



Innovation by developing a European Procurer
Networking for security research services

Most promising segments for Joint-Cross Border Public Procurement

Revised list for iProcureNet's 3rd Cycle

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Executive Summary

Joint cross-border public procurement (JCBPP) is an innovative way of procurement. A promising mechanism of efficient purchasing as well as a strategic tool for positive use of purchasing power on the market, it enables sharing of costs, securing economics of scale and developing innovation.¹ On the other hand, JCBPP is not without its legal or practical challenges (Recital 72 of Directive 2014/24/EU²). These challenges can be general, such as linguistic difficulties, additional time needed for working under unknown national legal rules or in an unknown procuring environment, as well as interpretative difficulties³. Procurements involving aggregation usually take longer to award than non aggregated procurement processes.⁴

The iProcureNet project aims to build an EU network of organisations centred on the procurement of security solutions in order to facilitate cross-border collaboration and dialogue among such procurers. One of the activity lines is establishing pathways for JCBPP of innovative and new to market solutions, research services, and commercial off-the-shelf (COTS) products in the field of internal security, i.e. JCBPP of products or services acquired by the internal security sector such as police, border guard etc. in order to perform their tasks.

JCBPP of security solutions, combined with pro-innovative procurement approaches, has a significant potential to leverage supply-chain investment in innovative solutions to directly address unmet needs of the European security services, overcome societal challenges and underpin the European Security Union, thus supporting the creation of the European security market.

Notably, despite there being an extensive experience as well as an elaborate body of legal research concerning JCBPP in the neighbouring defence sector,⁵ iProcureNet is the first of its kind to look

¹ B. Heuinckx. Aggregated Procurement under Directive 2014/24/EU: Lessons from the Defence Sector, (2018) 27 P.P.L.R., 189; G. M. Racca & C. R. Yukins, Introduction: The Promise and Perils of Innovation in G. M. Racca – C. R. Yukins, eds., Cross-Border Procurement, in Joint Public Procurement and Innovation: Lessons Across Borders. Bruylant, 2019, available – https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3486897 (September 28, 2020), 14.

² 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 (OJ L 094 28.3.2014, p. 65).

³ A Sanchez-Graells. The emergence of trans-EU collaborative procurement: a “living lab” for European public law. P.P.L.R. 2020, 1, 16-41, 31.

⁴ European Commission. Commission staff working paper, impact assessment accompanying the Document “Proposal for a Directive of the European Parliament and of the Council on Public Procurement” and “the Proposal for a Directive of the European Parliament and of the Council on procurement by entities operating in the water, energy, transport and postal sectors”, Brussels, 20.12.2011, SEC(2011) 1585 final, 79.

⁵ See, e.g. B. Heuinckx and S. Arrowsmith. The Law of Public and Utilities Procurement: Regulation in the EU and UK, Vol II, 3rd Ed-n, Sweet & Maxwell, Thomas Reuters, 2018; Heuinckx (2018); B. Heuinckx. *The law of collaborative defence procurement in the European Union*, Cambridge: Cambridge University Press, 2016. ProQuest Ebook Central, <http://ebookcentral.proquest.com/lib/mil/detail.action?docID=4732921>; B. Heuinckx. A primer to collaborative defence procurement in Europe: Troubles, achievements and prospects (2008) 17 P.P.L.R.

into JCBPP in the closely related area of internal security. As an emerging practice, JCBPP in the security sector faces a number of challenges that iProcurenet is looking into.

Within the work package WP3 of iProcureNet project a feasibility study has been conducted in order 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 current Deliverable D3.6 describes the results of the feasibility study of the third, i.e., final cycle.

The input for feasibility study was the initial candidate list of equipment, solutions and services suitable for JCBPP, devised during second cycle of the work of work package WP2 in the iProcureNet project and presented in the Deliverable D2.5. As a result of the feasibility study, the current Deliverable D3.6 presents the revised list on the most promising segments for JCBPP for the third cycle. The methodology, used in the work package WP3 to devise revised a list of candidates for JCBPP, is described in the current Deliverable D3.6 and in more detail also in D3.7 as a separate methodological Deliverable.

The main purposes of the feasibility study are:

- 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 well as for innovation procurement;
- 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 emergency services, Law Enforcement Authorities (LEAs) and internal security and public safety agencies;
- 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 emergency services, LEAs and internal security and public safety agencies.

The main results of the feasibility study are:

- There is composed a revised list of the most promising segments for JCBPP;
- There exist legal and regulatory pathways for JCBPP of COTS products as well as for purchasing solutions with innovative implementation;

It can be concluded that all segments in the candidate list for the third cycle (climate change and its consequences, Artificial Intelligence, big data analysis, drone/antidrone solutions and drone applications, video protection, hypervision systems and cybersecurity) are in principle suitable for JCBPP. For the third cycle, the items in the candidate list are innovative and the suitable solutions should more likely to be especially developed for emergency services and Law Enforcement, internal security and public safety authorities rather than procured as COTS, as it was for the most items in the candidate lists for the first and second project cycles.

As a result of the feasibility study, it can be concluded that the task of work package 3 is fulfilled. Still further support is needed to make emergency services, LEAs and internal security and public safety agencies choose JCBPP mechanisms instead of own, separated procurement.