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**European Public  
Procurement Landscape**  
The case of Slovakia.





## As was the case in many eastern European Member States, public procurement practices in Slovakia were in desperate need of improvement in the 1990s and early 2000.

The omnipresent lack of transparency and rule breaking began to recede after joining the EU and transposing EU public procurement rules. Yet, Slovakia is lagging behind in several EU rankings when it comes to tendering – according to the **PUBLIC PROCUREMENT SCORECARD** in 2016, only five member states recorded a higher ratio of a single bidder and only two had slower decision periods.

The EU public procurement legislation was transposed into the **Public Procurement Act (PPA)** and its amendments (**Act No. 25/2006 Coll. of Laws<sup>1</sup>**). **Act No. 546/2010<sup>2</sup>**, which came into force in 2011, increased transparency and remedies by making online publication of most contracts mandatory. It also allowed bidders to be present during the opening of bids, obliged contracting authorities to notify unsuccessful bidders of the winning bid, and allowed the parties to appeal both the process and the results of an award. Further changes were introduced with **Act. No. 95/2013<sup>3</sup>**, enabling for example the procurer to refuse bids of an “extremely low” price.

1. [https://www.slov-lex.sk/static/pdf/2006/25/ZZ\\_2006\\_25\\_20160101.pdf](https://www.slov-lex.sk/static/pdf/2006/25/ZZ_2006_25_20160101.pdf)

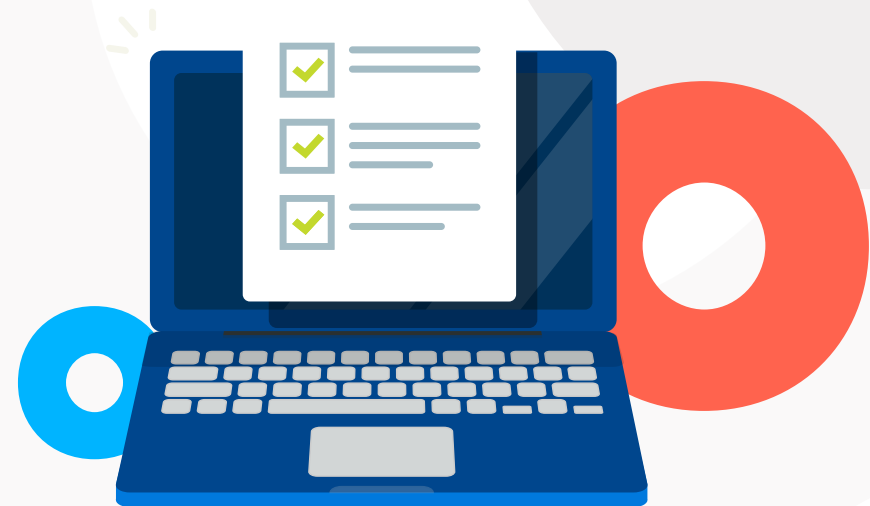
2. [https://www.employment.gov.sk/files/ministerstvo/zakon\\_546\\_2010.pdf](https://www.employment.gov.sk/files/ministerstvo/zakon_546_2010.pdf)

3. <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2013/95/>

4. <https://www.eks.sk/Content/files/zakon/15-z343-2.pdf>

Major reform came with the completely new Public Procurement Act No. 343/2015<sup>4</sup>, which became valid in April 2016. The law introduced several important changes, like the ex-ante control possibility for all parties, “market availability test” and many others.

## Most importantly, it introduced **electronic processes to all public procurement in Slovakia** (since March 2017).





When it comes to public procurement in Slovakia, the Office for Public Procurement (UVO)<sup>5</sup> is an important actor, whereas a bidder should also be aware of several other registries, namely (note: except for the last one, which is run by the Ministry of Interior, the remaining registers are run by UVO):

1. **THE PROCUREMENT JOURNAL<sup>6</sup>** (collects all tenders);
2. **THE REGISTRY OF PUBLIC PROCURERS<sup>7</sup>**;
3. **PROFILES OF PUBLIC PROCURERS<sup>8</sup>**;
4. **THE REGISTRY OF THE PARTNERS OF PUBLIC ADMINISTRATION<sup>9</sup>**.

**Overall, public procurement accounts for 13.2% of the Slovak Republic's GDP and represents more than 32% of the total government expenditure, both figures being slightly above the OECD average.** Public procurement in the Slovak Republic is not only

5. <https://www.vlada.gov.sk//urad-pre-verejne-obstaravanie/>

6. <https://www.uvo.gov.sk/vestnik-590.html>

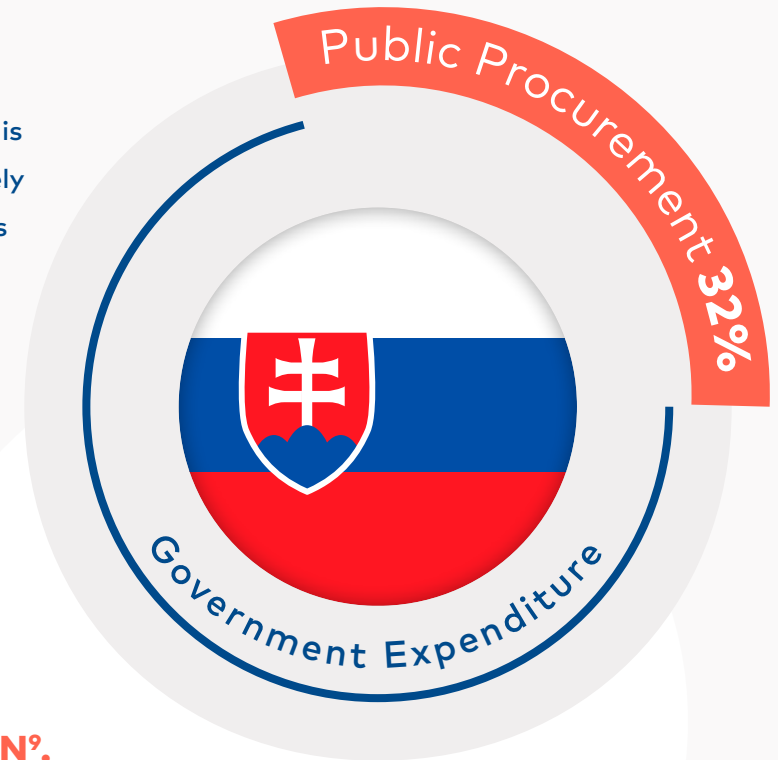
7. <https://www.uvo.gov.sk/register-verejnych-obstaravatelov-591.html>


8. <https://www.uvo.gov.sk/vyhladavanie-profilov-4db.html>

financed by the government budget but also significantly draws on European resources. Indeed, the main European investment tool – the 2014-2020 European Structural and Investment Funds – finances more than 90% of the total public investment in the Slovak Republic, the highest percentage across Europe<sup>10</sup>.

9. <https://rpvs.gov.sk/rpvs>

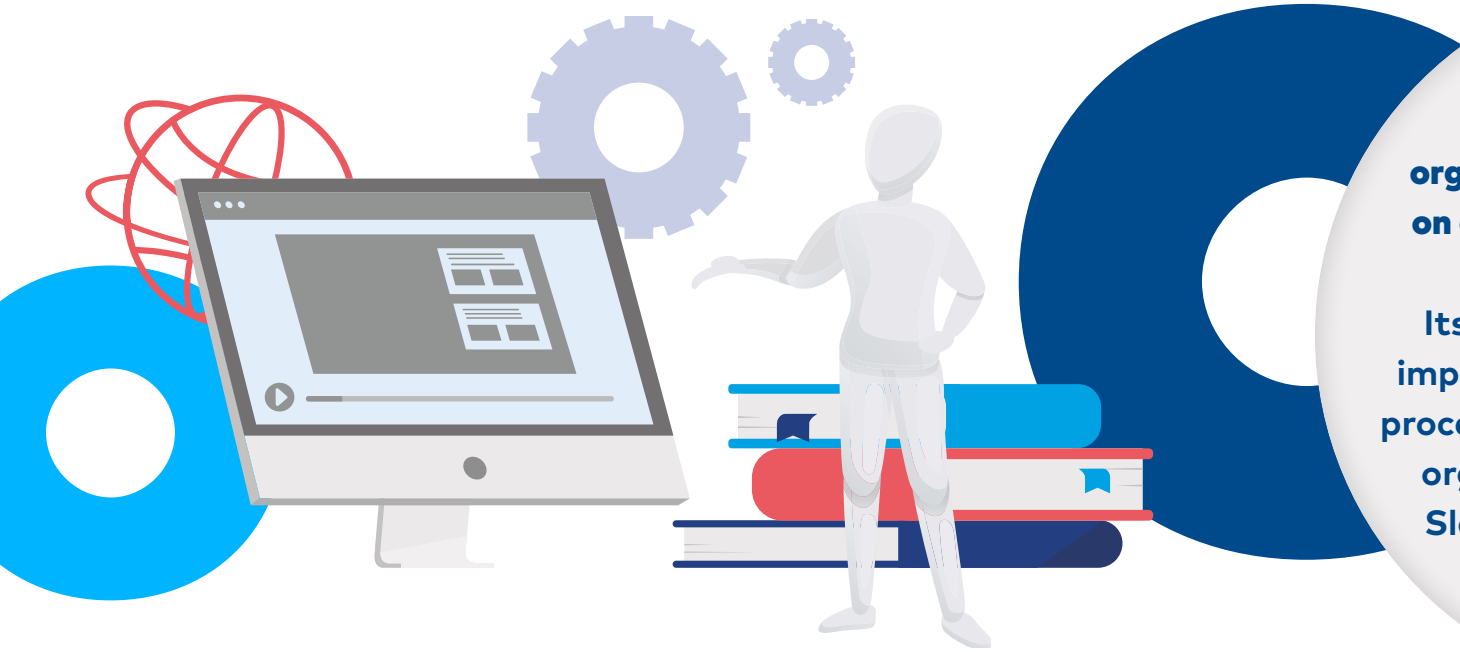
10. <https://www.oecd.org/gov/public-procurement/country-projects/slovak-republic-reform-esif/>





In general, the procurement of innovation in Slovakia is **still in a very "embryonic" phase**. Very little information and knowledge is available about PPI. It is a relatively unknown subject, lacking awareness and knowledge, and is mostly limited to a theoretical level, meaning that **a common methodological guidance on its practical implementation is missing**. Most procurers have not come into direct contact with any of the current types of procedures, tools, benefits or risks associated with PPI procurement. This is mostly due to obstacles such as budget availability (suppressed budget does not allow it), knowledge of how to incorporate evaluation criteria other than the usual ones

(costs, equipment guarantee, duration of service) or any other. As an example, from the interviews, environmentally friendly aspects are often preferred in procurement today, which could be considered as a kind of new approach to innovation procurement in Slovakia. Procurers are concerned about many issues, such as missed opportunities in terms of awareness, understanding and simplification. According to our research, trainings aim to include innovation and information in the public procurement, however PPI is an entirely new concept that has not been much addressed.



**The Slovak Environment Agency organises educational activities on green public procurement for public authorities.**

**Its training focuses on how to implement GPP criteria in tender procedures. It is free of charge and organised in all self-governing Slovak regions in cooperation with the Ministry of Environment<sup>11</sup>.**

11. [https://ec.europa.eu/regional\\_policy/sources/policy/how/improving-investment/public-procurement/study/country\\_profile/sk.pdf](https://ec.europa.eu/regional_policy/sources/policy/how/improving-investment/public-procurement/study/country_profile/sk.pdf)





Public authorities, especially the larger ones, are aware of the existence of PPI. Some of them consider launching PPI to reduce energy costs associated with public buildings. **However, innovations are very often procured by private entities that have received a public grant from the EUROPEAN STRUCTURAL AND INVESTMENT FUNDS (ESIF).** According to Slovak legislation, all ESIF beneficiaries must start the process of public procurement (of innovation) in search of suitable subcontractors who could perform part of the work. Once they get structural funds for any sort of procurement, they need to follow exactly the same procurement process as any public entity.



## **In very few cases, experienced procurers still use subcontractors and consulting firms to avoid professional liability.**

In practice, this means that during audits and inspections, the outcome depends on which authority carries it out, and the findings often differ and even contradict each other. For example, "Company A", which has received an ESIF grant from the Ministry of Economy, is implementing a PPI and after an audit no irregularities are detected. A year later, the same "Company A" will receive an ESIF grant, this time from the Ministry of Education. It reintroduces the PPI, follows the same procedures, but there are serious shortcomings according to the audit. This situation therefore creates enormous uncertainty. In addition, experts who conduct tenders cannot take out professional liability insurance (if they do) because all insurance companies in Slovakia exempt public procurement services from their portfolios.





# As a result, the vast majority of procurement is governed by the “best price” as opposed to the “Most Economically Advantageous Tender” (MEAT)

principle where additional qualitative, environmental and/or social criteria are applied in addition to price/cost. “As soon as we do not choose the cheapest offer, we will open a Pandora’s box” said one of our respondents.

This problem could be solved **by creating a new Ministry of Investment and Digitisation** (the exact name is to be confirmed), which is the plan of the newly elected government. They could issue common holistic and binding methodological guidance on how to proceed.

In addition to the above-mentioned challenge, there is a relatively high incentive to procure innovation from the state/government. However, human and financial resources are lacking. The positive element is that **the majority of stakeholders (individuals, not organisations) is open and eager to learn more about this new way of procuring and is very interested in examples.**

Recently, many competencies have been shifted from the national to the regional or local level. In practice, this means that municipalities and regions have more commitments but with the same budget as before.





Larger cities are still in a position to consider PPI, but smaller towns oftentimes focus entirely on securing the minimum day-to-day operations. PPIs could be considered as expensive solutions (the lowest price being the only parameter), which means that small contracting authorities cannot afford them. One solution could be that many small towns join forces. So far, however, **there is no mentality for cooperation**. Innovations are not included in their annual budget because they focus on the usual needs of contracting authorities. Medium-term (few years) planning exists only in large contracting authorities. Again, however, they do not rely on the annual budget plan adopted by the state.

The market pushes innovation many times, i.e. addresses public entities and presents them with an innovation that would benefit the provider. Then, of course, there is the problem of financing the procurement, which usually means that the solution provider is looking for suitable sources of financing.

## The contracting authorities claimed **very little experience with PPI abroad**.

Several projects took place within the framework of cooperation. There was no direct communication with the contracting authority.

The ambition is to create a **Competence Centre with other Slovak partners**. PEDAL Consulting has started its coordination and first interviews with the Procure2Innovate coordinator have been performed. This could be considered as a right step for Slovakia in the PPI field.

**Overall, although Slovak legislation recognises specific procedures for PPI, the biggest challenge is that, in practice, there is no holistic and binding methodological guidance on how to implement PPI.** This situation causes uncertainty and, as a result, many contracting authorities are abandoning PPI. They are afraid of possible sanctions in case inspectors detect irregularities. The ambition is to solve this problem by setting up a new ministry that would centralise all procurement under its leadership, thus creating a promising environment/frame for procurers when addressing these issues.



## The case of Slovakia.



This analysis is based on PRONTO partners' expertise and previous experience, the review of relevant documents (laws, guidelines, presentations, articles, studies, etc.) and interviews with key actors trying to cover all aspects of public procurement, namely representatives of:

**The 'demand' side**, i.e. individual public entities (e.g. public hospitals, research institutions, universities, technical centres, regional development agencies, municipalities, etc.), central/regional purchasing bodies (e.g. ministries, regional development agencies, etc.).

**The 'supply' side**, i.e. private companies that constitute potential suppliers of innovative solutions.

**The 'support' side**, i.e. policy makers (e.g. ministries), national/regional entities supporting public entities, experts/advisors, etc.



## Interviews conducted.

Country	Demand	Supply	Support	Total
Slovakia	1 Governmental agency 1 Municipality 1 Regional authority	-	3 Consultants	6

**Important note:** The aim of PRONTO is not to perform an exhaustive and thorough analysis of the national PPI landscape but rather to collect the insights on the challenges for the design and implementation of PPI procedures to properly adjust the upcoming PRONTO services and address the actual support needs of the public buyers. Therefore, the foreseen number of interviews was not envisioned to be large.





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