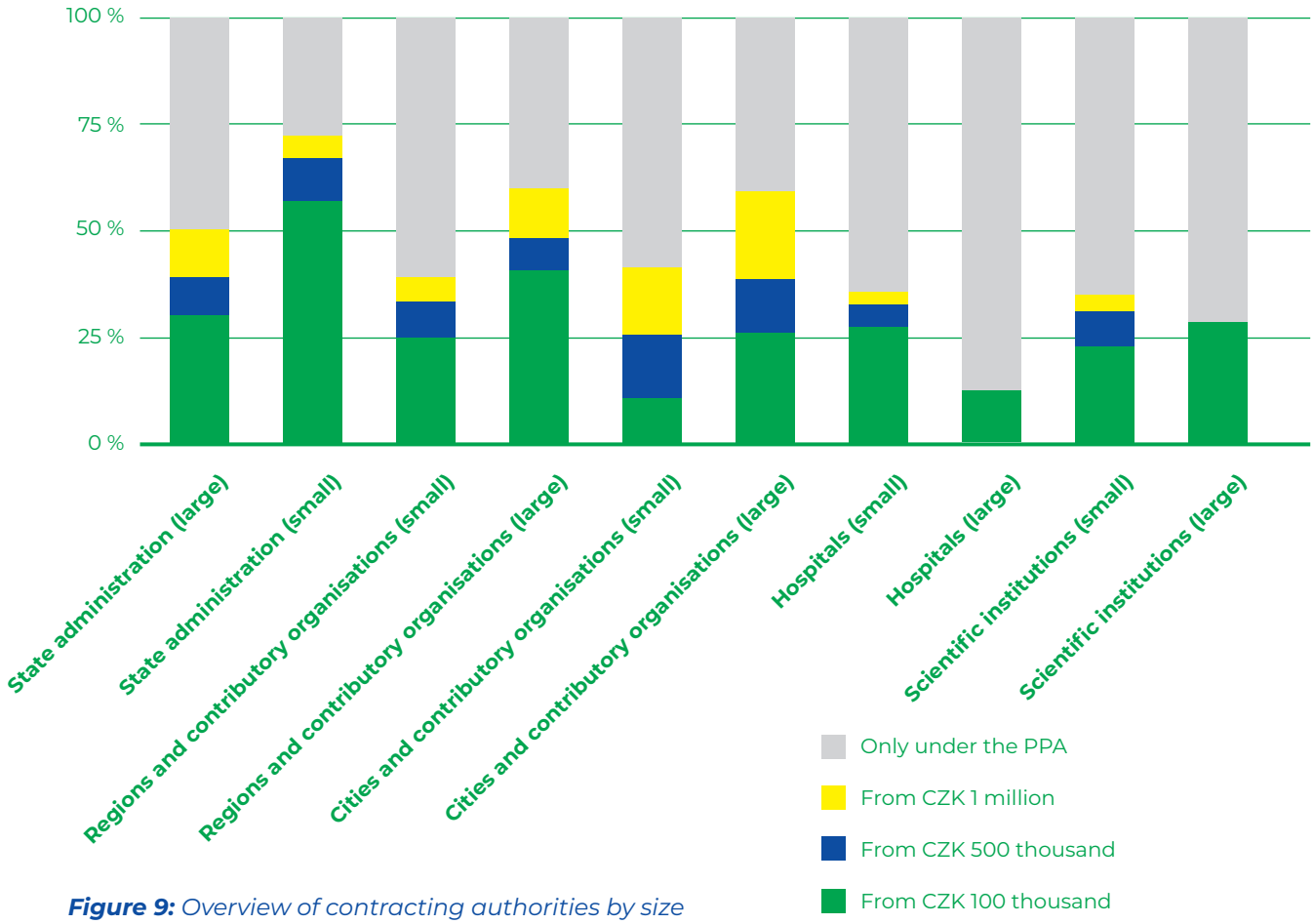


Figure 9: *Overview of contracting authorities by size of normally published small-value contracts. (Source: Datlab s.r.o.)*

These two examples illustrate the partial problems in 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 supposed to help to meet them.

However, the main purpose of the digitisation process is to facilitate the procurement processes from the perspective of contracting authorities and suppliers, and secondarily to make the system more efficient by increasing the transparency of the system for the purposes of management control, supervisory authorities' control, public oversight and business confidence. This should be subordinated to the development of systems under the authority of national authorities, but also to the regulatory environment for third party systems.

The steps towards this are contained in the Strategy for Electronic Public Procurement, here we summarise 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 mandatorily included in the regulation, especially with regard to the possibilities of monitoring compliance with strategic objectives, the entire project cycle of the contract, including the final evaluation, etc. In addition, the standardisation of data will make it possible to better assess compliance with European practice.

2. **Increased level of automation** – 70% of the data filled in the electronic tools should be provided automatically by the systems, which will reduce the burden on suppliers and increase data reliability.

3. **Improved quality of data for management control** – the public procurement infrastructure should provide, as far as possible, complete and reliable information on contracts under the PPA as well as on small-value contracts. As shown in the Annual Report on Public Procurement for 2022, a significant proportion of purchases is made outside the PPA and is not registered as small-value contracts on the contracting authority's profile - a situation that may be exacerbated if the limits are shifted.

4. **Use of artificial intelligence**

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

   - Preparation and control of documentation;
   - Automated completion of forms (typically CPV codes);
   - Pre-processing of bids for evaluation.

A prerequisite for its use is the further progress of computerisation, in particular in terms of availability and machine-readability of documents, standardisation of electronic tools so that machine learning approaches are able to retrieve data, and that the meaning of data is, as far as possible, unambiguous across different electronic tools.

8. 9. 2 Why the Issue Needs to be Addressed

Today, the IT infrastructure of public procurement is a necessary precondition for its very functioning. It also contributes increasingly to its effectiveness. In practice, this importance is particularly significant from the following perspectives:

Barriers to competition

– Some firms struggle to find relevant contracts. There are technological barriers to bidding, especially for firms new to the market.

Administrative burden

– Currently, computerisation is considered problematic by contracting authorities due to fragmented systems (profile, journal, contract register, subsidy registration systems) and the need to record similar data multiple times. There are a number of opportunities for improvement - e.g., automation in proving qualifications.

Market overview

– MoRD and supervisory authorities often do not have good quality data for decision making, for exercising control. Its collection should be automated, if possible, without burdening the contracting authority.

8. 9. 3 Setting Objectives

Objective:

With easier traceability of opened tenders, participation in tenders (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 increase.

Objective 1: More efficient tools for suppliers

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

Metric 1.2 – Market breadth – 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 as small-value public contracts.

Metric 1.4 – Openness of small-value public contracts – Availability of information on opened public tenders (including small-value contracts and simplified below-threshold procedures), with basic information critical for bidders – bid submission deadlines, CPV, tender documents.

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

Objective 2: User comfort for contracting authorities

Metric 2.1 – **Level of voluntary use of electronic tools** below the thresholds set by the PPA (or SVP methodologies). Numbers and values of procedures published in this manner 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 the procurement procedure, receipt of bids.

Metric 2.3 – Percentage of public contracts published in the Journal of Public Procurement in an automated manner, i.e., via API without the need to enter information manually.

Objective 3: Availability of data for public scrutiny, authorities' oversight, management control

Metric 3.1 – **Quality of data published in electronic tools** – monitoring the availability and validity of information the publication of which is not technologically enforced.

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

Metric 3.3 – Percentage of public purchases through public procurement, i.e., mentioned in the Journal of Public Procurement and on contracting authorities' profiles.

In addition to the fulfilment of the technological objectives, the level of their contribution to the general objectives defined above will be monitored beyond the scope of the Strategy for Electronic Public Procurement[90].

8. 9. 4 Overview and Description of Measures

Single point for submitting bids	06/2025

Suppliers will be able to bid from any electronic tool (specification 1.3.1 of the Strategy for Electronic Public Procurement). Defining a technology standard and introducing an obligation to receive bids and requests for clarification from certified third-party tools.

Easy migration of contracting authorities between electronic tools	12/2024

It will be made technologically easier for contracting authorities to change the operator of an electronic tool - in particular the transfer of existing and historical contracts thanks to the newly functioning Public Procurement Register. For a transitional period, the contracting authorities will be able to use simultaneously several electronic tools. The aim of the measure is to increase the competitive pressure on the profile operators and to achieve more convenient services for contracting authorities and suppliers.

[90] Ministry of Regional Development (2021). Strategy for Electronic Public Procurement for the Period 2022–2030. Available from: http://portal-vz.cz/wp-content/uploads/2022/06/Strategie-elektronizace-VZ-pro-obdob%C3%AD-let-2022-2030.pdf

Simplified demonstration of basic qualifications

06/2025

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 bid and the contracting authorities to verify it.

Single authentication to NIPEZ tools

06/2024

Contracting authorities and suppliers will have easier access to individual applications of the entire NIPEZ infrastructure - banking identity, JIP, etc. will be used to log in. As a result, the applications will be more accessible, they will not place such high demands on supplier registrations, access control on the part of the contracting authority.

9

Links across Subject Headings

	1. Quality and Innovation	2. Environment for Effective Public Procurement	3. Environ-mentally and Socially Responsible Public Procurement	4. Professio-nalisation	5. Support for Centralised Purchasing and Collaboration	6. Supporting Strategically Important Investments and Contracting Authorities	7. Legal Certainty in Public Pro-curement
1. Quality and Innovation							
2. Environment for Effective Public Procurement	Sharing good practice will be a tool to stream line procurement practices and lead to higher quality and innovation.						
3. Environ-mentally and Socially Responsible Public Procurement	It is necessary to usethe opportuni-ties inherent in responsible public procurement. Such deliverables can be the result of innovative solutions.	A prerequisite foreffective purchasing is the application of a strategic approach, i.e., including the use of environmental, social and innovative requirements.					
4. Professio-nalisation	Quality and innovative procurement can only be achieved with simultaneous support for educa-tion.	Enhancing attractivenessof public procurementrequires trained andinformed buyerson the part of contracting authori-ties.	Educating those responsible for pur-chasing in relation to environmentally and socially responsi-ble procurement contributes to the use the procurement potential.				

	1. Quality and Innovation	2. Environment for Effective Public Procurement	3. Environmentally and Socially Responsible Public Procurement	4. Professionalisation	5. Support for Centralised Purchasing and Collaboration	6. Supporting Strategically Important Investments and Contracting Authorities	7. Legal Certainty in Public Procurement
5. Support for Centralised Purchasing and Collaboration	The availability of proven models and their use by central contracting authorities is a prerequisite for an across-the-board increase in the ability to obtain adequate value for money.	Enhancing attractiveness of public procurement and reducing the administrative burden is the common denominator for setting centralised procurement-related rules.	The implementation of environmentally and socially responsible public procurement in practice will be facilitated by the use of the potential also in centralised purchasing.	In order to strengthen the importance of centralised procurement, it is necessary to have the properly educated human resources.			
6. Supporting Strategically Important Investments and Contracting Authorities	Some deliverables are unique and of fundamental importance to society. In this case, the need to promote quality and innovation in procurement is even more urgent.		Support for SIICA builds on the plan to support environmental and social sustainability of investments, for specific strategic projects.	Support for SIICA implies an active involvement of trained members of the contracting authority's team. At the same time representatives of contracting authorities will be motivated to share their experience from projects.	Lessons will be learnt from the SIICA support projects, which will also be reflected in recommendations for central contracting authorities.		
7. Legal Certainty in Public Procurement	The development of good practice in using qualitative and innovative criteria cannot be achieved without communication and coordination with representatives of control and supervisory authorities.	Alignment and optimisation in the area of review will lead to more efficient procurement.	Contracting authorities must be certain that the use of the RPP is desirable and will not be unduly penalised. Minimum RPP standards will lead to certainty of contracting authorities, suppliers and control authorities.	The linking of the chapters relates in particular to the need to educate those responsible for control. The link to professionalisation also has a bearing on the possible involvement of contracting authorities in the control of subsidised contracts.	Centralised purchasing will necessarily need a maximum level of legal certainty, otherwise the end users will not be willing to register in the centralised purchasing system.	In SIICA, delays are not only extremely costly, but also potentially jeopardising the performance of critical State tasks. Speeding up can reduce potential damage.	

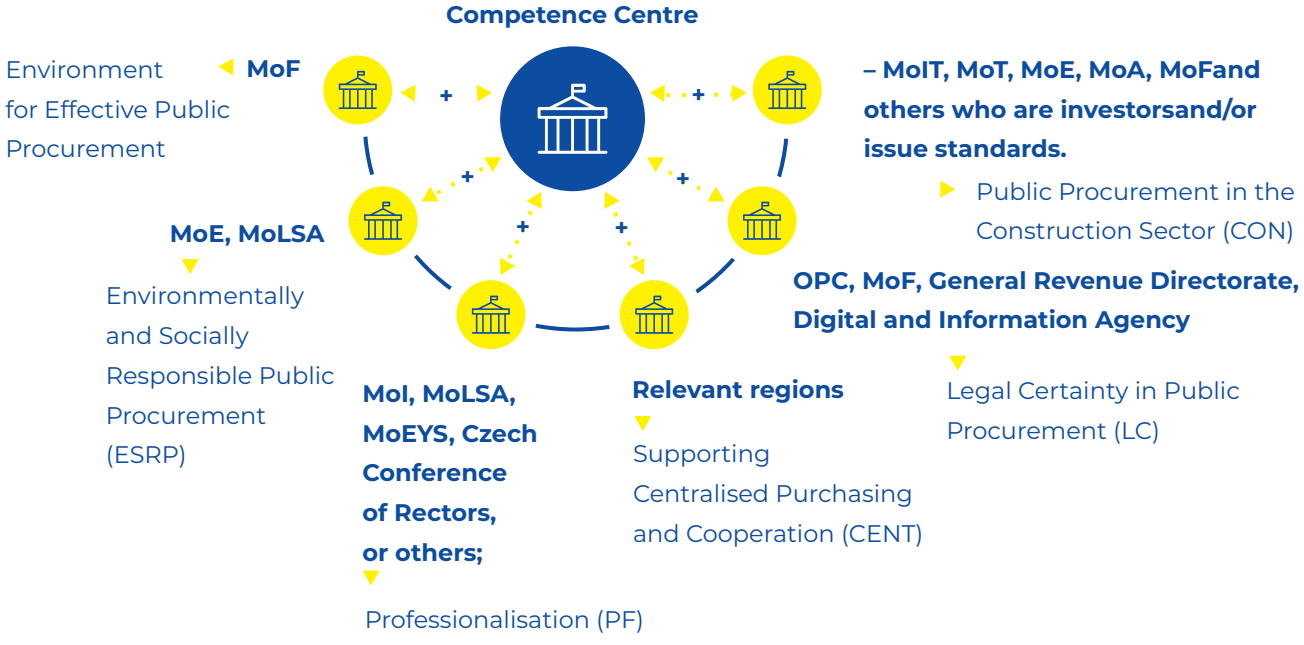
9. Links across Subject Headings

10 Method of Implementation

10.1 Responsibility for Strategy Implementation

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

In addition to the MoRD, other institutions may be involved in the implementation through cooperation or other activities:



Working groups composed of representatives of relevant institutions will be established for individual subjects as needed. As an example, we can mention the working group for innovation of public procurement practices in the construction sector, where we expect the involvement of the MoIT and other aforementioned ministries, chambers of commerce and other relevant professional organisations active in construction. Similarly, working groups will be set up to prepare minimum standards for responsible public procurement for various deliverables (in the first phase this will include environmental cleaning, food supply, catering and events).

10. 2 Timeline

1 QI[91]

Platform for sharing good and bad practice	01/2024–12/2026
Support for pilot projects	01/2024–12/2026
Development and set-up of guidelines and management of model documents	01/2024–06/2025
Provision of comprehensive training	01/2024–12/2026
Sectoral market consultations (SMCs)	01/2024–12/2026
Honorary awards for inspiring procurement teams	01/2024–12/2026

2 EEPP

Amendment to the PPA	01/2024–06/2026
Public contract search engine and notification system	01/2024–06/2025
Update of the public procurement methodology	01/2024–09/2024

3 ESRP

Knowledge base and guideline resources for the implementation of environmentally and socially responsible public procurement	01/2024–12/2024

[91] QI – Quality and Innovation

Training for contracting authorities on environmentally and socially responsible public procurement	01/2024–12/2026
Database with examples of good practice	01/2024–12/2026
Minimum standards for responsible public procurement I and II	01/2024–09/2024 10/2024–09/2025
Monitoring and evaluating the use of minimum standards for responsible public procurement in eForms	Monitoring will be introduced following the finalisation of the minimum standards for RPP I and II – in two sets, evaluation once a year in the Annual Report on Public Procurement
Honorary awards for contribution to environmentally and socially responsible public procurement	2024–2026; once a year

4 PF

Working group on human resources and professionalisation in public purchasing	01/2024–06/2026
Setting up and developing a framework for the public procurement function (procurement administrator/public sector buyer profession)	01/2024–06/2026
Developing the theme of public procurement in education, science and research (universities, public and research institutions)	01/2024–06/2026
Mapping of staff capacities and self-assessment in public purchasing	01/2024–06/2026
Providing training for contracting authorities within direct MoRD's activities	01/2024–06/2026
Educating contracting authorities outside of the framework of direct MoRD's activities	01/2024–06/2026
Examining the possibility of adjusting the remuneration for public buyers	01/2024–06/2026

5 CENT

Stakeholder involvement	01/2024–06/2026
Setting up and implementing a regional centre model	01/2024–2Q/2025
Analysing the possibility to create an online tool (e-shop, Marketplace)	01/2024–4Q 2024
Setting up monitoring and evaluation	01/2024–06/2026

6 SIICA

Roundtable – introductory and follow-up (validation) meetings	**1Q/2024 and then annually (until 1Q/2026)**
Methodology for the procedure to support strategically important investments and contracting authorities (SIICA methodology) and its update	**Q1/2024–12/2025**
Support for SIICA	**01/2024–06/2026**

7 LC

Analysing possibilities of conferring powers to control subsidised public contracts to a single control body	**07/2024–07/2025**
Revision of public procurement review	**01/2024–06/2024**
A single methodological guideline for subsidised public procurement from EU funds published on MoRD's portal	**Od 01/2025**
Creating a contractual framework for the involvement of contracting authorities in the control of subsidised public procurement	**01/2024–12/2024**
Interpretation and decision-making practice for subsidised public procurement	**From 06/2024**
Easily accessible OPC's decision-making practice	**From 06/2025**
Easily accessible results of the auditing work of the Audit Authority of the MoF of the Czech Republic	**From 06/2025**
Analysing possibilities to expand the use of simplified reporting methods	**06/2024–12/2024**
Roundtable on possibilities of aggregating competences of managing authorities regarding the recovery of unduly granted subsidies	**06/2024–06/2025**
Regular sociological survey among contracting authorities and suppliers	**Regularly from 2024**

8 ST

Analysing existing practice and subsequent development and management of methodologies and model documents	**01/2024–12/2026**
Methodology for integrating sustainability principles (ESG and EU taxonomy) into public procurement in the construction sector	**01/2024–06/2025**
Training of contracting authorities, designers and suppliers	**07/2024–12/2026**

Supporting pilot projects	07/2024–12/2026
Analysing existing contractual practice and working group on contractual terms	01/2025–12/2026
Methodology for contract management	01/2025–12/2026

9 DD

Single point for the submission of bids	06/2025
Easy migration of contracting authorities between electronic tools	12/2024
Simplified process of proving basic qualifications	06/2025
Single authentication to NIPEZ tools	06/2024

10. 3 Budget and Sources of Funding

The Ministry of Regional Development, as a recipient of the National Recovery Plan (NRP) under Pillar 4 – Component 4.1 Systemic Support for Public Investment, has pushed through the approval of full funding 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, under which measures will be implemented that are based on this National Public Procurement Strategy in the Czech Republic, which the Government committed itself to prepare and in particular to implement in the Government Policy Statement in March 2023.

The funds are to be drawn down in 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 measures resulting from this Strategy.

The resources spent will be offset by benefits in the following categories:

1 QI

– The needs of contracting authorities and subsequently of the general public will be met by the supply of quality products and services. Public funds can be saved by reducing the damage from poor-quality deliverables due to awarding on the lowest price criterion only where such approach is not appropriate. The objectives set out in the follow-up strategies listed above in this document will be more easily achieved. Supporting innovation and SME development will help the Czech economy to remain competitive.

2 EEPP

– Due to the implementation of the proposed measures, the entities concerned will be able to realise savings resulting from a lower administrative burden and will gain economically thanks to greater transparency as far as deadlines are concerned.

3 ESRPC

– Appropriately chosen environmental aspects will contribute to the objectives of the Green Deal for Europe, help to achieve carbon neutrality in 2050 and to meet the Green Transition targets. 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 RPP by state and local governments, which will set an example with their purchases and share examples of good practice, can also inspire private procurers and the market. If RPP is routinely used by central contracting authorities at national and regional level, this will contribute to achieving economies of scale.

A common argument against the use of RPP is the higher primary cost of deliverables. It is true that, for example, typically for services (mainly security or cleaning) where there has been a long-term pressure on bid prices and where therefore the lowest bid price was disproportionately reduced, the price of deliverables may increase. However, the reduced price was often passed on to the implementation team of the selected contractor or its subcontractors, could border on an abnormally low tender price and could lead to a reduced quality of performance. The price of deliverables does not usually include negative externalities, costs related to such impacts as environmental pollution, which are passed on to other entities (other ministries), but are always borne by society in the end. Therefore, it is advisable to focus on life cycle costs, taking into account not only the purchase price but also operating costs, post-warranty repair costs, etc. The total life cycle costs of eco-labelled products, by way of example, can thus be lower for society. Moreover, the requirement for environmentally and socially responsible aspects of the deliverables or their preferential treatment in the evaluation process is not necessarily always linked to a higher price of such deliverables.

With its sustainable purchasing, public administration can positively influence the market and contribute to the development of social entrepreneurship or sustainable food systems[92]. Therefore, a requirement to make a certain proportion of organic food a part of the minimum standards for RPP will lead to an increased demand from the state and local government for organic farming products (organic food). Such a message sent to farmers regarding marketing opportunities may positively influence the market concerned and, as a consequence, lead to lower prices for organic food. Similarly, encouraging social

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

enterprises to participate in procurement procedures for the purchase of goods produced by social enterprises can have a similar effect. This will bring them more stable sales and give them room for further development.

4 PF

– Human resources are a key input for any productive process. Their quantity as well as quality are a formative element in any system. It is therefore essential to promote the professionalisation of persons responsible for participation in the process of awarding and implementing public contracts. Increasing the human capital of all parties involved will translate into both value for money for society[93], and in savings of wasted resources.

5 CENT

– 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 purchasing and the resulting savings, harmonisation of contractual settings and the associated higher transparency and ease of use, as well as the possibility of monitoring and adjusting the system due to newly collected and evaluated data sets.

6 SIICA

– A major and quantitatively absolutely non-negligible contribution will be the benefits obtained by fully exploiting the potential of strategic procurement.

7 LC

– Higher legal certainty is always reflected in cost savings for all parties concerned. Under this subject heading, these should be achieved due to:

- More uniform interpretation practice, professionalisation, easier communication with the OPC, MoF, GRD (General Revenue Directorate);
- Accelerating proposal process, reducing risks of contract implementation cessation;
- Extending applicable case studies of decision-making practice;
- Linking know-how between contracting authorities and supervisors over subsidised procurement;
- Increasing the clarity of rules for subsidised contracts; reducing corrections and non-eligible expenditure;
- Facilitating public debate on the discrepancies between the decision-making practice of the OPC, the control authorities for subsidised contracts and the audit conclusions of the audit authority;
- Reducing the number of controls of public contracts;
- Reducing interpretative fragmentation, etc.

[93] See footnote 6.

8 CON

– Stakeholders will benefit from ease of procurement while appliying desirable innovative principles with increased legal certainty. Standardised contractual provisions will significantly reduce time and financial costs of contracting authorities and contribute to more balanced contractual relations. 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 greater sustainability and, in turn, allow for more favourable financing.

9 DD

– The IT infrastructure of public procurement is a prerequisite for its very operation. It also contributes significantly to its efficiency. Some of the above-mentioned benefits should therefore be allocated to this subject heading.

10. 4 Evaluating the Degree of Achievement of the Objectives

In order to be able to ex-post evaluate the degree of achievement of the set objectives, the MoRD will monitor and evaluate, among others, the following indicators.

1. Environment for effective public procurement

- **Percentage of contracts awarded on the basis of being economically advantageous** for the market as a whole and for selected sectors;
- **Percentage of contracts taking into account the recommended quality criteria** in selected sectors;
- **Openness of the public procurement market** – percentage of contracts won by a) firms outside the established circle of public sector suppliers b) by SMEs (measuring the rigidity of the market as a whole and of different sectors – SVPCs (small-value public contracts), below-threshold, above-threshold), share of foreign participation. Benchmarking against selected EU countries;
- Number of suppliers from among SMEs that have successfully bid in a public procurement;
- The average number of bids in naturally competitive sectors, monitored separately under the PPA and as SVPCs.

2. **Supporting centralised purchasing and collaboration** – The level of use of centralised purchasing across all contracting authorities in the Czech Republic will be monitored, with a particular focus on selected commodities. The indicators monitored for each commodity will be:

- **Percentage of centrally awarded contracts** of the total volume of the commodity purchased;
- **Number of central contracting authorities** procuring different commodities;
- **Number of delegating contracting authorities** (estimate), number of contracting authorities procuring the given commodity outside of the centralised purchasing system and outside of the SVPC procedures;
- **Proportion of centralised purchasing structure compared to EU practice.**

3. **Environmentally and socially responsible public procurement**

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

4. **Legal certainty in public procurement**

- **Structure of findings of subsidy bodies** – frequency and severity of typical misconduct in public procurement reflecting the most common problems.

10. Method of Implementation

11 Strategy Development Process

Strategy development works began shortly after the adoption of the Policy Statement of the Government in March 2023 and followed on 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 addressed 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 as well as the identification of deliverables and minimum standards for contracting authorities. In order to verify the setting of standards, communication was conducted with relevant entities regarding 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 the parties concerned 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

AR	Association of Regions
API	Application Programming Interface
ARES	Administrative Register of Economic Operators
API	Academy of Public Investment
BBG	Bundesbeschaffung GmbH
BIM	Building Information Modelling
OHS	Occupational Health & Safety
BVA	Best Value Approach
CPPR	Centralised Purchasing of the Pilsen Region
CPV	Common Procurement Vocabulary
CR	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
GRD	General Revenue 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
SIS	Single Identity Space
SMR	South Moravian Region

12. Abbreviations

KPI	Key Performance Indicator
LR	Liberec Region
MEAT	Most Economically Advantageous Tender
MEPA	PA Electronic Market
MoT	Ministry of Transport
MoF	Ministry of Finance
MoRD	Ministry of Regional Development
MoIT	Ministry of Industry and Trade
MoLSA	Ministry of Labour and Social Affairs
MoI	Ministry of the Interior
SMEs	Small and Medium-Sized Enterprises
MoEYS	Ministry of Education, Youth and Sports
MoE	Ministry of the Environment
NET	National Electronic Tool
NIPEZ	National Infrastructure for Public Procurement
RP	National Recovery Plan
SMCs	Sectoral Market Consultations
OECD	Organisation for Economic Co-operation and Development
RPP	Responsible Public Procurement
PMCs	Preliminary Market Consultations
SFS	Sustainable Food System
UTM CR	Union of Towns and Municipalities of the Czech Republic
ALG CR	Association of Local Governments of the Czech Republic
JP	Joint Purchasing
SIICA	Support for Strategically Important Investments and Contracting Authorities
TCO	Total Cost of Ownership
TSI	Technical Support Instrument
OPC	Office for the Protection of Competition
TSGU	Territorial Self-Governing Unit
JPP	Journal of Public Procurement
PP	Public Procurement
SVPC (SVP)	Small-Value Public Contracts, Small-Value Procurement
PPA	Act No. 134/2016 Coll., on public procurement
SRM	Simplified Reporting Method
SBTP	Simplified Below–Threshold Procedure

13 Annexes

13. 1 Description of the Current Legal Situation

13. 1. 1 Strategic Documents of the Czech Republic and the EU (and/or at Global Level)

Government's Policy Statement – adopted in January 2022, amended in March 2023; in the area of public procurement, the Government has committed to developing a National Public Procurement Strategy in the Czech Republic, setting up a functional model for centralised commodity purchasing by 2024, simplifying public procurement, strengthening professional expertise in strategic procurement, or promoting local, seasonal and nutritionally-rich food in public catering. A commitment to improving the preparation, control and speeding up of procedures for reviewing procurement procedures and public contracts, the ability to tender for funds from centrally managed EU programmes, and promoting the efficient use of EU funds in the Czech Republic is also an essential part thereof.

National Recovery Plan Component 4.1 Systemic Support for Public Investment, Sub-Component 4.1.2 Methodological Support and Modernisation of Public Procurement

Systemic support for public investment is aimed at reforming public investment in order to strengthen the ability of public administration to prepare and implement publicly funded investment programmes, to increase the efficiency of public investment in regions with regard to EU objectives in the field of green and digital economy, or to accelerate the readiness of projects aligned with EU objectives incl. modernisation of strategic public procurement.

Sub-component 4.1.2 aims to set up a national public procurement strategy with clear, data-driven and measurable public procurement priorities.

Other relevant sources of the legal framework are:

13. Annexes

- **UN Agenda 2030** – Sustainable Development Goals: The 12th UN Sustainable Development Goal: Sustainable consumption and production includes a specific goal 12.7 Promote public procurement practices that are sustainable, in accordance with national policies and priorities;
- **Strategic Framework Czech Republic 2030** – Part 6.2 – Long-term effectiveness of governance, and the 2nd Implementation Plan for the Strategic Framework Czech Republic 2030 (for the years 2022-2025)[94];
- Strategic Framework and Action Plan **Circular Czech Republic 2040**[95];
- **Digital Czech Republic**, in particular the part defining the Information Concept of the Czech Republic (eGovernment architecture of the Czech Republic);
- **New European Bauhaus**;
- Concept of Client-Oriented Public Administration for the Period 2021–2030, Part entitled Efficient Public Administration Institutions;
- End-to-end e-procurement to modernise 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;
- A European Strategy for Data – Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 19 February 2020 – COM/2020/66;
- The European Commission's Farm to Fork Strategy aiming for a fair, healthy and environmentally-friendly food system (COM/2020/381 final of 20 May 2020). The Annex includes the following actions: Determine the best modalities for setting minimum mandatory criteria for sustainable food procurement to promote healthy and sustainable diets, including organic products, in schools and public institutions;
- Action Plan of the Czech Republic for the Open Government Partnership for 2023 to 2024, approved by Resolution of the Government of the Czech Republic No. 117 of 15 February 2023, where public procurement is covered by 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-Sectional Instruments;
- National Action Plan on Adaptation to Climate Change in the Czech Republic;
- Action Plan of Organic Farming in the Czech Republic in 2021–2027, point 8.2.1. p. 23, Annex, point 2 Market, p. 29;
- Architecture and Building Culture Policy of the Czech Republic.

[94] https://www.cr2030.cz/wp-content/uploads/2022/10/Implementac%CC%8Cni%CC%81-pla%CC%81n-2022-2025.pdf, viz též https://www.mzp.cz/cz/strategicke_dokumenty_v_gesci_prehled

[95] https://www.mzp.cz/cz/cirkularni_cesko#:~:text=Dokumenty%201%20Ak%C4%8Dn%C3%AD%20pl%C3%A1n%20Cirkul%C3%A1rn%C3%AD%20%C4%8Cesko%202040%20Dne,%C4%8Ceska%20a%20co%20pl%C3%A1nujeme%20ud%C4%9Blat%20pro%20jeho%20dosa%C5%BEen%C3%AD.

13. 1. 2 EU Legislation

- **Directive 2014/24/EU of the European Parliament and of the Council** of 26 February 2014 on public procurement and repealing Directive 2004/18/EC;
- **Directive 2014/23/EU of the European Parliament and of the Council** of 26 February 2014 on the award of concession contracts;
- **Directive 2014/25/EU of the European Parliament and of the Council** of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services and repealing Directive 2004/17/EC;
- **Commission Implementing Regulation (EU) 2016/7** of 5 January 2016 establishing the standard **form for the European Single Procurement Document;**
- **Commission Implementing Regulation (EU) 2019/1780** of 23 September 2019 establishing standard **forms for the publication of notices in the field of public procurement** and repealing Implementing Regulation (EU) 2015/1986 (eForms);
- Council Directive of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of **review procedures** to the award of public supply and public works contracts (89/665/ EEC);
- Council Directive 92/13/EEC of 25 February 1992 coordinating 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 Directive 89/665/ EEC and 92/13/EEC with regard to **improving the effectiveness** of review procedures concerning the award of public contracts;
- **Regulation (EU) 2022/1031 of the European Parliament and of the Council** of 23 June 2022 on the access of third-country economic operators, goods and services to the Union's public procurement and concession markets and procedures supporting negotiations on access of Union economic operators, goods and services to the public procurement and concession markets of third countries (International Procurement Instrument - IPI);
- **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 Counci**l of 19 October 2022 on adequate minimum wages in the European Union;
- **Directive (EU) 2022/2381 of the European Parliament and of the Council** of 23 November 2022 on improving the gender balance among directors of listed companies and related measures;
- **Directive (EU) 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 authorities 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 by road.

The following sectoral (sector-specific) regulations are currently under discussion and they largely concern aspects related to sustainability and resilience in the construction sector:

- Proposal for a Regulation of the European Parliament and of the Council on establishing a framework of measures for strengthening Europe's net zero technology products manufacturing ecosystem **(Net Zero Industry Act)**;
- Proposal for a Regulation of the European Parliament and of the Council on establishing a **framework for setting 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 strengthening the CO2 emission performance standard for **new heavy-duty vehicles** and integrating 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 the "PPA") including implementing regulations;
- **Act No. 360/2022 Coll.**, on the promotion of low-emission vehicles through public procurement and public passenger transport services (hereinafter referred to as the "Act on the promotion of low-emission vehicles");
- The Act on the promotion of low-emission vehicles follows on 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 have already started to comply with the minimum share of low-emission vehicles in the first monitored period from 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.

13. 1. 4 EU Methodologies

Methodologies and guidelines on Responsible Public Procurement in the EU

- Buying Social – a guide to taking account of social considerations in public procurement (2nd edition, 2021)[96];
- Green Public Procurement criteria in the European Union[97];
- Green Public Procurement Criteria in European Union's sectoral policies[98];
- Public Procurement for Circular Economy, European Commission[99];
- Gender Responsive Public Procurement[100];
- Communication from the Commission. Public procurement for a better enviornment[101].

13. 2 Key Data on Development

The following subchapters describe the size and structure of the public procurement market in the Czech Republic, using a set of selected indicators calculated on the basis of data from the ISVZ (public procurement information system) and other publicly available sources (e.g., the "Monitor" information portal, etc.). More attention is paid to the market of contracting authorities, 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 data from the financial statements, contracting authorities (including "sectoral" ones) made purchases and investments worth CZK 990 billion in 2022. The Journal of Public Procurement records purchases worth CZK 426 billion, and an additional CZK 51 billion is presented on the contracting authorities' profiles (small-value public contracts).

The difference of CZK 512 billion between the total volume of purchases and investments and the amount of public procurement published either in the Journal of Public Procurement or on the contracting authorities' profiles is due both to the fact that there are other categories of expenditure not realised as a procurement procedure under the PPA (e.g. vertical and horizontal procurement, security exceptions, legal services) and to the fact that some of the small-value public contracts have already been identified directly on the profiles of contracting authorities.

[96] See DocsRoom - European Commission (europa.eu)
[97] See Voluntary GPP criteria: GPP Criteria and Requirements (europa.eu), in Czech under "other languages".
[98] See GPP in sectoral policies: 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 scheme used

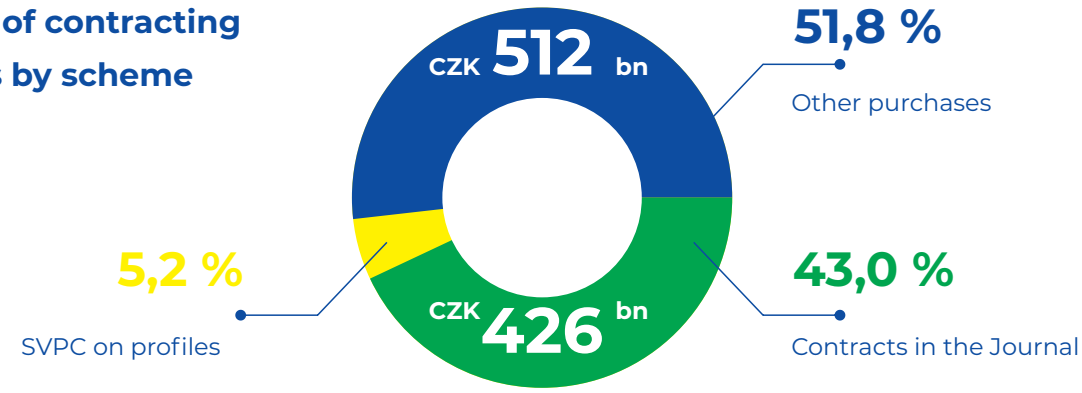


Figure 10: *Comparison of the volume of Other Purchases in 2022 (other than public procurement procedures or public contracts), the volume of below-threshold and above-threshold procedures under the PPA and small-value public contracts. Accounting data comes from the State Treasury or, where appropriate, from the financial statements of contracting authorities or sectoral buyers. (Source: Annual Report on Public Procurement 2022)*

A more detailed breakdown of this data by type of contracting authority is presented in Figure 11. For each buyer category, it compares the volume of contracts awarded in the procurement procedure against the total volume of purchases. The most significant procurement volume in the form of procurement procedures is carried out by public administration organisations (CZK 120 billion), followed by municipalities and towns (CZK 65 billion). They, together with sectoral buyers, account for the largest volume of purchases made outside of the standard procurement procedure under the PPA.

Percentage of purchases under the PPA for a variety of buyers

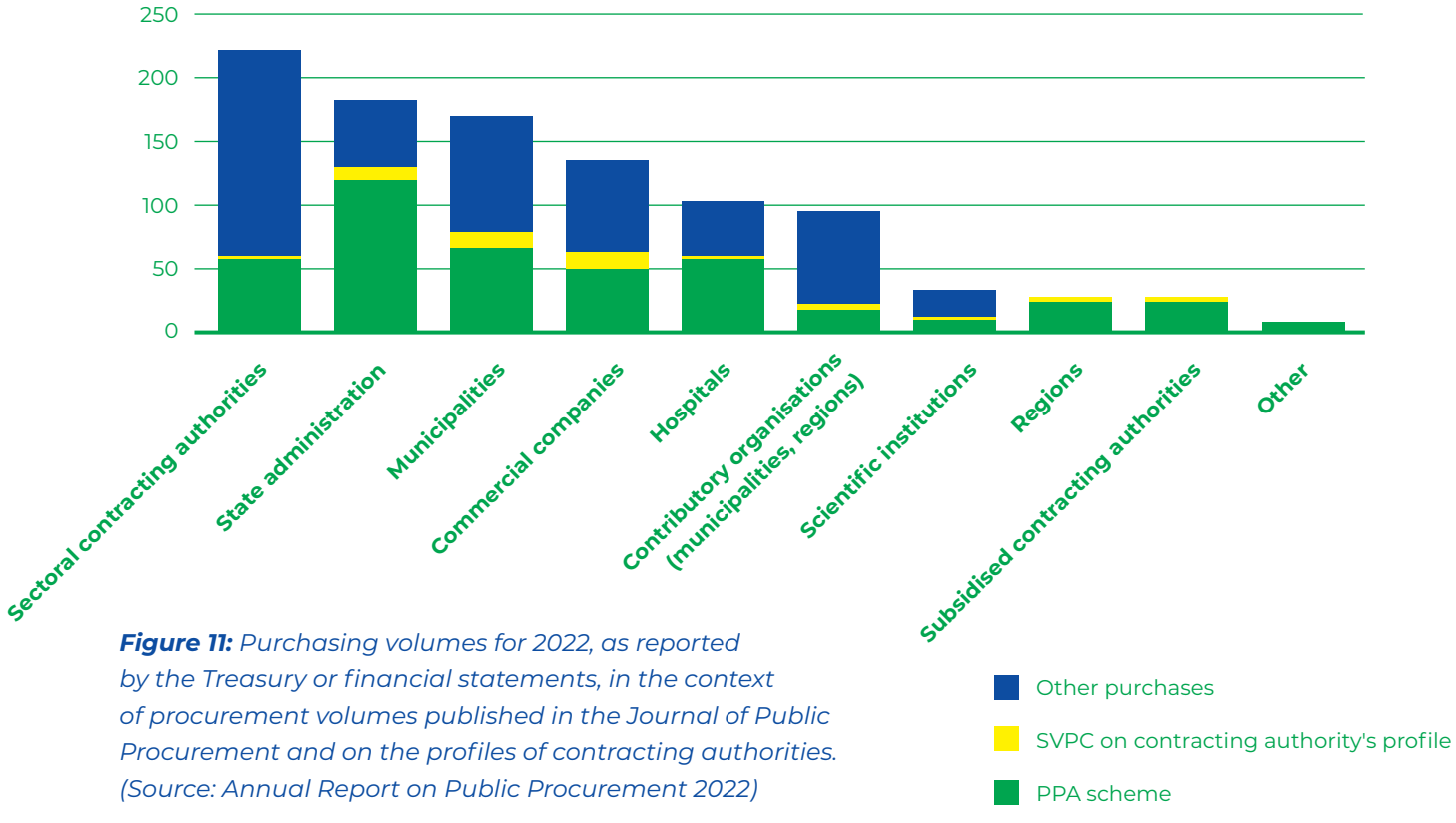


Figure 11: *Purchasing volumes for 2022, as reported by the Treasury or financial statements, in the context of procurement volumes published in the Journal of Public Procurement and on the profiles of contracting authorities. (Source: Annual Report on Public Procurement 2022)*

13. 2. 2 Using Non-Price Criteria

This section aims to map the extent of the use of evaluation criteria focused on different aspects of public contracts. In the Czech Republic, approximately 75% of contracts are currently awarded on the basis of the lowest bid, and the remaining 25 % on the basis of more economic advantage-related criteria. However, the evaluation of these contracts is not necessarily focused on quality – the Annual Report on Public Procurement 2022 shows that the life cycle cost evaluation (i.e., cost of maintenance, inputs) is used most often. From the Annual Report data, it is estimated that quality criteria are used in 12 % of contracts (in addition to criteria for assessing the quality of the deliverables offered, it also includes supplier qualification, environmental and social criteria).

Percentage of contracts awarded by the MEAT

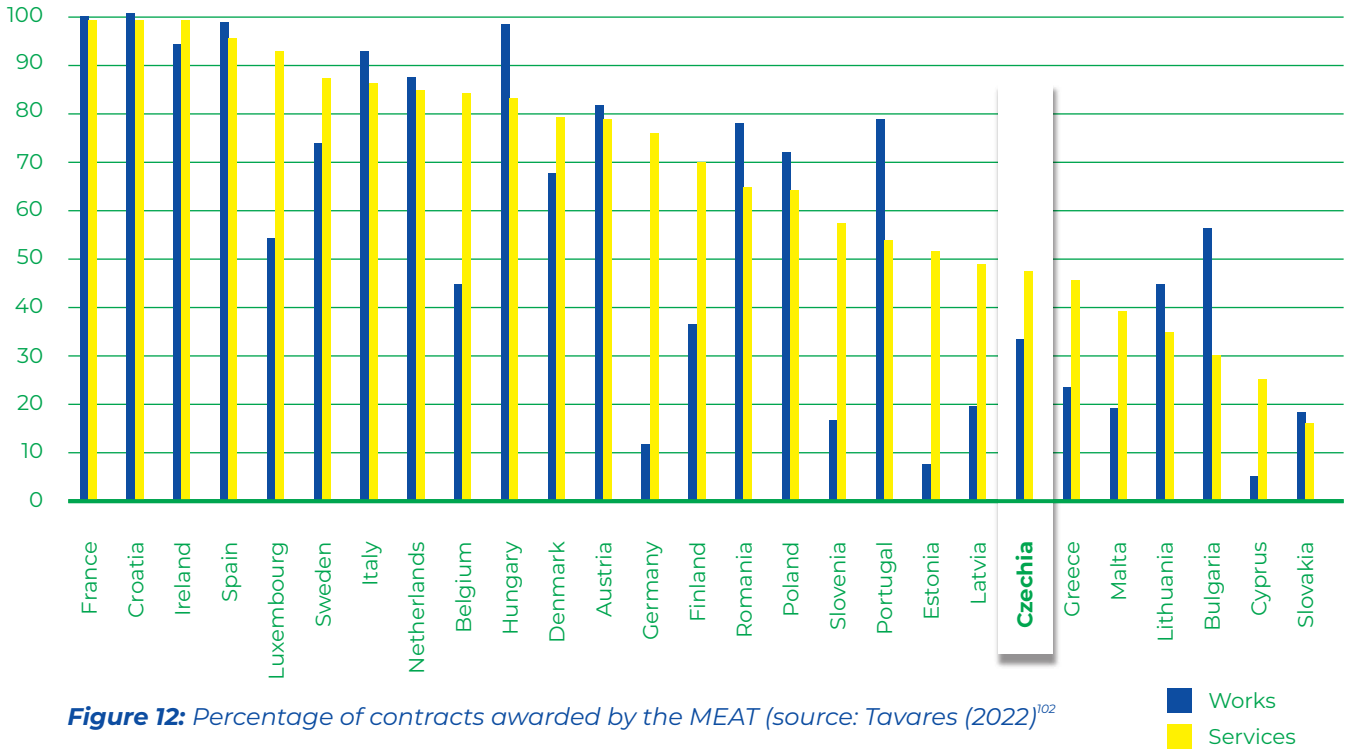


Figure 12: *Percentage of contracts awarded by the MEAT (source: Tavares (2022)*[102]

[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.

Use of non-price evaluation criteria over time

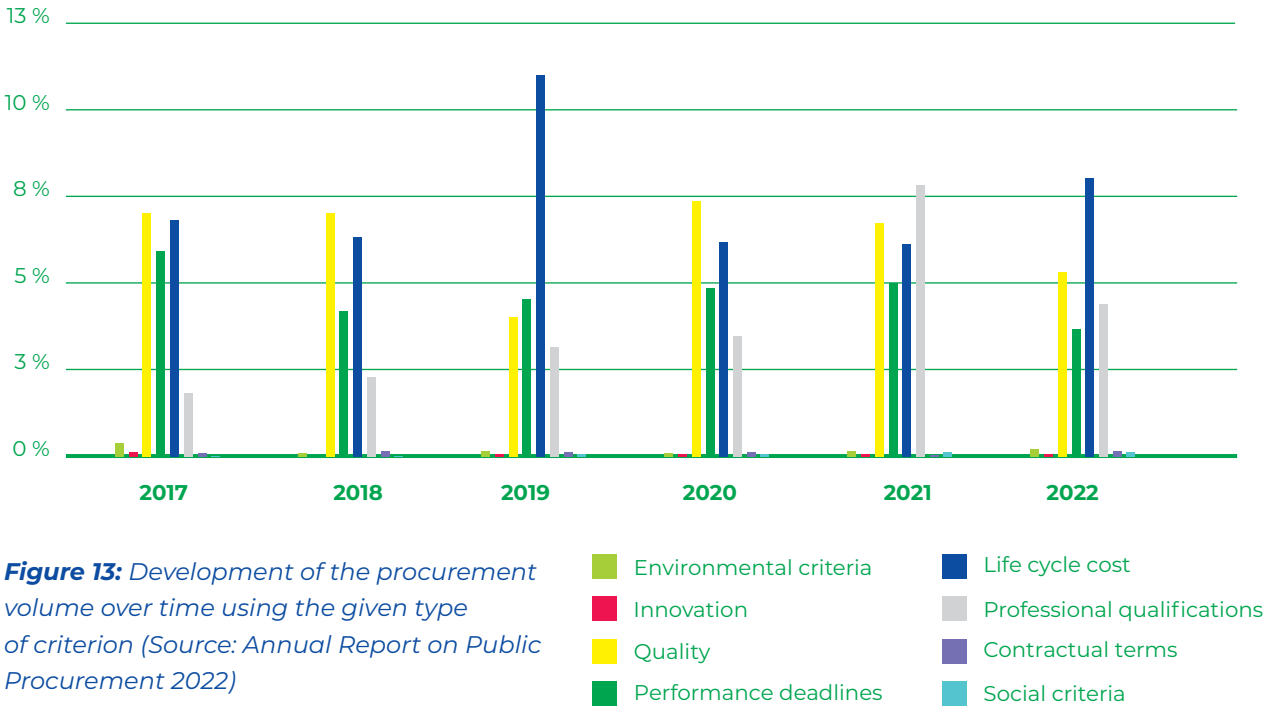


Figure 13: *Development of the procurement volume over time using the given type of criterion (Source: Annual Report on Public Procurement 2022)*

As shown in Figure 13, the most used non-price evaluation criteria have long been the life-cycle cost group (e.g., fuel consumption, servicing cost estimates), which is applied in 8 % of awarded public contracts. Other three long-preferred types of criteria include performance deadlines, requirements for the professional qualifications of team members, and requirements for the quality of the deliverables – 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-price criteria. The environmental, social and innovation criteria, emphasised since 2022 in the provisions of Article 6(4) of the PPA, are used only in a minimum of public contracts (in total less than 1 % of contracts).

Use of non-price criteria by contracting authority type

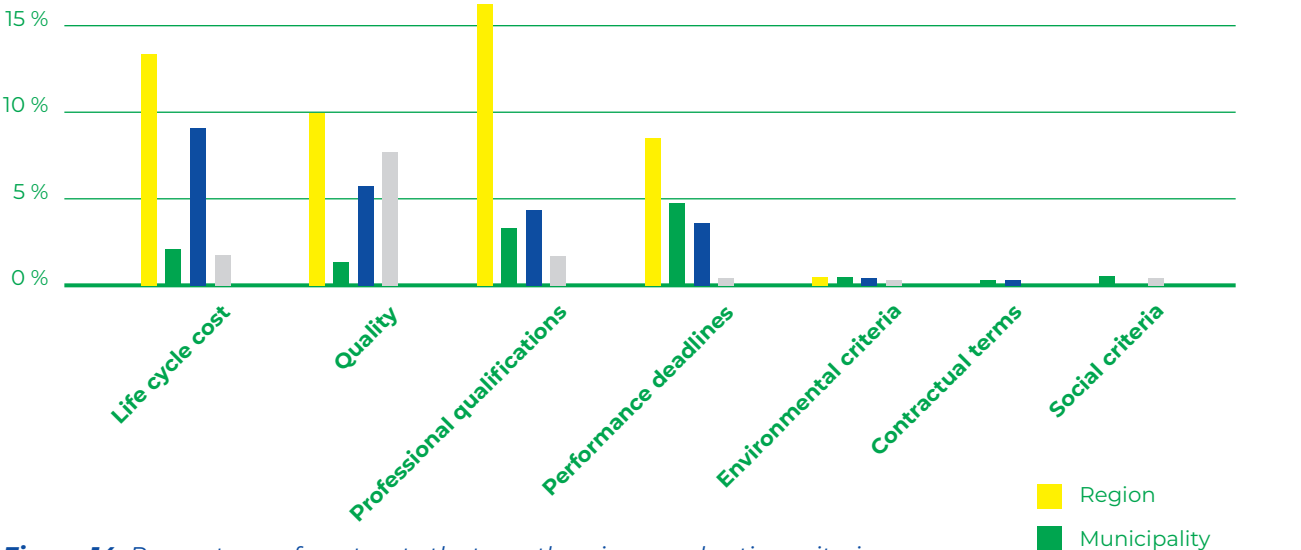


Figure 14: *Percentage of contracts that use the given evaluation criterion in the total volume of contracts of a given type of contracting authority. (Source: Annual Report on Public Procurement 2022)*

Figure 14 shows different types of contracting authorities that used various non-price evaluation criteria in 2022. It is clear that the use of various criteria differs significantly by contracting authority type – the chart shows that of all the types monitored here, the non-price criteria are most often used by the regions (including the capital city of Prague), in all categories of criteria. The state administration generally prefers life cycle cost and quality criteria, municipalities prefer performance deadlines and other contracting authorities primarily assess the quality of the contract deliverables.

Use of quality criteria by sector

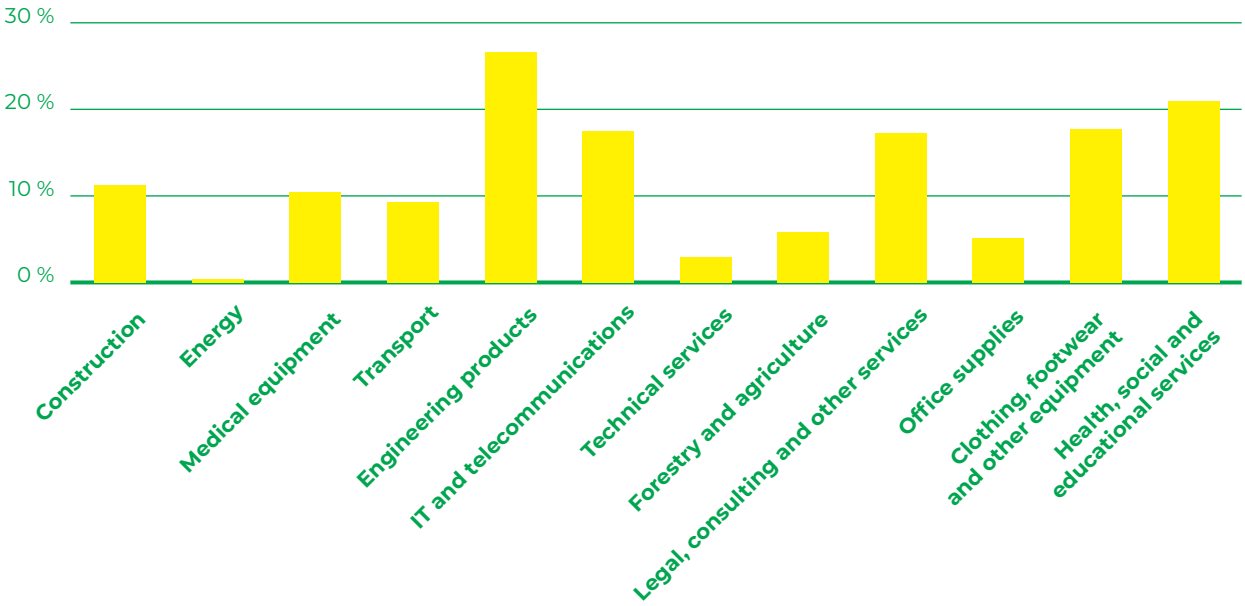


Figure 15: *Percentage of the volume of public contracts awarded in 2022 using at least one evaluation criterion focused on quality, professional qualifications, social or environmental performance parameters. (Source: Annual Report on Public Procurement 2022)*

The possibility of applying non-price evaluation criteria in public procurement varies significantly in practice according to the subject matter of the contract. Figure 15 examines which subject-matters are typically evaluated using at least one "quality" criterion (meaning evaluation of the very quality of the deliverables, the professional qualifications of the team, or social or environmental performance parameters). In 2022, contracts that were most often awarded on quality in terms of volume were engineering products, accounting for 27 % of the value of all public contracts awarded 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 bid.

13. 2. 3 Centralised Purchasing

The aim of this section was to map the intensity of the use of centralised purchasing, not only within state institutions (where the situation is described in more detail, e.g., in the historical reports of the MoRD and MoF), but also within regions, towns and other contracting authorities.

Figure 16 describes the volumes of purchases over time by type of central contracting authority. It shows that the largest volumes of purchases 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 also been growing - all data for 2022.

Volume of central purchasing over time

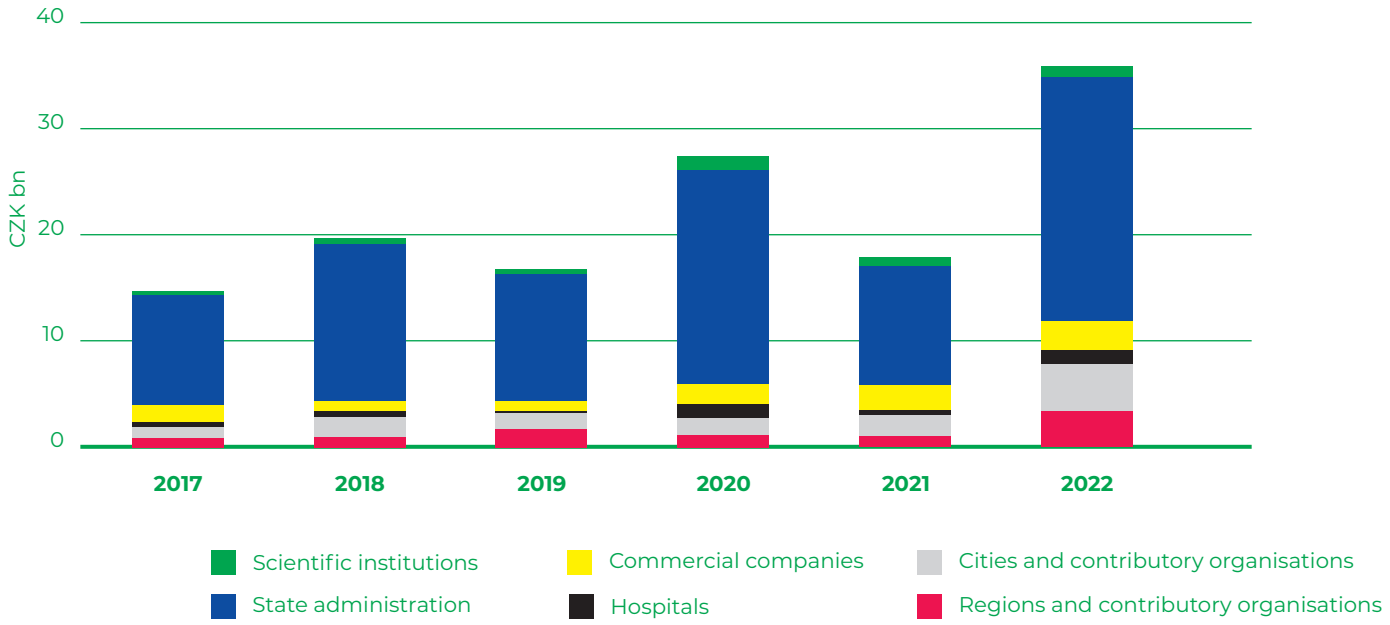


Figure 16: *Volume of public contracts awarded by contracting authorities acting as a central purchasing body broken down by year. It covers only central contracting authorities, not delegating contracting authorities. As regards framework agreements and Dynamic Purchasing Systems, only according to performance carried out under the PPA (Source: Annual Report on Public Procurement 2022).*

Number of central contracting authorities 2020–2022

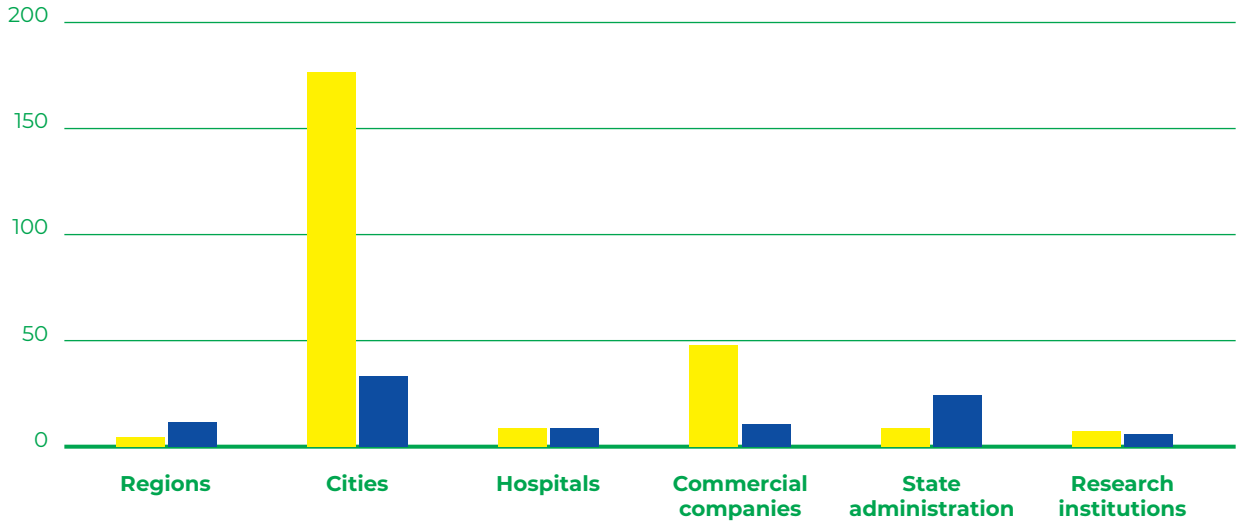


Figure 17: *Number of contracting authorities acting as a central purchasing body in 2020–2022 tenders by category (Source: Annual Report on Public Procurement 2022).*

From the perspective of centralised procurement, both the volume of public contracts awarded and the number of contracting authorities acting as a central purchasing body are important. Figure 17 illustrates that between 2020 and 2022, we register a total of 350 different contracting authorities acting as a central purchasing body in at least one tender. Although the largest volume of centrally procured contracts is accounted for by state administration, in terms of the number of contracting authorities, the most significant group is small towns, where we register 177 different towns.

Volumes and sectors of centrally procured contracts over time

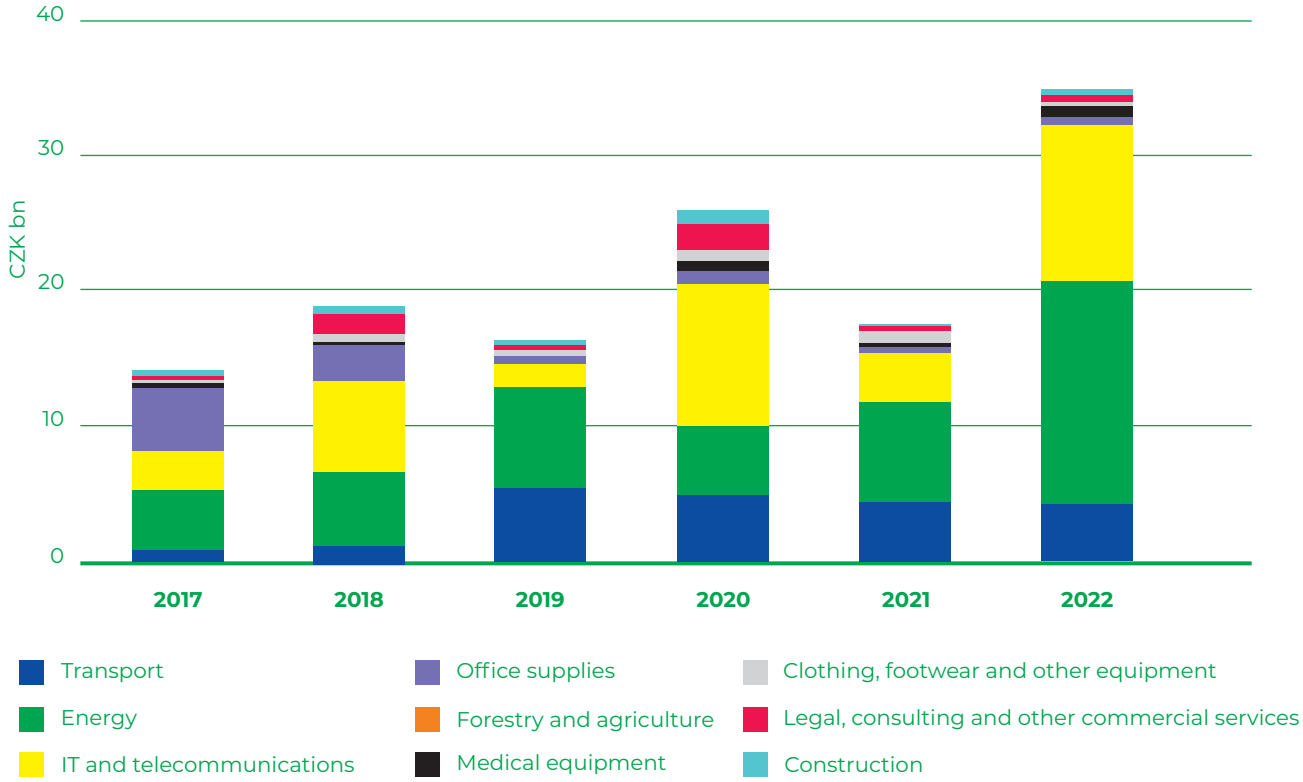
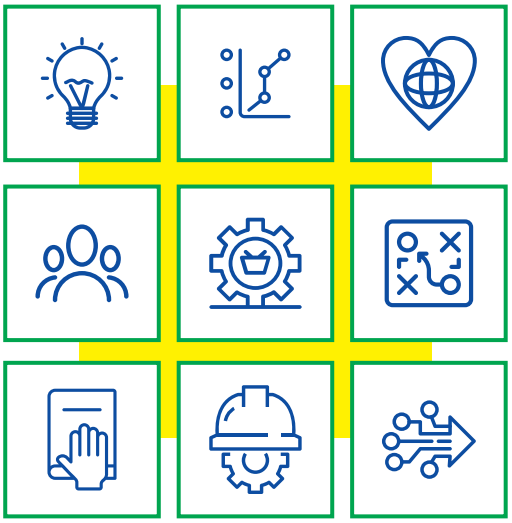


Figure 18: *Development of the volume of centrally procured contracts by their sectoral classification (based on the indicated CPV code). In the case of framework agreements and Dynamic Purchasing System, only according to the performance carried out under the PPA (Source: Annual Report on Public Procurement 2022).*

The practical application of centralised procurement also differs significantly according to the type of the contract's subject-matter – an overview is provided in Figure 18. The two most important groups of subject matters of centralised public procurement contracts 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 contracts in 2022.

Other market indicators are published in the Annual Report on Public Procurement, or in other analyses carried out within the framework of the project Support of 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 Public Procurement Volumes.

13. Annexes



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