

iProcureNet

Innovation by developing a European Procurer Networking for security research services

Key findings - October 2020



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Contents

1	The iProcureNet project.....	3
2	What we did in the past six months	3
3	Key findings	4
3.1	The iProcureNet Network+Community is growing	4
3.2	Cases of joint cross border public procurement in Europe – good practices and pitfalls (Results of joint procurement survey).....	7
3.3	COVID-19: Procurement management in times of pandemic.....	13
4	Conclusion: What to expect from iProcureNet in the next six months	17

Table of figures

Figure 1: iProcureNet outputs	3
Figure 2: How to join the iProcureNet community (Infographic for IPNCs)	4
Figure 3: How to join the iProcureNet network (Infographic for IPNCs).....	5
Figure 4: How to join the iProcureNet Network+Community (Infographic on the public website) .	6
Figure 5: Attitudes towards cross-border JPP (all sectors).....	7
Figure 6: Sectors of successful JPP	8
Figure 7: Type of product in successful JPP	8

List of tables

Table 1: List of iProcureNet IPNCs as of October 2020.....	6
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1 The iProcureNet project

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.

2 What we did in the past six months

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 April 2020 to October 2020:

- We officially launched our **online community** by inviting European public security procurement experts and institutions via the iProcureNet Online Platform iPOP.
- We exchanged experiences on how to management procurement during a crisis such as the Covid-19 pandemic and issued a first **iProcureNet brief** on insights.
- We launched an internal webinar series on innovation procurement where we regularly invite external speakers.
- We continued working on the prototype of our joint and innovation procurement toolbox. The full version of the toolbox will be released for the first time in 2021 and will be available on our website www.iprocurenet.eu.

3 Key findings

3.1 The iProcureNet Network+Community is growing

The iProcureNet National Contact Points (IPNCs) are responsible for identifying relevant individuals and organisations to join in the iProcureNet Network+Community. Each IPNC was challenged by the project coordinator, the French Ministry of Interior, to suggest at least three organisations and five individuals. The following flow charts explain the **ways in which individuals and/or organisations can join either the Community or the Network**:

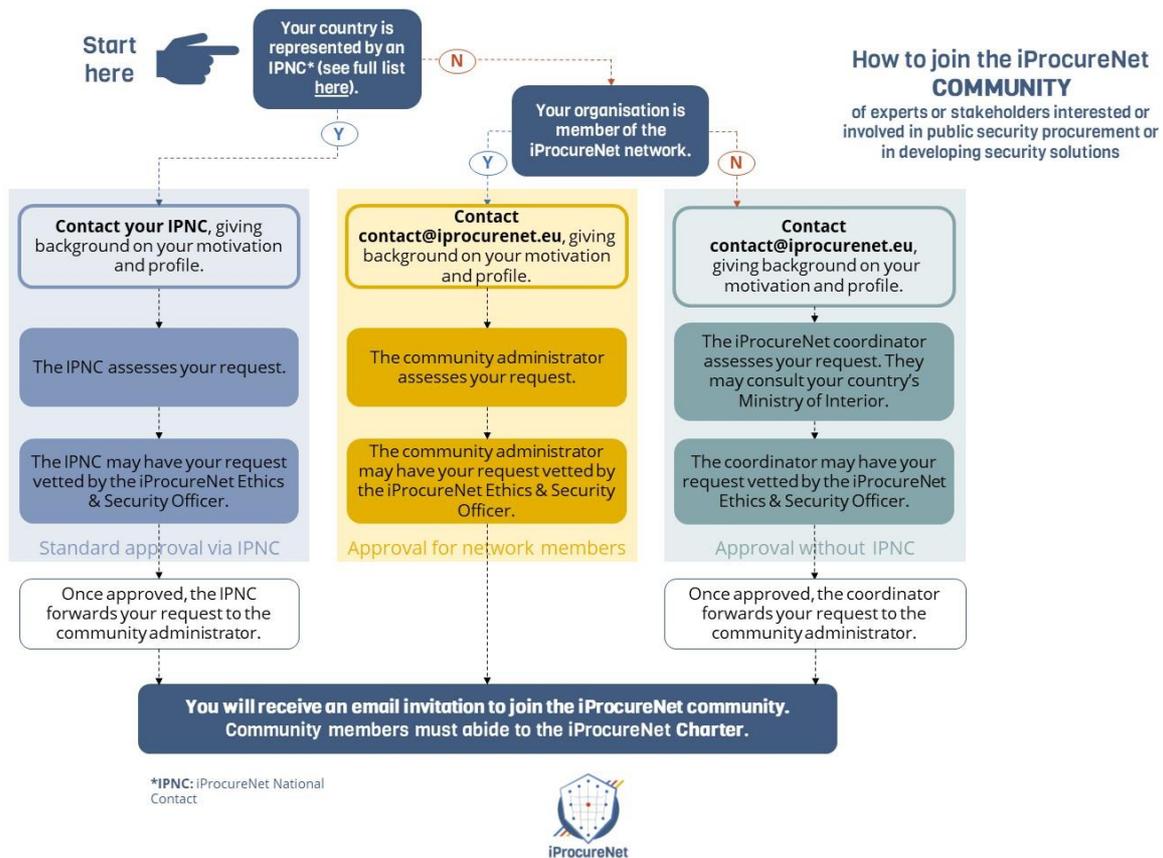


Figure 2: How to join the iProcureNet community (Infographic for IPNCs)

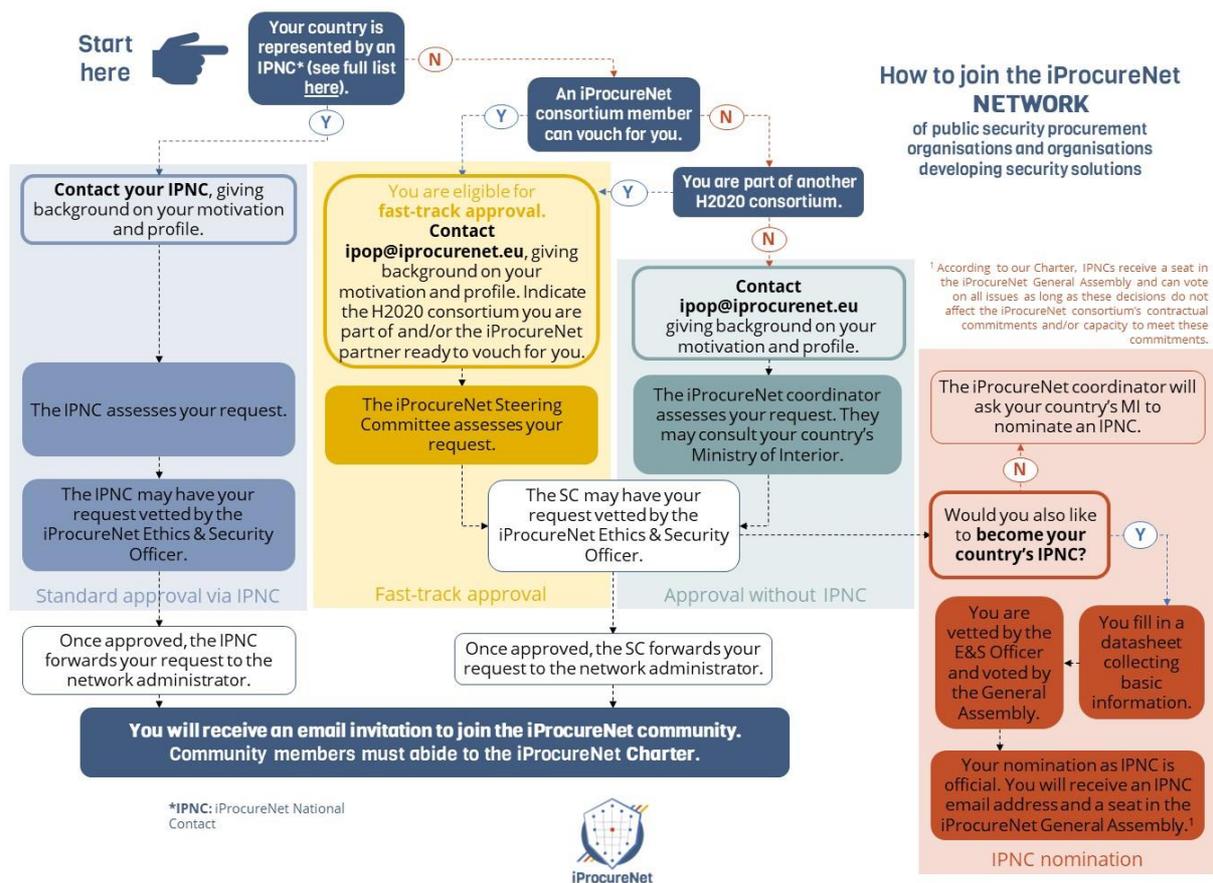


Figure 3: How to join the iProcureNet network (Infographic for IPNCs)

This strategy was quite fruitful as several IPNCs introduced procurers and legal experts from their countries or from other EU countries. As a result, about 35 new members have joined in the project since the launch of this strategy. Members have access to the iPOP platform, can join in one of the **discussion groups** or take part in surveys, consultations etc.

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, giving background on your motivation and profile.

Figure 4: How to join the iProcureNet Network+Community (Infographic on the public website)

Table 1: List of iProcureNet IPNCs as of October 2020

France	Mona Guerlais	French Ministry of Interior	france@iprocorenet.eu
Slovakia	Jozef Kubinec	Ministry of Interior of the Slovak Republic	slovakia@iprocorenet.eu
Bulgaria	Nikolai Stoianov	Bulgarian Defence Institute (BDI)	bulgaria@iprocorenet.eu
Estonia	Helen Nook	Estonian Police and Border Guard Board (PPA)	estonia@iprocorenet.eu
Cyprus	Elena Avraamidou	Cyprus Civil Defence (CCD)	cyprus@iprocorenet.eu
Portugal	Cristina Farinha	Portuguese Criminal Police (PJ)	portugal@iprocorenet.eu
Spain	Olga Ramil	Spanish Ministry of Interior – Policía Nacional (MIR-PN)	spain@iprocorenet.eu
Romania	Gabriel Iancu	Romanian Ministry of Internal Affairs – Directorate General Logistics (RMIA)	romania@iprocorenet.eu

3.2 Cases of joint cross border public procurement in Europe – good practices and pitfalls (Results of joint procurement survey)

In November and December 2019, an online survey was run by iProcureNet partner Ministry of Interior of the Slovak Republic and Estonian Border Police. The aim of the survey was to learn more about existing (cross-border) joint public procurement (JPP) initiatives in Europe, to **collect examples of JPP** and to identify **good practices** as well as **pitfalls** to be avoided.

The survey was run among all sectors of procurement. It was assumed that insights into obstacles and good practices in other sectors can feed into the discussion iProcureNet is maintaining for the security sector. A detailed analysis of the survey results will be presented in a separate brief. Some first insights, however, will be shared here.

An overall of **41 responses** from 14 countries (DE, IE, RO, TR, FR, EE, CH, US, PT, IT, FI, GR, SK and one unspecified) was obtained.

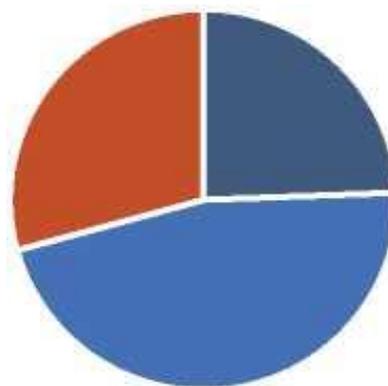
A first general overview of the survey results has been published by iProcureNet in April 2020. This general overview took into consideration the answers from all 41 responses when formulating conclusions. In the following, we will start with a recap of this general overview, but then focus on ten answers that contained references to cases of joint cross-border public procurement (JCBPP).

The analysis of the survey results was produced by the Ministry of Interior of the Slovak Republic and ISEMI.

3.2.1 General overview (Recap of information published in 6-monthly report #2 (April 2020))

Lack of experience but positive attitude

Around 75% of the 41 respondents has a positive attitude towards JPP: 25% had experienced it whereas 50% were interested or even planned to engage in JPP. The rest expressed no interest.



■ Experienced JPP ■ Consider JPP ■ Not interested

Figure 5: Attitudes towards cross-border JPP (all sectors)

Few JPP examples from the security sector

Ten out of 41 respondents had previous practical experiences with cross-border JPP. Of these, two had experiences in the field of security and defense, both contracts were related to services and one of them related to pre-commercial procurement (PCP). Out of those ten experiences, six were related to services and four to supplies.

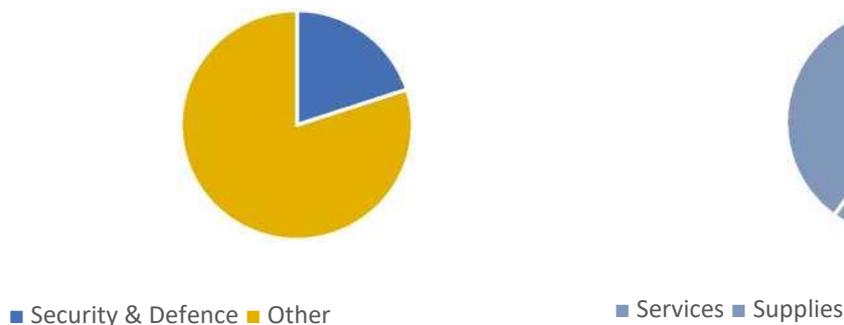


Figure 6: Sectors of successful JPP

Figure 7: Type of product in successful JPP

3.2.2 Overview of cases of joint cross-border public procurement

Ten cases of joint cross-border public procurement (JCBPP) have been examined more thoroughly. This information was provided either from the survey or in the case they were missing from the other resources. These resources include the webpage of the project or the tender notice in the case that tender notice was published in EU Journal of Public Procurement.

Five out of these ten cases of JCBPP are examples of **pre-commercial procurement (PCP)**, while another five are examples of **public tenders** according to rules of public procurement of given jurisdiction. The distinction is important because in the case of (PCP, more precisely procurement of R&D, one is not obliged to follow rules stated in Directive 2014/24/EU of the European Parliament and of the Council on public procurement (hereinafter „EU public procurement directive“). In the case of the five examples of public procurement tender the procurer had to follow rules of public procurement stated in EU public procurement directive, more specifically rules of public procurement of legal regime (jurisdiction) applied. For example, Estonian public procurement law applied in the case of [Joint Public Procurement for vaccines](#). This distinction could probably result in the possibility of public procurers being more creative in realizing the tender procedure itself.

Still, it is important to mention that even though PCP is exempt from the application of the EU Public Procurement Directives, it remains subject to:

- the **TFEU principles** and derived principles (e.g. transparency, non-discrimination, equal treatment);
- the **EU competition rules** including specific provisions to exclude State aid;
- any applicable **national public procurement provisions** that apply to PCP specifically or to public procurements exempted from the EU public procurement directives.¹

¹ eafip Toolkit, Module 3, p. 5, available at <http://eafip.eu/toolkit/module-3-2/>

3.2.3 Analysis of ten cases of JCBPP

The full-length analysis including all ten case studies will be published in a separate iProcureNet brief in November 2020.

One of the aims of the survey was to collect examples of JCBPP. The analysis of these cases has provided examples of good practices but also pitfalls that should be avoided when conducting joint public procurement.

Those ten cases of JCBPP seem to be small number. However, almost every answer included several suggestions of good practices as well as issues that had to be overcome. The selection can therefore be considered an interesting and exploitable sample.

Good practice in JCBPP

The most important suggestions that were mentioned either directly in the answers to the survey or in the webpage of the projects include:

- 1) The **preparatory phase (pre-tendering phase) of a procurement procedure is by far the most crucial stage** of the process because the decisions taken. Selections made during this phase will influence the success of the whole procedure.
- 2) **Active involvement of the end users** should be ensured
- 3) **Key stakeholders** should be identified and **support from senior management** ensured.
- 4) Procurement should be organized using **project-based management**: Divide all actions into phases with deadlines and responsible persons, setting common KPIs and rules for information flow and decision-making. One example of a first attempt for joint procurement also highlighted **language issues** and the need to **harmonize procurement practices**.
- 5) A thorough training in **assessment preparation** should be held to get a common process and avoid long discussions.
- 6) PCP is a very good method for public sector procurers to buy R&D from several suppliers in parallel, thus **steering the development of solutions meeting their needs**: It makes suppliers compete through different phases of development. (This was mentioned when referring specifically to PCP).
- 7) Functional specifications should be preferred over technical specifications because they focus on **long-term needs**. (This was mentioned when referring specifically to PCP).

Very clear suggestions of good practices have been identified within the Helix Nebula Science cloud project and are presented on their webpage. The clear benefit of these suggestions is their division into phases of the tender process. Some of these suggestions are valid only for PCP but some can relate to process of JCBPP in general. For the purpose of this report we include only those related to process of JCBPP in general:

- 1) Project Timing & Structure
 - a. Select an integrated set of tools with consistent access mechanisms to ensure sharing of material amongst the buyer group and with the contractors.
 - b. Tender Preparation Phase
 - c. Prepare an in-depth needs assessment and an open market consultation activity during the tender preparation phase. Organize events where the procurers and potential tenderers can progressively refine the focus under the guidance of the expert

- d. Launch a survey among the known market players to allow the procurers to detect the capabilities and the willingness of the market to participate in the tender
- 2) Tender Process
 - a. Nominate a lead procurer that already has longstanding relationships with all members of the buyers group proved a successful approach in HNSciCloud. The close cooperation between the members of the buyer 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 buyer group and the contractors has been an important element of the success of HNSciCloud.
 - b. 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.²

Difficulties that had to be overcome

Several difficult issues that had to be overcome were also identified:

- 1) Different **processes**
- 2) Different **language and culture**
- 3) New challenges were mainly related to pre-tender phase (**harmonizing market research results** etc.) and post-tender phase (**contract management**).
- 4) The **coordination** among public procurers from different countries can prove to be difficult
- 5) Defining a **common technical requirement** and agree on the **assessment process** and decision.

Benefits of JCBPP

The following benefits of JCBPP have been chosen by the respondents from multiple-choice questions:

- economy of scale;
- possibility to negotiate better contract conditions;
- promotion of innovation and R&D;
- collaboration, sharing knowledge and exchanging good practice;
- standardization of technical specifications.

There are several more specific benefits of JCBPP beyond those previously mentioned. These are to some extent the concretization of above-mentioned general benefits of JCBPP:

- 1) In the case of one project, the advantage of JCBPP was that authorities from both sides of the border were endowed with **identical equipment**, thus the need **for future costs for harmonization and coordination between neighbouring countries was de-facto eliminated**. Also, the full interoperability of the intervention forces was practically established immediately once the equipment was put into operation, fostering the exchange of data and information.

² Resource: https://www.hnscicloud.eu/sites/default/files/files/HNSC_BookletA5_November2018_21081123_web.pdf

- 2) Another advantage mentioned in the same project was the **efficient use of project resources** due to the fact that there was only one public procurement officer at project level.

Benefits of PCP

As mentioned above, five of the cases of JCBPP were examples of PCP. The identified benefits of PCP are not the same as for JCBPP. Therefore, we mention them here in separate section:

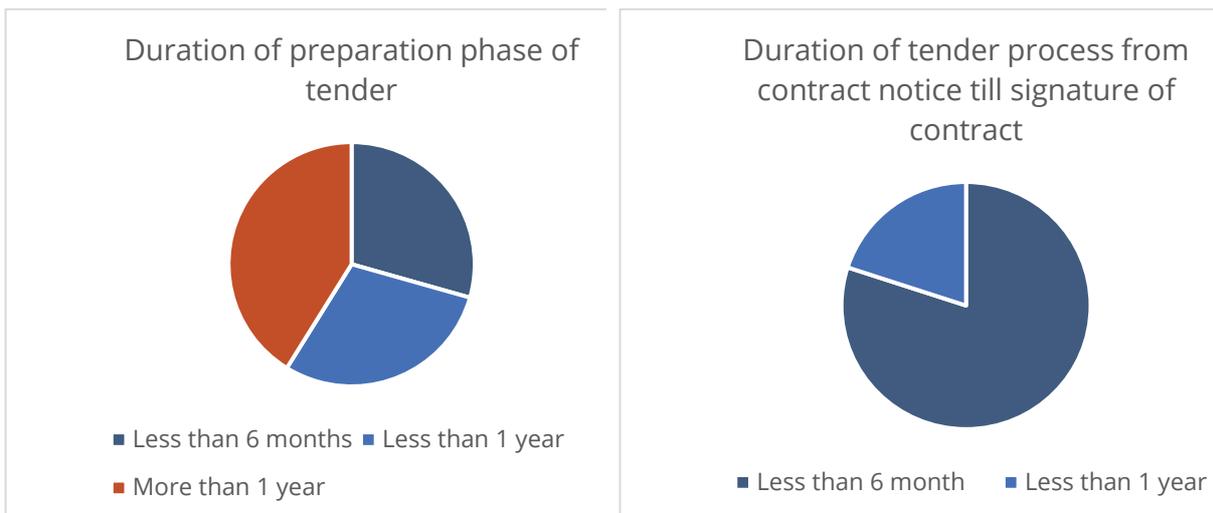
Within the FABULOS project several benefits of PCP were identified:

- 1) Public sector procurers can **compare the pros and cons of competing solutions**. It is a very good method for public sector procurers to buy R&D from several suppliers in parallel, to steer development of solutions to meet their needs.
- 2) Exemption for R&D services under EU Directives and WTO rules: **special legal framework** (Horizon 2020)
- 3) IPR – **Risk/Benefit-sharing**
- 4) **EU funding** of 90% is a clear benefit for cities.
- 5) Appeals particularly to **SMEs and newcomers to the field**. Larger or well-established companies sometimes consider the available R&D budgets too limited.
- 6) PCPs are one good way for cities to **solve societal challenges** that are too hard or too far in future to tackle with conventional procurement tools.

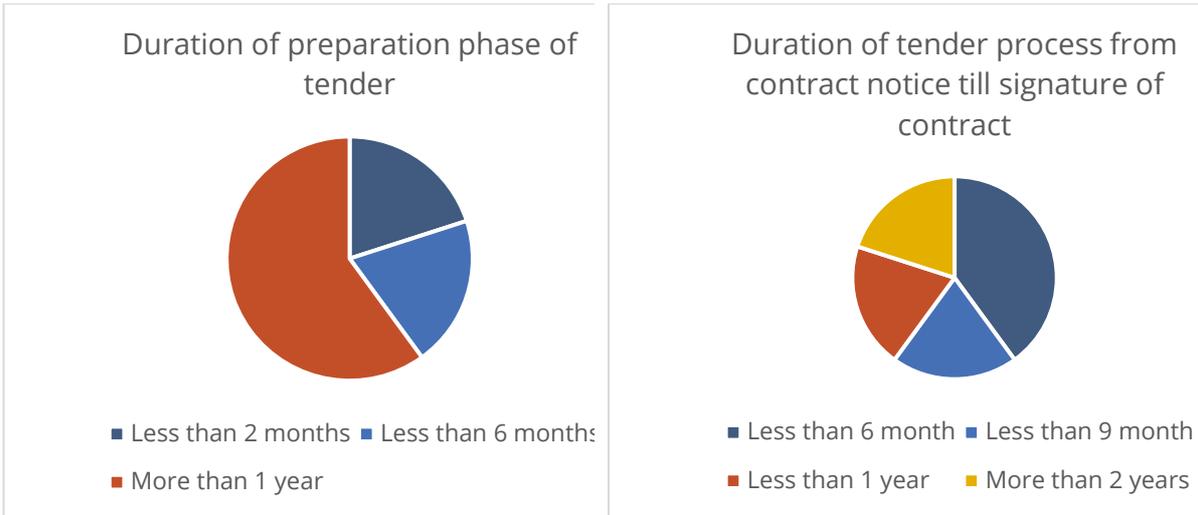
Duration of each phase – pre-tender and tender itself

JCBPP without doubt takes longer than conventional procurement with procurers from only one country. The question is: how big exactly is difference, and **is the longer time needed for preparing the tender and executing tender worth the above-mentioned benefits of JCBPP?** This question needs to be answered by procurers considering doing JCBPP during the preparation phase of the tender – or even before.

Duration of pre-tender and tender phase in the case of PCP



Duration of pre-tender and tender phase in the case of public procurement tenders



Comparison of duration of procurement process in PCP and public procurement tenders

The duration of the procurement process in the case of public procurement tenders is longer when we compare it to PCP as we can see from the above graphs. We would argue that this might be caused by the fact that PCP is exempt from the application of the EU Public Procurement Directives and thus the process is less complicated. On the other hand, more significant conclusions could be drawn if more examples were available. iProcureNet expects to have a larger number of examples in later stages of the project and therefore it will be interesting to see if this hypothesis will be confirmed later.

The full-length analysis including all ten case studies will be published in a separate iProcureNet brief in November 2020.

3.3 COVID-19: Procurement management in times of pandemic

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

3.3.1 Organisation of procurement

- **Ministry of Health:** Centralized procurement and distribution to other government institutions
- NPO and other Ministries (Interior, Defense, Justice) via the **Central Material Reserves Administration:** procurement of masks, disinfectant, PPE³ (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**

³ Personal Protective Equipment.

- 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

3.3.2 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**⁴, especially for Chinese or Turkish suppliers
- Difficulty to implement obligation for companies concluding contracts with the state to be registered in 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**

⁴ 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.

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.

3.3.3 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. 6⁵

⁵ 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.

3.3.4 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. 57⁶ 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.

⁶ 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. ..."

4 Conclusion: What to expect from iProcureNet in the next six months

- We expect to launch further Briefs.
- We will organise our first public conference on 9 and 10 March 2021. Stay tuned via our social media channels!
- Our community is growing and discussions on all kinds of topics regarding public security procurement are held. Join us now!
- We are planning to organise joint workshops with other practitioner networks to validate our first results and discuss collaboration between procurers and prescribers to foster innovation.
- We plan to regularly organise public webinars on Innovation Procurement – stay tuned via our social media channels!

