

Innovation by developing a European Procurer
Networking for security research services

COVID-19 pandemic: Procurement management in five EU member states, March – May 2020

An iProcureNet Brief

The COVID-19 pandemic created unseen challenges for the procurement of medical and other material necessary to contain the crisis.

iProcureNet is a **network of European public procurers**, all of them facing the challenge of medical equipment becoming scarce due to shortage of offer coupled with colossal demand from numerous countries worldwide. In this brief, five of them share their **experiences and recommendations** for the future.

Participants

Ministry of Interior, France



Ministry of Interior, Slovakia



Criminal Police, Portugal



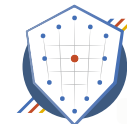
National Prosecutor's Office, Poland



University of Tartu, Estonia



This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No 832875.



ORGANISATION OF PROCUREMENT



- **Ministry of Health:** Centralized procurement and distribution to other governments institutions
- NPO and other Ministries (Interior, Defense, Justice) via the **Central Material Reserves Administration:** procurement of masks, disinfectant, PPE¹ (coveralls and gloves)
- **Municipalities:** separate procurement for their own needs (ventilators, masks, disinfectant, PPE coveralls and gloves)



- Some centralized procurement, but all institutions were able to procure **independently**



- **Administration of State Material Reserves of the Slovak Republic:** masks, PPE, tests for Ministry of Health and state employees
- **Ministry of Interior:** procurement of masks, disinfectant, PPE (coveralls and gloves) for police and firefighters
- **Ministry of Health:** ventilators
- **Municipalities:** separate procurement for their own needs
- **Local hospitals:** masks, PPE (coveralls, gloves), ventilators for their own needs



- **Ministry of Health:** Centralized procurement and distribution to healthcare institutions
- FFP2 and surgical **masks** were bought by public entities
- Reusable („communitary“) masks were bought by end-users directly
- Masks were bought both from China and from local/EU industries



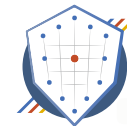
- *Santé Publique France* (Ministry of Health Agency): **monopoly for the acquisition of masks** (surgical, FFP2, FFP3 ...) for health staff and measures allowing the **requisition of stocks** of masks held by companies or administrations
- Secretary General of Defence and National Security, via UGAP (central public purchasing agency): **coordination of public purchases of masks for non-professional use**
- Ministry of Interior's procurement department SAILMI operated mask purchases through **multiple channels** via:
 - NSPA (NATO support and procurement agency): joint procurement of PPE (in particular surgical masks for the Ministry of Interior);
 - Directly from various suppliers (recourse to extreme emergency), then through tender procedures for the acquisition of PPE (hydroalcoholic gel, surgical masks, reusable masks)

COVID-19: A huge change in the market

“What used to be a buyers' market now became a sellers' market. Besides the obvious challenges that this caused to public purchasers, the situation also led to a more active involvement of public procurers and to higher efficiency: In Estonia, an official responsible for centralized procurement did not hesitate to contact Chinese suppliers directly.”

Mari Ann Simovart, University of Tartu

¹ Personal Protective Equipment



MAIN DIFFICULTIES ENCOUNTERED



- **Very long delivery times:** up to 7 months under emergency law, 3-5 months for contracts with small local distributors
- **Very significant price fluctuation**



- Very short validity of offers („Take it or leave it“)
- Difficulties related to verifying that economic operators meet conditions for excluding according to art. 57 para 1 and 2 of EU directive 2014/24 **Exclusion grounds**², especially for Chinese or Turkish suppliers
- Difficulty to implement obligation for companies concluding contracts with the state to be registered in a registry of beneficial ownership, especially for certain non-EU suppliers



- **Mask supply** difficulties: scarcity of supply and significant price fluctuation
- **Significant mask supplier risk:** very strong uncertainty about the ability of the contracting service providers to honour orders.
- Explosion in **air freight** prices and saturated air freight for mask delivery
- **Saturation** of the production capacities of most mask suppliers;
- Difficulties with **customs** procedures for masks.
- Uncertainty about mask **quantities needed**



How many masks are needed? Case study from the French Ministry of Interior

In view of the number of staff employed, the missions and the doctrine in use, the need had been estimated at a minimum of 2.5 million masks per week. End of May 2020, the Ministry (via its procurement department SAILMI) had placed orders for 100 million disposable masks and 2.5 million reusable masks.

By end of May 2020, it had received 20 million disposable and 50,000 reusable masks. Delivery bulk of remaining disposable masks was scheduled for end of June (approximately 60 million). 850,000 reusable masks were due to arrive by the end of May and another 1.5 million in June.

In addition to direct purchases, the Ministry benefited from both inter-ministerial purchases and the availability of masks from the historical stock of „Santé Publique France“. It should thus benefit from an overall of 4.2 million masks.

² According to art. 57, contracting authorities shall exclude an economic operator from participation in a procurement procedure where they have established, or are otherwise aware that that economic operator has been the subject of a conviction by final judgment, or economic operator is in breach of its obligations relating to the payment of taxes or social security.



EMERGENCY PROCEDURES IMPLEMENTED



- **Emergency law** passed: **Direct award** without negotiation, no bank guarantee needed. Several dozens of contracts awarded directly by centralised health procurement body (PPE, professional equipment, publicity & communication)



- **Already existing** procedure for emergency situations: negotiation procedure without prior publication (**direct award**)
- Some municipalities established **dynamic procurement systems (DPS)**: established by restricted procedure, shortens period for the receipt of requests because of state of urgency. Purchasing through DPS enables the contracting authority to have a broad range of offers ensuring optimum use of public financial resources through broad competition within a short period of time



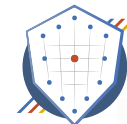
- Use of **extreme urgency** to pass negotiated procedures without prior publication with an enlarged number of suppliers
- Use of **mere urgency**: calls for tenders with reduced publication deadlines
- Implementation of multi-awarded contracts to control the risks of supply disruption



- **Act on special solutions** related to the prevention, counteracting and combating COVID-19, other infectious diseases and crisis situations caused by them of March 2, 2020 provides for the exclusion of the application of the PPL to purchases related to counteracting COVID-19 in Art. 6³



³ Art. 6 [Conditions for excluding the application of the Public Procurement Law]. Procurement of goods or services necessary to counteract COVID-19 shall not be governed by the provisions of the Act of 29 January 2004 - Public Procurement Law (Journal of Laws of 2019 item 1843), if there is a high probability of rapid and uncontrolled spread of the disease or if it is required by the protection of public health.



WITH TODAY'S HINDSIGHT: IDEAS TO IMPROVE THE EFFICIENCY OF PUBLIC PROCUREMENT IN LARGE-SCALE CRISES



- Preparing an **emergency plan**
- Choosing **joint (incl. cross-border) procurement**, where feasible, and combining centralized procurement with direct and proactive purchases. While central procurement reduces competition between buyers on the sellers' market, it also very much limits flexibility. In a situation of urgency, the freedom to make smaller direct purchases can be helpful
- Fostering **cross-border information sharing and cooperation** between Member States, with a double purpose: firstly, to guarantee the free movement of purchased emergency equipment, i.e. no closing of borders for transport delivering the procured good; and secondly, to share information about substandard products and fraudulent practices encountered
- Taking advantage – actively and to the fullest extent – of available **exceptions that the current legal regime** provides for procuring in emergency situations (for example, Art 57⁴ of EU directive 2014/24) to facilitate flexible purchasing in a crisis
- Implementing **long-term multi-awarded contracts** for the acquisition of PPE
- Establishing **dynamic purchasing systems** that enable the contracting authority to have a broad range of offers within a short period of time
- **Revising existing freight contracts** to improve the routing of large volumes of goods throughout the national territory as well as in overseas territories
- **Mixing supply types** between imports and local production, as well as modes of freight transport (air, rail, sea)
- Building up a **buffer stock** to mitigate the risk of shortage



© Ministère de l'Intérieur - F. Pellier

JOIN US!

iProcureNet is an H2020 project running from 2019 to 2024.

Get in touch via

contact@iprocorenet.eu

or join our network and community

www.iprocurenet.eu/joinus!

⁴ Cf. Art. 57 (3), para 1: „Member States may provide for a derogation from the mandatory exclusion provided for in paragraphs 1 and 2, on an exceptional basis, for overriding reasons relating to the public interest such as public health or protection of the environment. ...”