

# iProcureNet

Innovation by developing a European Procurer Networking for security research services

## Key findings – April 2021



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# 1 The iProcureNet project

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iProcureNet is a five-year project funded by the European Commission under the Horizon2020 programme for research and innovation and coordinated by the French Ministry of Interior. It aims to create an **ecosystem of procurers, prescribers, legal advisors and other key stakeholders of public security procurement**, to share procurement trends and needs, and open pathways for innovation in public procurement and joint public procurement across EU member states.

In an innovative three-cycle process, iProcureNet will map the European procurement environment, compare national investment strategies, identify innovation needs, and analyse security markets.



Figure 1: iProcureNet outputs

Find more information on the project and how to get involved as a public security procurement expert on [www.iprocurenet.eu](http://www.iprocurenet.eu).

## 2 What iProcureNet did in the past six months

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iProcureNet will deliver a public report on its findings twice a year. We will start with a summary of how we kept ourselves busy in the past six months, i.e. from November 2020 until April 2021:

- We published our second Brief describing insights from benchmark cases of Joint Cross-Border Public Procurement conducted recently by projects and entities all over Europe (available [here](#));
- We organised our first Annual Conference in March 2021 (slides and summary report available [here](#));
- Also in March, we organised an Innovation Procurement workshop for security practitioners together with the [MEDEA](#) and the [CIVILnExt](#) projects (slides available [here](#); videos available [here](#));
- We launched a Request for Information (RFI) among suppliers for several priority segments as input to the market analysis conducted within WP4 that will close the first project cycle (see below chapter);
- We launched the second project cycle by requesting updated investment plans from European public procurement institutions, to identify joint needs and gaps.

## 3 Key findings

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### 3.1 List of the most promising segments for JCBPP, Buyers' Groups and results of the market analysis for cycle I (Extract from deliverables D3.2 and D4.1)

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Within WP3 of iProcureNet, a feasibility study has been conducted to analyse what are the legal obstacles and enablers for JCBPP and which financial tools and programmes can be used to conduct JCBPP in security sector. The input for feasibility study was the initial candidate list of equipment, solutions and services suitable for JCBPP, devised during cycle I by WP2 of iProcureNet. The main purposes of this feasibility study were:

- To compose a revised list of the most promising segments for JCBPP as was the given task;
- To indicate the existing legal and regulatory pathways for JCBPP of COTS products;
- As the innovation procurement mechanisms are more complex in comparing with traditional procurement, to further promote procurement of innovative solutions by carefully designing the procurement strategy for Law Enforcement Authorities (LEAs);
- To estimate the suitability of JCBPP for innovative products;
- There is a room for dissemination of best practices and suggested methodology for JCBPP, especially for JCBPP of innovative solutions between LEAs.

The main results of the feasibility study were:

- There is composed a revised list of the most promising segments for JCBPP and also a list of possible potential Buyers' Groups. They are listed together with step-by-step process from forming the Buyers' Group until conducting the JCBPP;
- There exist legal and regulatory pathways for JCBPP of COTS as well as innovative products. However, certain legal risks that may need particular attention in a JCBPP, were identified in deliverable D3.2;
- JCBPP is suitable for innovative products, but needs further more specific determination of common interest of procurers in each case, more detailed specifications and closer cooperation as the mutual involvement is more crucial as for JCBPP of COTS products;
- There is a room for dissemination of best practices and suggested methodology for JCBPP, especially for JCBPP of innovative solutions between LEAs.

#### 3.1.1 Revised list of the most promising segments for JCBPP for cycle I

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Based on the list of common needs received by WP2 and on the legal assessment and the analysis of financial programmes conducted by WP3, a revised list of the most promising segments for JCBPP for the cycle I was established, presented in **Error! Reference source not found.** hereunder.

**Table 1: Revised list of the most promising segments for JCBPP**

No	Candidate	Feasibility study conclusion
1	Automatic Cyanoacrylate Fuming Chamber (PT/FR)	<b>Suitable (e.g. Hercule); providing specialised and technically advanced equipment; can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
2	Forensic light source - Cime Lite (PT/FR)	<b>Suitable (e.g. Hercule); can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
3	Weapons (PT/FR)	<b>Suitable (e.g. ISFP); can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
3.1	Airsoft Weapons – (FR-07) and (PT-82)	<b>Suitable (e.g. ISFP); can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
4	Ballistic vests (PT/FR/RO)	<b>Suitable (e.g. ISFP); can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
5	Ammunition (PT/FR/RO)	<b>Suitable (e.g. ISFP); can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
5.1	- Different calibers ammunition and grenades – (PT-84), (RO-09).	<b>Suitable (e.g. ISFP); can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
5.2	9x19mm ammunition parabelum (training and police service) – (FR-37), (LT-19)	<b>Suitable (e.g. ISFP); can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
6	Drones/UAV (PT/FR/RO)	<b>Suitable (e.g. ISFB, ISFP); can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
6.1	Drones - (FR-29), (PT-85), and (LT-56/68)	<b>Suitable (e.g. ISFB, ISFP); can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
7	Nightshoot camcorders and accessories (PT/FR)	<b>Suitable (e.g. ISFB, ISFP); can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
8	Comparative spectral analysis system for documents (RO/FR) / travel document analyzers (ES/FR)	<b>Suitable (e.g. ISFB, ISFP); can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
9	Personal protective Equipment (FR/CY)	<b>Suitable (e.g. ISFP); can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
9.1	Female and male ballistic vest (FR-35) - Ballistic vests (PT-86) - Tactical ballistic protective vest (EE-49)	<b>Suitable (e.g. ISFP); can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
9.2	Intervention heavy ballistic protection helmets (FR-5) – Helmets (LT-23)	<b>Suitable (e.g. ISFP); can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
10	Surveillance Device with Long Range Thermal Camera (PT/FR)	<b>Suitable (e.g. ISFB, ISFP); can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
11	Anti drone device (LT-98) - Drone detection equipment (EE – 32)	<b>Suitable, if the item purpose is the same; needs discussion on procurement mechanism; depending on the conclusion, programmes may be ISFB, ISFP, Horizon2020 / Horizon Europe (RIA, IA, CSA, PCP, PPI); can be both via CPB or mutual cooperation; most probably procurement of COTS</b>
12	Simulation	<b>Suitable, if the item purpose is the same; needs discussion on procurement mechanism, most probably innovation while procurement of COTS or innovation procurement (PCP, PPI, innovation partnership); depending on the conclusion, programmes may be ISFB, ISFP, Horizon2020 / Horizon Europe (RIA, IA, CSA, PCP, PPI)</b>
13	Robotics	<b>Suitable, if the item purpose is the same; needs discussion on procurement mechanism, most probably innovation while procurement of COTS or innovation procurement (PCP, PPI, innovation partnership); depending on the conclusion, programmes may be ISFB, ISFP, Horizon2020 / Horizon Europe (RIA, IA, CSA, PCP, PPI)</b>
14	Detection of false identity documents	<b>Suitable, if the item purpose is the same; needs discussion on procurement mechanism - procurement of COTS, innovation</b>

No	Candidate	Feasibility study conclusion
		while procurement of COTS or innovation procurement (PCP, PPI, innovation partnership); depending on the conclusion, programmes may be ISFB, ISFP, Horizon2020 / Horizon Europe (RIA, IA, CSA, PCP, PPI)
15	Detection of substances	Suitable, if the item purpose is the same; needs discussion on procurement mechanism - procurement of COTS, innovation while procurement of COTS or innovation procurement (PCP, PPI, innovation partnership); depending on the conclusion, programmes may be ISFB, ISFP, Horizon2020 / Horizon Europe (RIA, IA, CSA, PCP, PPI)
16	Drones	Suitable, if the item purpose is the same; needs discussion on procurement mechanism - procurement of COTS, innovation while procurement of COTS or innovation procurement (PCP, PPI, innovation partnership); depending on the conclusion, programmes may be ISFB, ISFP, Horizon2020 / Horizon Europe (RIA, IA, CSA, PCP, PPI)
17	Fight against cybercrime	Suitable, if the item purpose is the same; needs discussion on procurement mechanism - procurement of COTS, innovation while procurement of COTS or innovation procurement (PCP, PPI, innovation partnership); depending on the conclusion, programmes may be ISFB, ISFP, Horizon2020 / Horizon Europe (RIA, IA, CSA, PCP, PPI)
18	Ballistic vests	Suitable, if the item purpose is the same; needs discussion on procurement mechanism - procurement of COTS, innovation while procurement of COTS or innovation procurement (PCP, PPI, innovation partnership); depending on the conclusion, programmes may be ISFB, ISFP, Horizon2020 / Horizon Europe (RIA, IA, CSA, PCP, PPI)
19	Vehicle armouring	Suitable, if the item purpose is the same; needs discussion on procurement mechanism - procurement of COTS, innovation while procurement of COTS or innovation procurement (PCP, PPI, innovation partnership); depending on the conclusion, programmes may be ISFB, ISFP, Horizon2020 / Horizon Europe (RIA, IA, CSA, PCP, PPI)

It can be concluded that all segments in the initial candidate list of cycle I are in principle suitable for JCBPP. COTS products are more easily suitable for JCBPP both from a legal assessment and a financial assessment viewpoint. Suitable programmes that can help finance the procurement of such products were presented in the Table above even if LEAs have also their own budget they can use for it.

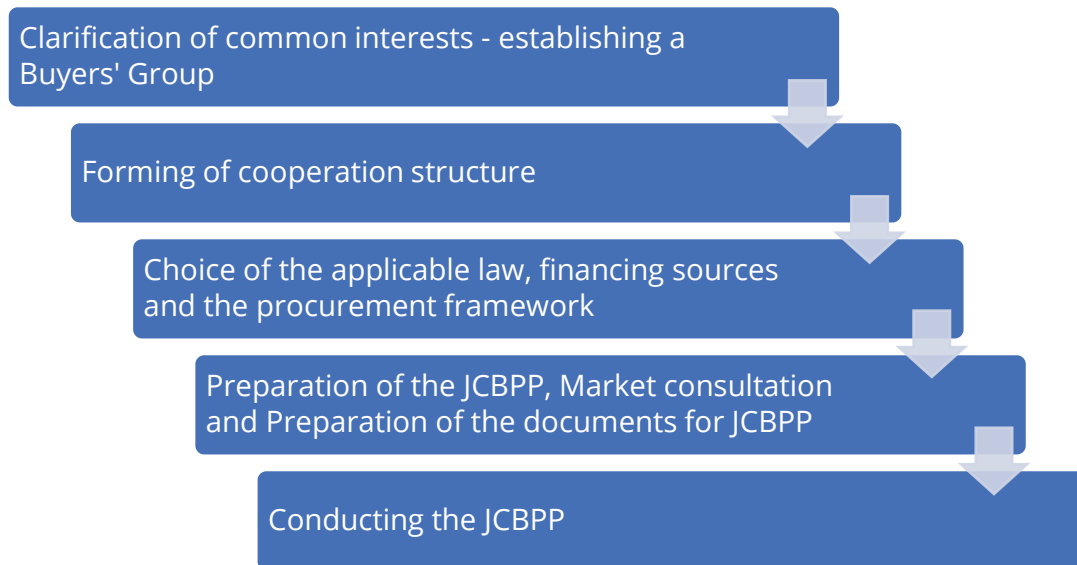
Due to too general and broad descriptions of candidate segments from position 12 to 19 these have not undergone market analyses in this cycle. These candidate segments need to be analysed again in the next cycle, and more detailed information about the needs of the procurers in this segment should be obtained.

The fact that many of the categories are suitable only if the item purpose is the same further stresses the need for sound user needs assessment. This will be considered by WP2 in cycle II of the project.

### 3.1.2 Establishment of Buyers' Groups

Based on the list of most promising segments for JCBPP and initial procurement plans, collected by WP2, there can be established a number of Buyers' Groups.

Although the Buyers' Groups share common needs and interest for procurement of COTS or innovation, the establishment of Buyers' Groups is a dedicated process.<sup>1</sup> The following steps can be pointed out, illustrated in Figure 2:



**Figure 2: Steps related to the set up of Buyers' Groups and to conduct JCBPP**

Based on the list of segments for JCBPP, the following preliminary Buyers' Groups have been suggested in deliverable D3.2 (**Error! Reference source not found.**):

**Table 2: Outline of suggested Buyers' Groups for JCBPP for cycle I**

No	Candidate	Possible Buyers' Groups
1	Automatic Cyanoacrylate Fuming Chamber (PT/FR)	Group 1: PT, FR
2	Forensic light source - Cime Lite (PT/FR)	Group 1: PT, FR
3	Weapons (PT/FR)	Group 1: PT, FR
3.1	Airsoft Weapons – (FR-07) and (PT-82)	Group 1: PT, FR
4	Ballistic vests (PT/FR/RO)	Group 2: PT, FR, RO
5	Ammunition (PT/FR/RO)	
5.1	- Different calibers ammunition and grenades – (PT-84), (RO-09).	Group 3: PT, RO
5.2	9x19mm ammunition parabelum (training and police service) – (FR-37), (LT-19)	Group 4: FR, LT
6	Drones/UAV (PT/FR/RO)	Group 2: PT, FR, RO
6.1	Drones - (FR-29), (PT-85), and (LT-56/68)	Group 5: FR, PT, LT
7	Nightshoot camcorders and accessories (PT/FR)	Group 1: PT, FR
8	Comparative spectral analysis system for documents (RO/FR) / travel document analyzers (ES/FR)	Group 6: FR, RO; Group 7: FR, ES
9	Personal protective Equipment	
9.1	Female and male ballistic vest (FR-35) - Ballistic vests (PT-86) - Tactical ballistic protective vest (EE-49)	Group 8: FR, PT, EE
9.2	Intervention heavy ballistic protection helmets (FR-5) – Helmets (LT-23)	Group 4: FR, LT
10	Surveillance Device with Long Range Thermal Camera (PT/FR)	Group 1: PT, FR
11	Anti drone device (LT-98) - Drone detection equipment (EE – 32)	Group 9: LT, EE
12	Simulation	Interested partners has to be determined in further steps

<sup>1</sup> Edouard Brunel (GENCI), Paola Alberigo (CINECA), Javier Bartolome (BSC), Dirk Pleiter (JSC), François Robin (CEA). Lessons learned on legal aspects. White Paper. PPI4HPC Project. 29 September 2020. [https://ppi4hpc.eu/sites/default/files/public/file-uploads/PPI4HPC\\_white\\_paper\\_2\\_0.pdf](https://ppi4hpc.eu/sites/default/files/public/file-uploads/PPI4HPC_white_paper_2_0.pdf)

No	Candidate	Possible Buyers' Groups
13	Robotics	Interested partners has to be determined in further steps
14	Detection of false identity documents	<b>Group 10: FR, RO, ES</b>
15	Detection of substances	Interested partners has to be determined in further steps
16	Drones	<b>Group 11: PT, FR, RO, LT</b>
17	Fight against cybercrime	Interested partners has to be determined in further steps
18	Ballistic vests	<b>Group 8: FR, PT, EE</b>
19	Vehicle armouring	Interested partners has to be determined in further steps

### Considerations for segments 3 and 5

During the periodic review of the project, the question of the consideration for double use in segments 3 and 5 was raised by the reviewers. Due to the continuing debate about the concerns of dual use in segments 3 and 5, we decided to not include segments in the market analysis in the first cycle. The market analysis of these segments may continue in the next cycle of iProcureNet if these segments are identified.

### Considerations for segments 12, 13, 15, 17 and 19

When identifying possible Buyers' Groups in segments 12, 13, 15, 17 and 19, it was concluded in deliverable D3.2 that "Interested partners has to be determined in further steps". Therefore, we suggested that the interest of possible partners will be analysed in more details in the next cycle in WP2. The leader of WP2 and WP3 will be informed about the need for further research in possible interest in segments 12, 13, 15, 17 and 19.

### Considerations for segments 4, 9, 14, 16 and 18

For the purpose of market analysis, segment 14 "Detection of false identity documents", will be analysed together with segment 8 "Comparative spectral analysis system for documents (RO/FR) / travel document analysers (ES/FR)", because based on available information from deliverable D3.2, these products and solutions belong to the same market.

For the purpose of this market analysis, segment 16 "Drones" will be analysed together with segment 6 "Drones/UAV", because based on available information from deliverable D3.2, these products and solutions belong to the same market.

For the purpose of this market analysis, segment 4 "Ballistic vests (PT/FR/RO)" will be analysed together with segment 9 "Personal protective Equipment" and segment 18 "Ballistic vests", because based on available information from deliverable D3.2, these products and solutions belong to the same market.

### Final list of segments for market analysis

Based on the considerations mentioned above, the revised and final list for segments for market analysis is following (Table 3):

**Table 3: Revised list of segments for cycle I**

No	Segment	Established buyers' groups
1	Automatic Cyanoacrylate Fuming Chamber	<b>Group 1: PT, FR</b>



No	Segment	Established buyers' groups
2	Forensic light source - Cime Lite	<b>Group 1: PT, FR</b>
3	Personal protective Equipment including Female and male ballistic vest, Tactical ballistic protective vest, Helmets - intervention heavy ballistic protection helmets	<b>Group 2: PT, FR, RO,</b> <b>Group 8: FR, PT, EE</b> <b>Group 4: FR, LT</b>
4	Drones/UAV	<b>Group 2: PT, FR, RO,</b> <b>Group 5: FR, PT, LT</b> <b>Group 11: PT, FR, RO,</b> <b>LT</b>
5	Nightshoot camcorders and accessories	<b>Group 1: PT, FR</b>
6	Comparative spectral analysis system for documents/travel document analyzers/ Detection of false identity documents	<b>Group 6: FR, RO;</b> <b>Group 7: FR, ES</b> <b>Group 10: FR, RO, ES</b>
7	Surveillance Device with Long Range Thermal Camera	<b>Group 1: PT, FR</b>
8	Anti drone device / Drone detection equipment	<b>Group 9: LT, EE</b>

### 3.1.3 Methods and results from the market analysis

*The following section offers guidance on conducting a market analysis. The full public version of this guidance will be available in the iProcureNet Toolbox, released in summer 2021.*

The market analysis conducted within iProcureNet for the identified segments consisted of the following steps:

- **Prior market analysis:** Prior market analysis means a search for products and suppliers that fall within the scope of each specific segments. How was this search conducted is written in section 4
- **Identification of possible suppliers of solutions:** Part of conducting prior market analysis is collecting the information about suppliers that could deliver the products and solutions in each specific segment. Section 4 contains detailed information about the identification of the suppliers and their classification.
- **Solution comparison:** The identified products and solutions are compared if possible. The online survey contained specific questions aimed at getting detailed information about products and possible solutions. Sections 4 has more details on this step.
- **Assessment of each market in the given segment:** The team of WP4 will use information from answers provided by suppliers in the online survey to analyse the market.

#### Results of market analysis for segment 1: Automatic cyanoacrylate fuming chamber

One solution was identified through the market survey. The manufacturer is an SME from Germany. The product is COTS.

The manufacturer specified that the market is not mature and two main entry barriers were identified. One being technical (high development costs vs smaller market size); the second being regulatory (customer's needs for own product evaluation is not triggering to apply innovative

techniques or products but also avoiding risk and evaluation work by the repeated purchase of known technology).

Because only one solution was identified, we were unable to compare it with other solutions. However, the supplier and manufacturer of the identified solution provided in the survey identification of its main competitors. It is possible to contact these companies directly and ask them to provide information about their products using this information.

Even though only one product was identified in the segment, more products are available on the market. If the segment is specified in the next cycle of the project, the other competitors could be contacted, and market analysis would be more detailed.

JCBPP is possible in this segment if the EBG decide so. If an EBG decides to start the process of JCBPP, it is advisable to conduct a preliminary market consultation (PMC) during the pre-tender phase of JCBPP; the suppliers can, by participating in the PMC, present their solutions.

### **Results of market analysis for segment 2: Forensic light source**

As in the previous segment of Automatic cyanoacrylate fuming chamber, only one solution was identified within the market analysis. The manufacturer is an SME from Germany.

Therefore we were unable to compare it with other solutions on the market. However, the supplier and manufacturer of the identified solution provided the survey identification of its main competitors. It is possible to contact these companies directly and ask them to provide information about their products.

The manufacturer specified that the market is not mature. Two main entry barriers were identified, which are the same as in the 1<sup>st</sup> segment. One being technical (high development costs vs smaller market size), the second being regulatory (customer's needs for own product evaluation are not triggering to apply innovative techniques or products but to avoid risk and evaluation work by the repeated purchase of known technology).

During the survey and RFI collecting responses, iProcureNet was contacted by a representative of the company Attestor Forensics GmbH. He pointed out that "Crime Lite" is the registered product name of a particular manufacturer in the UK. Therefore, he recommended changing the inquiry to a more neutral wording. The reduction to a specific product might be misleading and discouraging to fill in the enquiry for suppliers or manufacturers of other possible products. In fact, iProcureNet was trying to collect information about "crime scene light sources" of varying manufacturers rather than information about this particular product. Due to this fact, this specific segment shall be named Forensic light source.

It must be paid more attention to this in the following cycles because the segment's name is not pointing out to a specific product or supplier.

Even though only one product was identified in the segment, more products are available on the market. If the segment is specified in the next cycle of the project, the other competitors could be contacted, and market analysis would be more detailed.

JCBPP is possible in this segment if the EBG decide so. If an EBG decides to start the process of JCBPP, it is advisable to conduct a preliminary market consultation (PMC) during the pre-tender phase of JCBPP; the suppliers can, by participating in the PMC, present their solutions.

### **Results of market analysis for segment 3: Personal protective equipment**

There were several responses from suppliers and manufacturers from different members states, namely Romania, Bulgaria and France.

The manufacturers and suppliers are considered to be SMEs, to be more precise medium companies except for NFM, which does not fall within the category of SME.

The market of personal protective equipment is fully matured according to the participants' answers to the survey. Several companies manufacture and sell personal protective equipment in the EU market with a stable position and significant market power. One can argue that it would be difficult for new companies to enter the market even though most of survey participants did not identify barriers to entry. One reason could be that contracting authorities from the security sector tend to procure a significant amount of personal protective equipment. Small companies, even innovative, would have a problem delivering considerable amounts of equipment on time. Furthermore, the manufacturer BEAL specified in the survey that the barrier to entry market is „the history and positioning of leading companies”.

All presented products are COTS. Comparing of presented products and solution needs further attention. Firstly, more information about technical properties needs to be obtained from suppliers. Then the properties of different products can be compared. More information should also be obtained about the costs of the products.

The segment is suitable for JCBPP, and participating partners in EBG could benefit from economies of scale and better contractual terms. On the other hand, this could prohibit smaller companies not incumbent in the market to present competitive offer.

If an EBG decides to start the process of JCBPP, it is advisable to conduct a preliminary market consultation (PMC) during the pre-tender phase of JCBPP; the suppliers can, by participating in the PMC, present their solutions.

#### **Results of market analysis for segment 4: Drones/UAV**

There were several responses from suppliers and manufacturers from different members states, namely Denmark, Slovakia and France.

What can be considered as a very positive fact is that in this particular segment we received information about products that are not yet COTS, one project being even a H2020 project. Even though they are not COTS, they can be considered a higher level of TRL. ROBORDER project is TRL 7 - System prototype demonstration in operational environment. The solution consisting of Larke, Nest, Eve from manufacturer Upteko is in TRL 8 - System complete and qualified. The other products, namely Hawker Q800X from manufacturer AERAACCESS SAS and Lidaretto from manufacturer GEOTECH Bratislava are COTS.

By comparing the suppliers or manufacturers, we can conclude that these are all SMEs, more precisely small companies with less than 50 employees.

One supplier considered the market of drones as being „ready”, but others stated that the market „is not mature and every day the market is evolving due to new regulations for the use of drones in various environments, especially in manned areas. We would say that the market is not fully mature because there is significant growth and a high level of innovation. This can also be seen from a higher number of H2020 projects researching the field of UAV.

The presented products have different uses and applications, but to be able to compare the products in more detail, more information about technical properties needs to be obtained from suppliers. More information should also be obtained about the costs of the products.

Furthermore, if an EBG decides to start the process of JCBPP, it is advisable to conduct a preliminary market consultation (PMC) during the pre-tender phase of JCBPP; the suppliers can, by participating in the PMC, present their solutions.

The segment of drones/UAV looks very promising for JCBPP because there is a high demand for drones/UAV from consortium members. It is expected that this segment will also be identified in the next cycle of the iProcureNet project. The segment should be therefore further analysed in the following steps of the project.

#### **Results of market analysis for segment 5: Night shoot camcorders and accessories**

Two responses have been received from different states outside of the EU: Turkey and one from United Kingdom. This proves that the market survey was shared widely.

Product MS SPEKTRAL Savunma Sanayi A.S. is not considered COTS yet, identified by the manufacturer level TLR 9 – Actual system proven in operational environment (competitive manufacturing in the case of key enabling technologies). The second product BIOAX is considered COTS.

According to the second manufacturer Audax Global Solutions Ltd., „in 2005 our Original Bio-AX® camera was funded by the European Union H2020 Instrument. Audax® were the First UK Security SME ever funded by the European Union H2020 Instrument“. It can be probably considered as a success story of H2020 instrument.

When comparing the two offered products, it is evident that the use of these is going to be different, one being a wearable camera and one being an integrated low light camera and low light lens. Within the segment, these are products for different use.

Comparing the suppliers or manufacturers, we can conclude that we did not receive enough information to compare them in more detail.

The question on the structure of the market cannot be answered based on the replies received from the suppliers. However, from the professional experience of buying products and solutions, there are more manufacturers and suppliers in the EU market. Tenders in this segment are often conducted mainly for border guards, environmental policy or anti-drug police units. A deeper market analysis of this segment can be done in the next cycle if the segment is again identified as promising for JCBPP.

Furthermore, if an EBG decides to start the process of JCBPP, it is advisable to conduct a preliminary market consultation (PMC) during the pre-tender phase of JCBPP; the suppliers can, by participating in the PMC, present their solutions.

#### **Results of market analysis for segment 6: Comparative spectral analysis system for documents / travel document analyzers / Detection of false identity**

Only one product was presented through the survey. The manufacturer is an SME from Romania. The products is a COTS.

Therefore we were unable to compare it with other solutions on the market. The manufacturer is also the supplier of the products, and can be considered a small company. From the professional

experience with procuring similar solutions, we can conclude that there are more manufacturers and suppliers of a similar solution. Therefore, if this segment is again identified in the next cycle, it is advisable to perform a more detailed analysis of the segment.

If an EBG decides to start the process of JCBPP, it is advisable to conduct a preliminary market consultation (PMC) during the pre-tender phase of JCBPP; the suppliers can, by participating in the PMC, present their solutions.

### **Results of market analysis for segment 7: Surveillance Device with Long Range Thermal Camera**

There were several responses from suppliers and manufacturers from different members states, namely Romania, Bulgaria and Spain.

What can be considered as a very positive fact is that in this particular segment we received information about the product that is not COTS already. Two solutions offered by company S. IOR S.A. were identified as being at level TRL 9.

Comparing the suppliers or manufacturers, we can conclude that two are not SMEs and the third is an SME.

The presented products have different use and application. Two solutions offered by company S. IOR are day/night targeting rifle scopes & Night optical/observation device. Solution Multisensor OPTIX GUARD SYSTEM from OPTIX is meant to be used for long-range security of important perimeter - with vehicle detection of more than 20 km. And the third product Summit XL is a mobile robot capable of carrying loads of up to 65 Kg, and it has internal and external connectivity to connect thermal cameras and other surveillance devices easily. This means that the third product is a platform for a long range of thermal camera.

Due to the different use of the products and solutions mentioned above, a detailed comparison would not be reasonable. This is why, in the next cycles, iProcureNet has to describe the identified segments in more detail, such as explaining what is required for contracting authorities and EBGs to be satisfied with the products.

Supplier OPTIX identified one barrier to entry the market in a given segment: regulations for export restrictions. This might be connected with the possible use of the products in the defence and military sector. The third supplier ROBOTNIK AUTOMATION identified the following barrier: that it is very complicated to reach possible clients, especially if they are public bodies. iProcureNet can present a solution to this problem because the supplier can present their products and innovative solutions to consortium partners by answering the survey and requesting information. If possible, this information can then be shared with other public bodies.

Nevertheless, the segment is suitable for JCBPP. If an EBG decides to start the process of JCBPP, it is advisable to conduct a preliminary market consultation (PMC) during the pre-tender phase of JCBPP; the suppliers can, by participating in the PMC, present their solutions.

### **Results of market analysis for segment 8: Anti-drone device / Drone detection equipment**

There were two responses from suppliers and manufacturers from different members states, namely Greece and France.

A very positive fact is that we received information about the product that is not COTS yet. The solution „Optical detection and tracking of drones“ offered by the Centre of Research and

Technology Hellas was identified as being at level TRL 8. The other products, namely NEROD, MAJES and RF Sensor from the manufacturer MC2 Technologies are COTS.

Comparing the suppliers or manufacturers, we can conclude that the first is a research institution and the other is an SME, on the border of small and medium companies.

Even though those manufacturers did not specify if the market is mature or not, we can argue that the market is not fully mature. There is a possibility for significant growth, and a high level of innovation is expected. This can also be seen from a higher number of H2020 projects researching the field of UAV, which also means that there is and will be a growing need for anti-drone solutions.

The presented solutions have different applications. The first solution is an application capable of high drone detection accuracy using artificial intelligence to detect and track drones using a COTS camera. It may be classified as a drone detection solution. The second manufacturer proposed three solutions:

- NEROD, a jammer efficient against commercial drones.
- MAJES, a tactical jamming system, efficient against the usual systems of guidance (GPS/GLONASS) and communication of drones.
- RF Sensor, a sensor which is the complement to drone jammers as it enables to install a fully capable RF monitoring,

These may be classified as anti-drone solutions. Due to the different use of the products mentioned above and solutions, a detailed comparison would not be reasonable. This is why, in the next cycles, iProcureNet has to describe the identified segments in more detail, such as explaining what is required for contracting authorities and EBGs to be satisfied with the products.

The first manufacturer stated that barriers to entry into the market are GDPR compliance and dual-use considerations. The second identified as a barrier that it is essential to obtain an export licence before exporting equipment outside the French borders. Indeed, drone jammers are considered as war material, category A2 weapons. We can see that both identified as a barrier that this specific technology is considered war material, or dual-use considerations.

The segment is suitable for JCBPP. If an EBG decides to start the process of JCBPP, it is advisable to conduct a preliminary market consultation (PMC) during the pre-tender phase of JCBPP; the suppliers can, by participating in the PMC, present their solutions.

The segment of anti-drone and drone detection solutions and products looks very promising for JCBPP. Members of the EBG and consortium members could benefit from a preliminary market consultation in this segment, as this would increase the awareness of public procurement experts and end-users of new developments and technology in this segment. The topic of anti-drone solutions or identification of drones using artificial intelligence is expected to increase in importance in the following years. We can see an increase in the use of different kind of drones and for different purposes. The use of drones for a variety of illegal activities is also increasing. It is expected that this segment will also be identified in the next cycle of the iProcureNet project. The segment should be therefore further analysed in the following steps of the project.

## 3.2 Guidelines for Joint Cross-Border Public Procurement (JCBPP) (Extract from deliverables D3.3 and D4.1)

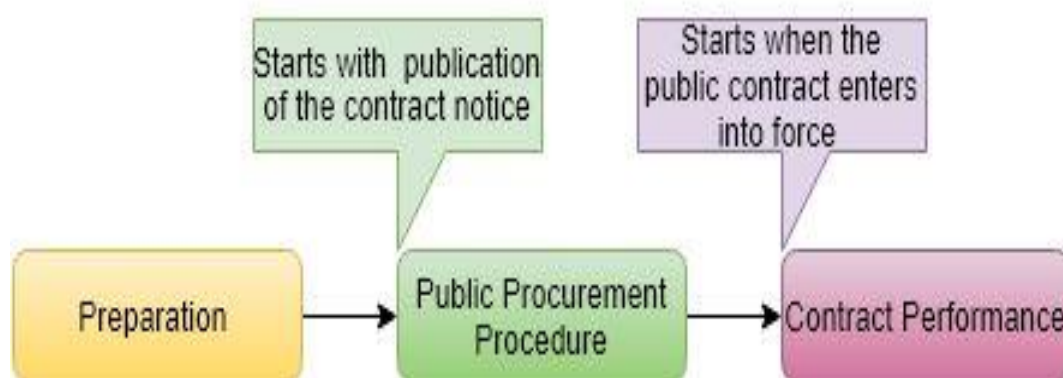
*The following section offers short guidance for conducting JCBPP and a preliminary market consultation (PMC) in the security sector, including procurement of innovation. The full public version of this guidance will be available in the iProcureNet Toolbox, released in summer 2021.*

This section describes the steps and stages of conducting a JCBPP in three main parts:

- the preparation or pre-tender phase,
- the procedure – tender phase and
- the contract performance or post-tender phase.

The information on how to proceed and which steps shall be taken when conducting JCBPP exploits the findings stated in WP3, more precisely stated in deliverable D3.3. The findings of the WP4 team complemented these.

Figure 3 shows the phases of conducting a Joint Cross-Border Public Procurement (JCBPP), plus the most important parts of each of them. The pre-tender phase is to be separated from the tender phase with publication of a contract notice (or, in case of the exceptional negotiated procedure without prior publication, the moment of informing the tenderer(s) of the wish to award a contract). The post-tender phase is to begin when the awarded public contract enters into legal force.

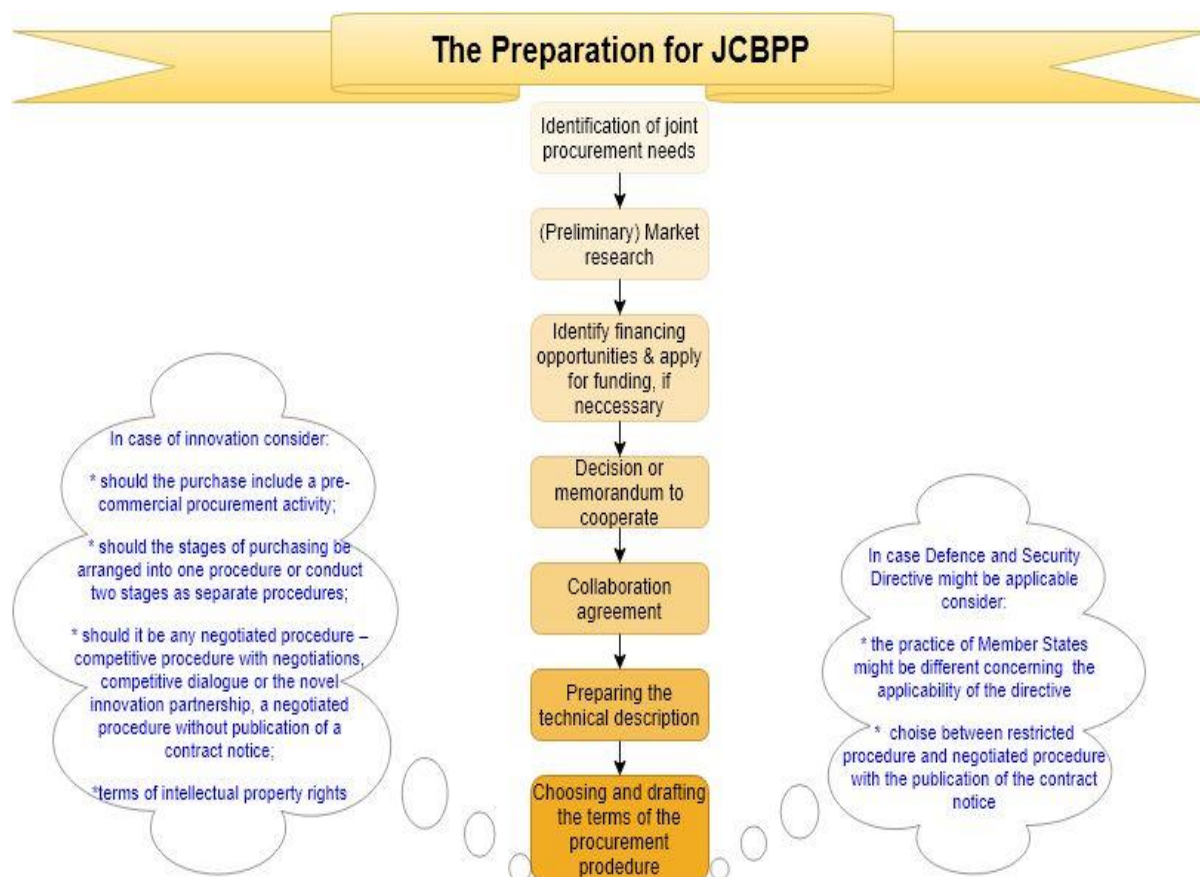


**Figure 3: Phases of the Joint Cross-Border Public Procurement Process**

### 3.2.1 Preparation / Pre-Tender Phase

The **preparatory phase (pre-tendering phase)** of a procurement procedure is by far **the most crucial stage** of the process because the decisions taken during this phase will impact the success of the entire procedure. If the mistakes are made in this pre-tender phase, these can be very rarely corrected in the subsequent stages of the procurement procedure.

These are the seven steps identified in deliverable D3.3 and updated in deliverable D4.1, which shall be taken when preparing the JCBPP. These steps are graphically illustrated in Figure 4.



**Figure 4: Steps of the Pre-Tender Phase in the Joint Cross-Border Public Procurement**

As stated in deliverable D3.3, “steps identified in Figure 9 follow in the **chronological sequence**. However, due to the varying nature of potential collaboration projects, this is not necessarily always so. In particular, in a repeating collaboration between the same authorities or a procurement conducted by a central purchasing body (CPB), a collaboration agreement can be entered into at the start of the project, once the common need or an interest suitable for procurement by a CPB is found. Also, parties can first agree on their roles and only after that conduct the market research. Other variations are possible as well.”<sup>2</sup>

It is advised that Established Buyers’ Groups that will be established as a result of iProcureNet conduct preliminary market consultation before steps no. 6, before writing the final technical description.

### Step no. 1: Identification of joint procurement needs

When preparing a particular JCBPP, the parties always start with finding a specific common interest. Identification of joint procurement needs was done within the iProcureNet project and is represented by work conducted in WP 2 and WP 3. The results of this identification stated in deliverable 2.1 – The initial candidate list for cycle I and was published in the iProcureNet 6-monthly report no. 3. This information has then been subject to the second phase’s feasibility analysis, and the results are in deliverable 3.2 – Revised list of the most promising joint cross-border public procurement segments and published in this report, chapter 3.1. This revised list of the most promising segments is the identification of common needs in the iProcureNet project.

<sup>2</sup> Deliverable 3.3 – Methodological Process Description for the Toolbox cycle 1



## Step no. 2: Identification of financing possibilities

Identification of financing possibilities is an essential step in each procurement procedure, and this is even more relevant in the case of JCBPP.

The feasibility study on possible financial instruments was conducted within the work of WP3, and more detailed information is stated in Chapter 3 of deliverable D 3.3. "For any project, an organisation needs to consider the available choices of funding – whether to carry out the project/procurement from the State (organisation's) budget, with funds from a Structural Fund financed by the EU and managed by the Member State, or direct funding such as Horizon2020/Horizon Europe, or by combining different sources (such as ESIF). Depending on the approach, self-financing issues should also be considered (e.g., ISF-Police 10%). Around 80% of EU funding is provided through programs managed in EU countries.<sup>3</sup>"

JCBPP is a complex procedure that involves more participating CAs from different states. Due to this fact, the auditing process of JCBPP tender, if done according to directive 2014/24/EU or more specifically according to the relevant applicable national provisions of CA that is responsible for the procurement procedure, will be complicated. Several questions need to be answered, such as:

- How the national auditing organs in the case of EU funded projects control the procurement process and documentation?
- Do they control the procurement procedure regarding national law on public procurement or the European rules on public procurement stated in directives on public procurement?

These questions need to be answered by EBGs during the pre-tender phase of the JCBPP. The study on national experience and practices is suggested to be done in the next cycle of the project.

## Step no. 3: Market research

How to conduct the market research is specified in section 3.1.3 above. Each EBG needs to study the individual results for each segment. More detailed information, including methodology on conducting market research and market analyses, will be part of the iProcureNet Toolbox, released in the summer of 2021.

## Step no. 4: Reaching a decision or memorandum to cooperate

**Reaching a decision or memorandum to cooperate** is vital to establish the collaborators' roles within JCBPP. Deliverable D 3.3 states: "the initial understanding can concern the type of collaboration – either the project is based on an *ad hoc* mutual agreement between procuring entities (e.g., police organisations of neighbouring countries buying supplies together), or the joint purchase is conducted via a CPB. Not all projects are suitable for any type of collaboration – e.g., an occasional joint procurement is recommended for "pilot projects for the acquisition of particularly innovative procurements"<sup>4</sup>." Any possible JCBPP based on the joint procurement strategy described in this report will presumably be based on an *ad hoc* mutual agreement and can concern the case of pilot projects.

Usually, if a CPB conducts the JCBPP, there will not be a need to agree on details of collaboration because the tender will be done according to the established practices and rules of CPB. A study

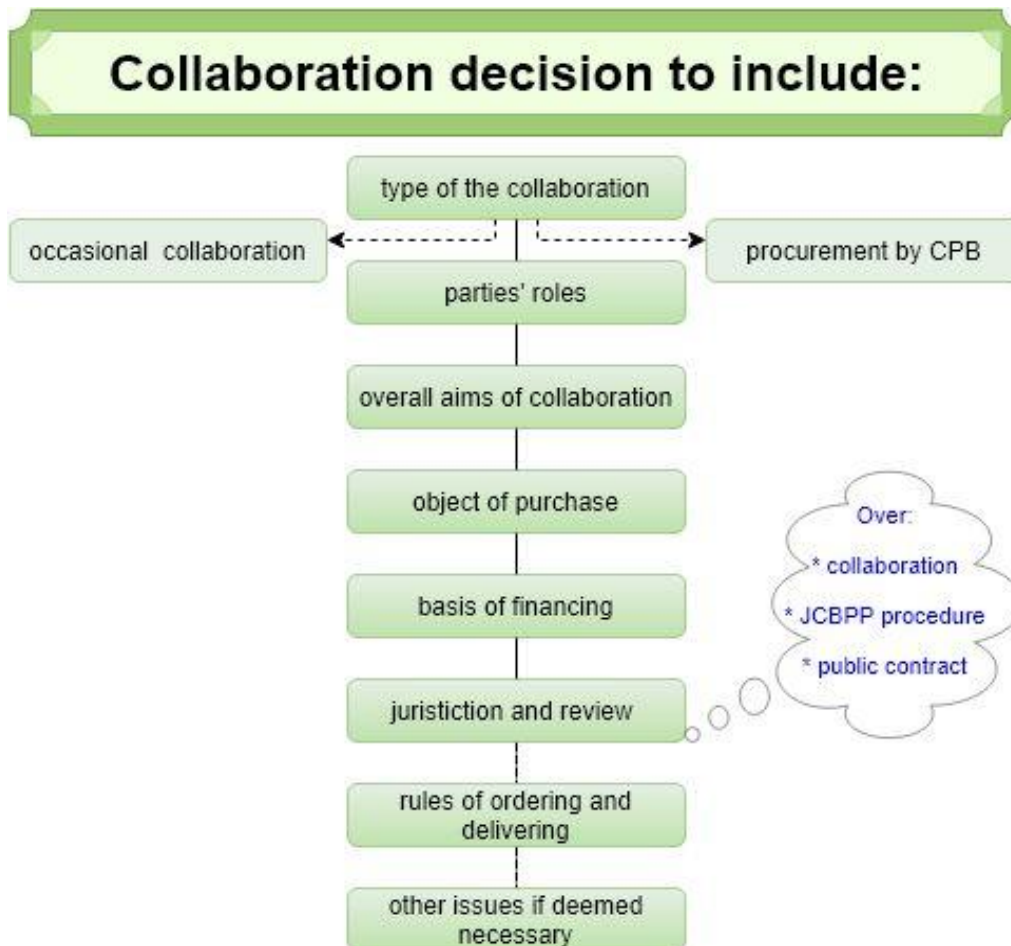
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<sup>3</sup> [https://europa.eu/youreurope/business/finance-funding/getting-funding/eu-funding-programmes/index\\_en.htm](https://europa.eu/youreurope/business/finance-funding/getting-funding/eu-funding-programmes/index_en.htm)

<sup>4</sup> Ignacio Herrera Anchustegui. Collaborative Centralized Cross-Border Public Procurement: Where Are We and Where Are We Going To? [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3052159](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3052159) (12.2.2021), 5

on how to organise a JCBPP through a CPB or FRONTEX, could be organised in the subsequent phases of the iProcureNet.

Mostly, a memorandum of collaboration should include all or some of the following fundamental issues: their roles in the JCBPP; the goals (overall aims) and needs of the cooperation (object of purchase) as precisely as possible; basis of financing the JCBPP; applicable jurisdiction; general rules for orders and deliveries etc. These are indicated in Figure 5, taken from deliverable D3.3:



**Figure 5: Establish of the Collaborators' Roles within a Joint Cross-Border Public Procurement**

#### GOOD PRACTICES

- Active involvement of the end users should be ensured.
- Key stakeholders should be identified, and support from senior management ensured.
- Building motivated and available teams in the early stages of the project is a key to success. In the case of large and complicated projects, not only from a technical but also from a legal point of view, in particular when the local law of the participating institutions and the law applied by the procurer are different, it is advisable to “to establish two working groups, one dealing with technical issues, one with legal issues.”<sup>5</sup>

<sup>5</sup> E. Brunel, P. Alberigo, J. Bartolome, D. Pleiter, F. Robin: PPI4HPC white paper "Lessons learned on legal aspects", Oct. 2020; available at [https://ppi4hpc.eu/sites/default/files/public/file-uploads/PPI4HPC\\_white\\_paper\\_2\\_0.pdf](https://ppi4hpc.eu/sites/default/files/public/file-uploads/PPI4HPC_white_paper_2_0.pdf)

- Select an integrated set of tools with consistent access mechanisms to ensure sharing of material amongst the members of the Buyers' Group.
- The importance of frequent communication among partners was mentioned in the follow-up discussion with one of the respondents. From a project management point of view, weekly tele conferences are recommended because such projects need a lot of cooperation and communication

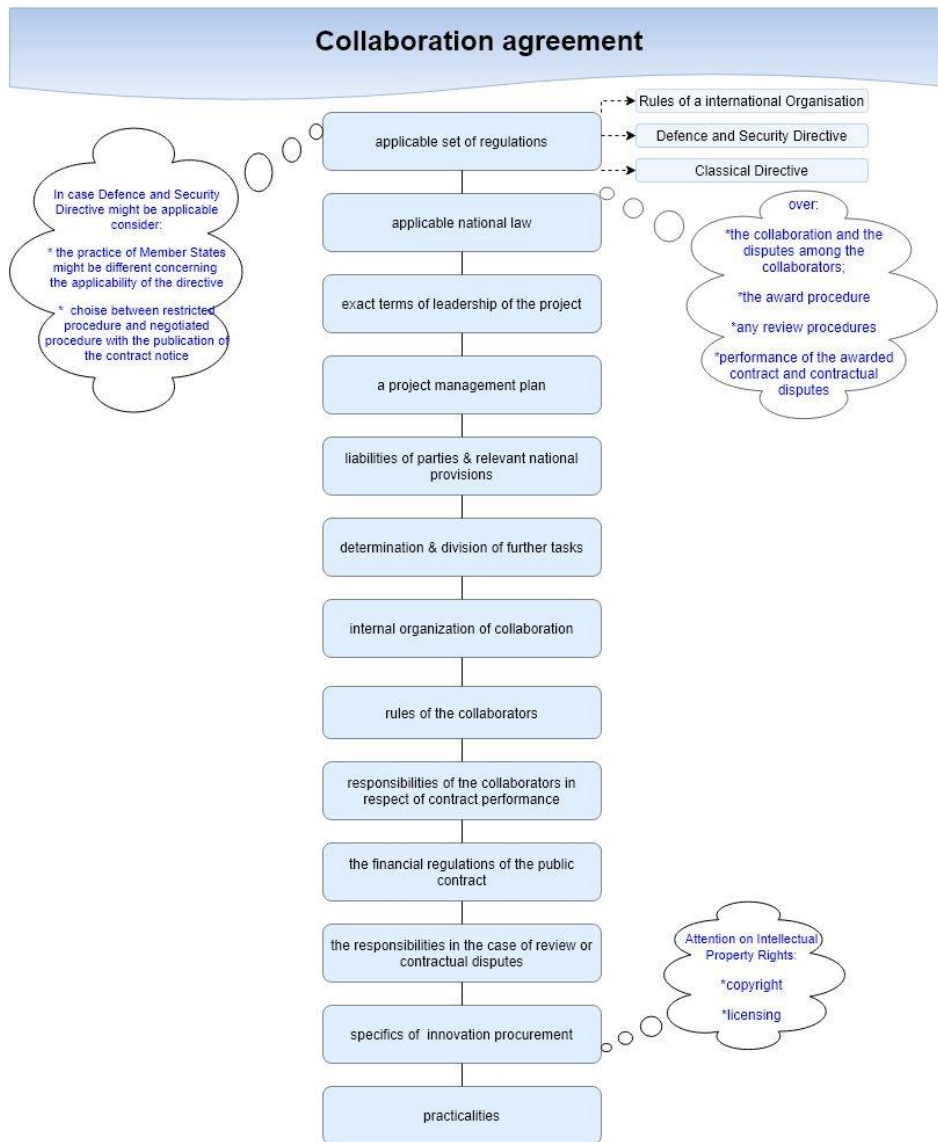
### Step no. 5: Collaboration agreement

Entering into a binding collaboration agreement is an important step in pre-tender phase of JCBPP. According to deliverable D3.3, "**collaboration agreement** (hereinafter the **CollA**) as a binding legal instrument is one of the most critical, burdensome and comprehensive parts of the pre-tender phase of a JCBPP".

EBGs should stipulate at least the following in the CollA:

- Relevant set of regulations (*e.g.* the relevant directive);
- national law applicable to all or different parts of the JCBPP, incl. the collaboration, procurement procedure(s), public contract(s) or framework agreements and the place of dispute resolution;
- exact terms of leadership of the project - either the collaboration is led by a lead partner or by a group jointly;
- a project management plan, incl. the role of the lead purchaser, duties of drafting and approving contract documents, decision-making, information-sharing, arranging call-offs under framework agreements, data collection, reporting etc.;
- responsibilities of collaborators and the relevant applicable national provisions;
- determination and division of possible further tasks of the collaborators in the course of the collaboration;
- the internal organisation of the procurement procedure, incl. management of the procedure, distribution of the procured supplies or services, the conclusion of framework agreements and public contracts;
- the rules for defining, submitting and harmonising the requirements of the collaborators;
- responsibilities of collaborators in respect of contract performance, *e.g.*, deliveries;
- financial rules for the execution of the public contracts, incl. payment and management of invoices, sharing of administrative costs etc.;
- the responsibilities of collaborators in the case of a review or contractual disputes, *e.g.*, issues of representation, mutual assistance etc.;
- specifics concerning innovation procurement, such as regulation of intellectual property rights;
- practicalities such as means and language of communications.

Figure 6 represents the advised content of such agreements:



**Figure 6: The Collaboration Agreement within JCBPP**

The issue of the applicable law was subject to feasibility analysis in WP3. In particular, the legal feasibility study presented as a part of deliverable D3.2 referred to some legislative gaps on the EU level regarding **national law** applicable to different parts of a JCBPP project. Most importantly, deliverable D3.2 pointed out gaps on conflict of law issues: in particular, there are no default rules for establishing the national law to govern JCBPP procedures in cases of *ad hoc* cross-border collaboration, public contracts awarded in JCBPP, and collaboration agreements for conducting JCBPP by contracting authorities. Also, the competence of courts or review bodies to judge matters concerning procedures in JCBPP is unclear. There is unclarity about the review procedures over procedural steps that a collaborating contracting authority conducts pursuant to the national laws of another Member State. Deliverable D3.2 therefore emphasised the need for collaborators to clearly establish **in the collaboration agreement** the applicable national law and the relevant place of dispute resolution concerning the following:<sup>6</sup>

<sup>6</sup> About the related legal challenges see D3.2 on legal feasibility.

- the collaboration agreement and the disputes among the collaborators;
- the award procedure(s), specifically, the award of public contracts under a framework agreement – in particular, if these are conducted by a contracting authority other than the CPB or the lead buyer;
- any review procedures over different steps or parts of JCBPP;
- performance of the awarded contract(s) and contractual disputes.

#### GOOD PRACTICES

- Joint procurement also implies **language issues**. A common language should be agreed upon at the beginning of the cooperation. In most cases, English is the first language.<sup>7</sup>
- There can be differences in procurement practices at the beginning of the cooperation. Therefore, it is a good idea to start by identifying different practices and harmonizing them, e.g., tender documentation: one side may use very complex and high-level tender documents based on citation from the law, whereas the other may use a simpler approach. Also, the basic terminology can be different and needs to be harmonised first. Another potential issue is differences in e-procurement platforms: it must be guaranteed that bidders from different states will not have problems to present their bids.<sup>8</sup>
- Procurement should be organised using **project-based management**: Dividing all actions into phases with deadlines and responsible persons and setting common KPIs and rules for information flow and decision-making. This can come in handy also in case the person responsible for organizing the JCBPP changes.

#### Preliminary market consultation (PMC) before step no. 6

It is advised that EBGs conduct preliminary market consultation before steps no. 6, which is before writing the final technical description.

One of the effective ways to promote innovation and learn about new innovative solutions is to conduct open market consultation or, as stated in article 40 of the Directive 2014/24/EU, preliminary market consultation.

It can be described as a formalised dialogue between the contracting authority and other entities (economic operators, suppliers or independent experts), aiming to obtain answers to the question of how the problems of the contracting authority can be solved.

#### REASONS FOR ORGANISING PMC AND ITS BENEFITS

The benefits and also the reasons for organising PMC are:

- The contracting authority does not know how it would be possible to ensure the realisation of its unmet need – e.g. possible different methods of disposal of dangerous waste
- Identification of the suitable suppliers on the market,
- Obtaining information about existing technical solutions, their prices, conditions of performance, etc.,

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<sup>7</sup> Ibid.

<sup>8</sup> Follow up discussion with the representative of joint procurement for vaccines in Estonia on 21 of May 2020.

- Promoting innovation in the market,
- Determining the estimated value of the contract,
- Verification of non-discriminatory qualification criteria and conditions for performance of the contract, which will allow the submission of a tender for all suitable suppliers,
- Verification of the feasibility of the contractual conditions,
- Minimisation of imminent risks in the implementation and operation of the subject of tender,
- The legal way of informing the suppliers about the public tender,
- Minimizing the risk of review procedures within public procurement,
- Shortening the time of preparation of tender documents,
- Acquiring more competitive offers and solutions.

This white paper "**Lessons learned on legal aspects**"<sup>9</sup> from the project **PPI4HPC** concludes that market consultations have several benefits such as:

- for technical aspects:
  - Help in reviewing common and lot-specific requirements;
  - Identification of collaborative developments which, on top of existing products, can implement technology goals defined by the technology team;
  - Improvement of definition and clarification of ambiguous requirements;
- for legal and procedure aspects:
  - Means to organise the procurement procedure: dematerialised procedure or full paper procedure;
  - Conflict of laws during the procurement procedure;
  - Subcontracting;
  - Clarification on the application form;
  - Language;
  - Analysis of candidates' applications (qualification).

#### WHAT ARE THE BENEFITS FOR SUPPLIERS?

It is not only the contracting authority that benefits from conducting PMC. The suppliers can also benefit from participating in PMC, and these benefits can overcome costs that they have with participating.

Suppliers can benefit from PMC in the following ways:

- a better understanding of the situation and problems of the contracting authority,
- the legal way how to "influence" the preparation of the tender,
- the opportunity to present innovations, ideas, thoughts,

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<sup>9</sup> E. Brunel, P. Alberigo, J. Bartolome, D. Pleiter, F. Robin: PPI4HPC white paper "Lessons learned on legal aspects", Oct. 2020; available at [https://ppi4hpc.eu/sites/default/files/public/file-uploads/PPI4HPC\\_white\\_paper\\_2\\_0.pdf](https://ppi4hpc.eu/sites/default/files/public/file-uploads/PPI4HPC_white_paper_2_0.pdf)

- the possibility to draw attention to discriminatory conditions without the need to use the review procedure,
- faster decision-making whether the given supplier is interested in the given tender and whether it is, therefore, important to further deal with the prepared public tender
- to be able to better plan over time the efforts of companies (anticipation in terms of human resources, materials) and to propose more accurate offers

## Step no. 6: Writing the technical description

The description should take into account the preliminary market consultations – see above.

**Functional specifications** should be preferred over technical specifications because they focus on **long-term needs**. It was mentioned when referring specifically to PCP, but it can also be applied to the public procurement tenders if the contracting authority wants to promote innovation. According to the EC Guidance Notice on Innovation Procurement, “functional requirements are far more innovation-friendly”<sup>10</sup>. This approach of using functional specifications was followed by 80% of the five EC-funded innovation procurement projects in the security sector mentioned in the assessment report on the performance of EC-funded innovation procurement projects in the security sector<sup>11</sup>.

Does this mean that the use of descriptive requirements is not suitable for attracting innovation? No. According to the mentioned assessment report, **even descriptive requirements may attract innovative solutions**, but “this becomes easier to be achieved through the use of functional requirements that focus only on the description of the need, leaving the market free to come up, through competition, with solutions fit for the challenge in question”<sup>12</sup>.

The topic of the functional specification was also discussed on the 2<sup>nd</sup> day of Annual Conference 2 of iProcureNet. Here are some most interesting conclusions:

- In order to be able to write functional specifications, you need to have special people that write these functional requirements. These people need to have the strong technical knowledge and a very good knowledge of the operational environment. Functional requirements are something in-between. They explain what we need to buy without entering into technical details. They have to be understood by both end user and suppliers. Public entities that procure things are not able most of the time to express their needs in a way that will end up buying the products they want. And the gap lies in the functional requirements.
- **Writing functional requirements requires specific skills** and should happen in a closed group of communication, specialised conferences, and publications. The problem is that this kind of information is not available through the usual channels of communication. It may be a special twitter channel you need to be subscribed to; it may be closed groups of

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<sup>10</sup> EC Guidance Notice on Innovation Procurement

<sup>11</sup> Assessment report on the performance of the EC funded Innovation Procurement projects in the security field according to the EC Guidance Notice on Innovation Procurement, available at [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/industry-for-security/assessment\\_report\\_innovation\\_procurement\\_dg\\_home\\_final.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/industry-for-security/assessment_report_innovation_procurement_dg_home_final.pdf)

<sup>12</sup> C(2018) 3051 final, available at: <https://ec.europa.eu/digital-single-market/en/news/commission-notice-guidance-innovation-procurement-available-now-all-eu-languages>

communication between scientists on innovation; it may be specialised conferences, it may mean reading a lot of publications and outcomes.

- The procuring organisation should **establish a collaborative ecosystem to provide access to the right people** knowledgeable about innovation and know what innovators are working on today. Short-term politics will not work. **It must be long-term collaboration**, a trusted environment where you can establish dialogue and access information.
- The practice of using functional specifications varies from state to state. Using **variant proposals** in public tenders can be a perfect way to boost innovation. In the years before the 2004 EU Directive and before the 2008 crisis, variants were used a lot in Portugal. In Slovakia, we can see less use of functional specification or variants because of the risks involved: no methodology is given on how to evaluate this. They represent a possibility for the suppliers who are not happy with the results to question our validation. It needs to change, and one way is to **give public procurers more discretionary power**.
- The process of translating functional into technical requirements needs to be monitored to avoid any misunderstanding, where something completely different comes out in the end. Procurers need to be tech-interested.
- Writing functional requirements requires specific and comprehensive skills: a dedicated position within an organisation with privileged access to innovation communication channels.

#### Step no. 7: Choosing the procurement procedure

The choice of procurement procedure depends on many factors. According to findings in deliverable D3.3, “unless the parties have decided otherwise in the CollA, the leading party will decide on the suitable **procurement procedure**. It is vital, in particular in the case of purchasing innovation, to always use a case-by-case approach to designing the terms of the procedure. In the case where products or services are acquired only on repeated occasions, a framework agreement can be a more suitable choice than a traditional public contract.”

Furthermore, it is mentioned there that “any negotiated procedure – competitive procedure with negotiations (negotiated procedure with the publication of the contract notice under the Defence and Security Directive), competitive dialogue or the novel innovation partnership introduced under the Classical Directive can be a suitable choice for purchasing innovation.”

If possible, products are COTS which is the case of identified segments in this deliverable open or restricted procedure should be preferred.

The detailed methodology on how to choose the proper procurement procedure will be presented in deliverable D4.2 and included in the next 6-monthly report (D7.8), due in October 2021.

### 3.2.2 Tender phase

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The tender procedure will be managed by the lead procurer of EBG. The lead procurer should follow all applicable rules and national provision concerning the given type of public procurement procedure. The lead procurer and also other collaborating contracting authority must also follow the rules and principles agreed in CollA. Feasibility study in D 3.3 points out “that in the case of a procedure conducted mostly by one authority - a lead procurer, there are not many differences from the conduct of an ordinary procedure. When several or all collaborators have decided to actively participate in a procedure, they must pay attention to collaboration rules as established in the CollA. It is especially true, should any unforeseeable situations occur during a jointly



conducted procurement procedure or major developments take place in a negotiated procedure – the tender phase must proceed according to rules for dealing with such as established in the CollA.”

#### GOOD PRACTICES

- The importance of frequent communication among partners was mentioned in the follow-up discussion with one of the respondents. From a project management point of view, weekly tele conferences are recommended because such projects need a lot of cooperation and communication. However, even when frequent communication is ensured, dissent may still arise.<sup>13</sup>
- Thorough training in assessment preparation should be held to get a common process and avoid lengthy discussions.
- Nominate a lead procurer that already has longstanding relationships with all members of the Buyer's Group proved a successful approach in HNSciCloud. The close cooperation between the members of the Buyers' Group was essential to the success of the project. Regular and intense interaction between the members of the Buyers Group as well as between the Buyers' Group and the contractors has been an essential element of the success of HNSciCloud.
- Include in the tender text a restriction forbidding a company from being a lead contractor and a participant in other bidding consortia. No more than one tender can be submitted by a natural or legal entity.<sup>14</sup>
- Agreeing on the assessment process and decision can be sometimes tricky. Indeed, the evaluation part of the tender can present difficulties in the evolution of offers, especially in the case of prescribing the subject of the tender using functional specifications. In the case of the FABULOS project, this issue was approached by setting up an External Evaluation Panel in addition to the Technical Evaluation Committee. The regional Public Transport Authority and the National Road Safety Authorities had a role in this panel, and each evaluated the sections of the offers that related to their specific expertise. According to FABULOS, the upside of this was that it gives increased legitimacy to both the evaluation and the project outcomes. The downside was that it involved additional work: preparing contracts and Non-Disclosure Agreements, arranging payments etc. The FABULOS project is an example of a PCP tender, but the use of an external evaluation panel can be applied to the JCBPP according to the Directive 2014/24/EU.

### 3.2.3 Performance / Post-Tender Phase

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The optimal and desired results of each JCBPP is the signing of the contract. The moment when the contract enters into force may differ based on the national provision regulating this moment. The legal feasibility study in 3.3 states that “a valid contract **enters into force** at the moment of signing the contract - in some jurisdictions, e.g., Portugal and Estonia<sup>15</sup> that can include meaning a digital signature. Some jurisdictions can have a requirement to publish the awarded public

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<sup>13</sup> Follow up discussion with the representative of ProEmpower project on 29 of May 2020.

<sup>14</sup> Available at: [https://www.hnscicloud.eu/sites/default/files/files/HNSC\\_BookletA5\\_November2018\\_21081123\\_web.pdf](https://www.hnscicloud.eu/sites/default/files/files/HNSC_BookletA5_November2018_21081123_web.pdf)

<sup>15</sup> Riigihangete seadus RT I, 08.07.2020, 8, § 8 lg 7; Tsiviilseadustiku üldosa seadus, RT I, 23.05.2020, 4, § 80

contract, e.g., in the Slovakian publicly available central repository.<sup>16</sup> In Slovakia, it is mandatory to disclose any contract if at least one party is a ministry, other government body, public institution, a public-benefit corporation established by a government body, or a contributory organisation.<sup>17</sup> Additionally, the requirement of language must be taken into account – e.g., in Portugal, a public contract entered into in another language would need an attested legal translation.<sup>18</sup>

Special attention must be paid to the following:

- “delivery or deliveries to a party or parties other than the main buyer might need attention in the CollA;
- application of penalties;
- modifications or termination of the contract and closing of the contract as well as the system of cooperation in the case of any claim or dispute either by or against a contractor, as well as any reporting and auditing duties;
- The CollA should also establish basic rules for dealing with unforeseeable situations in the performance stage;
- Framework agreements require particular attention, especially the system of carrying out the performance of a framework agreement via public contracts;
- **Claims and disputes** – during the contract performance, the lead buyer or some other contracting authority must be liable for checking the performance, submitting or responding to any claims, and initiating or responding to any disputes. The CollA must include, e.g., which of the collaborating authorities is liable for the timely submission of claims in the case of failure to perform or errors in performance by the contractor, initiating a legal dispute in the court or adequately responding to a possible claim. By a contractor? What are the authorities’ duties in the case of claims or disputes vis a vis each other? Both the CollA and the public contract (framework agreement) must indicate the place of dispute resolution and the applicable law(s);
- **Audits** – collaborators can be subject to obligations in view of **auditing** the contracting activities which can occur during several years from the closure of the related Operational Program of ESIF (European Structural Investment Funds) when the contract was executed under EU funding, in accordance with Article 140 (1) of Regulation (EU) No 1303/2013<sup>19</sup> and the applicable national laws. This being the case, beneficiaries, as well as Managing Authorities, are obliged to keep record of all documents related to the preparation (procurement procedure, e.g.) and execution of the contract, allowing several levels of audits (national and European) that may be carried out, and that may result in financial corrections

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<sup>16</sup> <https://www.crz.gov.sk/>

<sup>17</sup> <https://joinup.ec.europa.eu/collection/egovernment/document/slovakian-online-central-register-contracts-crs>

<sup>18</sup> Article 11 (3) of the Portuguese Constitution and Public Contracts Code Article 58 (2) (version in force at <https://data.dre.pt/eli/dec-lei/18/2008/p/cons/20200407/pt/html>)

<sup>19</sup> Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, OJ L 347/320, 20.12.2013, p. 406.

to expenditure financed by the EU, should there exist non-compliance with public procurement rules. Consequently, there are liability questions rising from those financial corrections that have an expression in refund obligations and, consequently, in public financial liability. Concerning auditing and financial duties in the stage of performance, each contracting authority keeps its powers and duties towards the respective national audit authorities. Collaborating contracting authorities have to verify the compliance with performance requirements, service level agreements, delivery terms, and payments and apply penalties related to "their part" of the public contract or framework agreement. At the same time, the lead buyer/CPB should have the necessary records as well. Each contracting authority must comply with its national laws regarding financial rules regarding payments' controls. The parties should define the "layers" of audits applicable to the JCBPP Project – for instance, should there be a „general audit“, in addition to national audits by each entity regarding their part of the contract."

## 4 What to expect from iProcureNet in the next six months

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### 4.1 Next steps

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- Collect additional investment plans from the partners in the consortium, from the partners outside the consortium, data from additional networks of practitioners, R&D projects, international fairs/trades and international research conferences;
- Conduct semi-structured interviews with experts and organise end-user workshops with R&D projects and networks of practitioners to refine user requirements (including technical) and validate the results from cycle I;
- Describe the methodology used to conduct the feasibility study in more detail in order to present it for the Toolbox that will be released in July 2021;
- Disseminate best practices and suggested methodology for JCBPP to other networks of practitioners and public procurement officials from other security institutions, especially for JCBPP of innovative solutions between LEAs. Further support is needed to make LEAs choose JCBPP mechanisms instead of own, separated procurement;
- Prepare for the feasibility study of the second project cycle and continue monitoring the legal and regulatory environment as well as financial tools and programmes and situation in JCBPP in the security sector;
- Describe the methodology that was used for collecting examples of JCBPP and to conduct market research and market analysis for the iProcureNet Toolbox;
- Prepare a detailed methodology of procurement issues that the contracting authority must be aware of when conducting JCBPP. Special interest will be taken in procurement in the security sector under directive 2014/24/EU and security directive [2009/81/EC](#).

### 4.2 Topics that will be further analysed

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The following topics are worthy of further attention by iProcureNet in the way of workshops or seminars:

- **Preliminary market consultations** – different national practices, regulation and harmonisation of those in the case of JCBPP;
- Regulation of **intellectual property** rights in a JCBPP, in particular in the case of innovation procurement.

Several methodological issues that are essential to conducting a successful JCBPP of security purchases, will be addressed in the coming stages of the iProcureNet project, and inclusion of the findings in **an updated version of the methodological description**. These are:

- **Preliminary market consultations** will be analysed in more detail, focusing on different national practices, regulation, and harmonisation of those in JCBPP. The internal discussion of national practices is already in progress within WP4, and the first results will be part of D 4.2. After that, the workshops about the methodology for conducting preliminary market consultation focusing on promoting innovation will be held internally with the iProcureNet and

outside of it. Other networks of professionals can benefit from workshops or seminars on this topic. It could be organised as a joint workshop similarly to the joint seminar on innovation procurement that was organised together with MEDEA, CIVILnEXT and iProcureNet on 30<sup>th</sup> of March 2021;

- The choice of suitable **public procurement procedures**, to be differentiated for procurements under the Classical Directive and the Defence and Security Directive (WP4);
- Identifying challenges **specific to security procurement** and developing methodological recommendations to overcome such challenges (WP4).

The initial candidate list for cycle II (deliverable D2.3) will be published in the next 6-monthly report (deliverable D7.8), due in October 2021.



# Annex I. Joining the iProcureNet Community

## Joining the Community

The Community of experts consists of **experts and stakeholders** in the procurement of security solutions from procurement agencies and departments, from academia, industry, policy and civil society.

As a member of the Community, you represent yourself as an individual.

## Joining the Network

The Network of organisations consists of **procurement organisations and departments** active in the acquisition of security solutions in each iProcureNet member state and beyond.

As a member of the Network, you are the representative of your organisation.

## Two options to join:

### Your country already has an IPNC

Contact your IPNC (see list below)

### Your country does not have an IPNC yet

Contact [contact@iprocorenet.eu](mailto:contact@iprocorenet.eu), giving background on your motivation and profile.

Figure 7: How to join the iProcureNet Network+Community

Table 4: List of iProcureNet IPNCs as of April 2021

<b>France</b>	Mona Guerlais	French Ministry of Interior	<a href="mailto:france@iprocorenet.eu">france@iprocorenet.eu</a>
<b>Slovakia</b>	Jozef Kubinec	Ministry of Interior of the Slovak Republic	<a href="mailto:slovakia@iprocorenet.eu">slovakia@iprocorenet.eu</a>
<b>Bulgaria</b>	Nikolai Stoianov	Bulgarian Defence Institute (BDI)	<a href="mailto:bulgaria@iprocorenet.eu">bulgaria@iprocorenet.eu</a>
<b>Estonia</b>	Merilyn Kull	Estonian Police and Border Guard Board (PPA)	<a href="mailto:estonia@iprocorenet.eu">estonia@iprocorenet.eu</a>
<b>Cyprus</b>	Elena Avraamidou	Cyprus Civil Defence (CCD)	<a href="mailto:cyprus@iprocorenet.eu">cyprus@iprocorenet.eu</a>
<b>Portugal</b>	Cristina Farinha	Portuguese Criminal Police (PJ)	<a href="mailto:portugal@iprocorenet.eu">portugal@iprocorenet.eu</a>
<b>Spain</b>	Olga Ramil	Spanish Ministry of Interior – Policía Nacional (MIR-PN)	<a href="mailto:spain@iprocorenet.eu">spain@iprocorenet.eu</a>

<b>Romania</b>	Gabriel Iancu	Romanian Ministry of Internal Affairs - Directorate General Logistics (RMIA)	<a href="mailto:romania@iprocedure.eu">romania@iprocedure.eu</a>
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