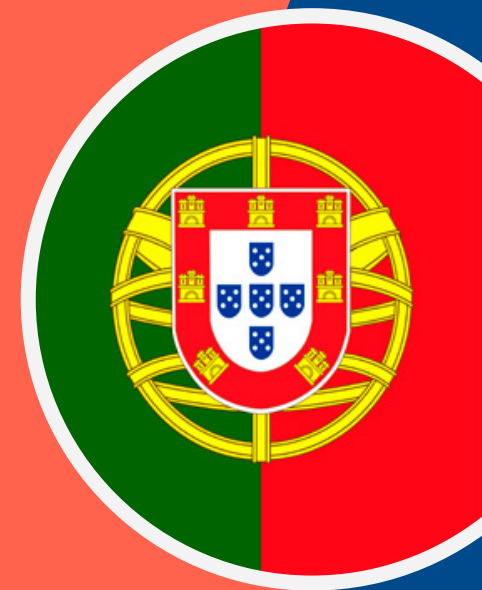



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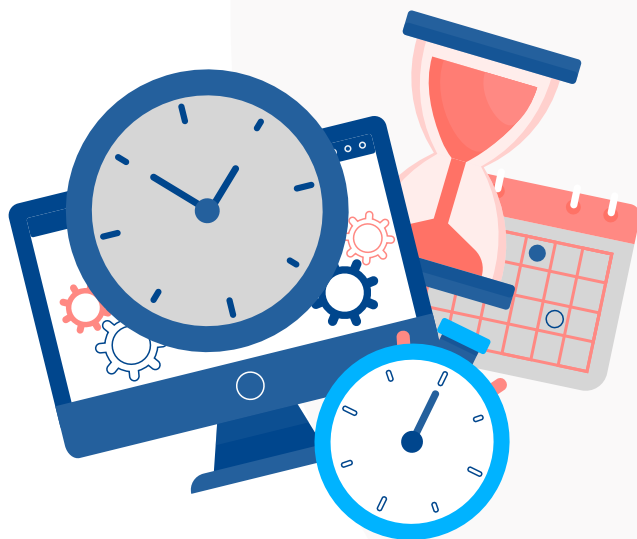
**European Public  
Procurement Landscape**  
The case of Portugal.





Overall, in Portugal the personnel in charge of public procurement (PP) processes complaints about how slow the process is, while several legislative barriers are obstructing the innovation process:

**"public procurement is slow, while innovation should be fast".**



According to articles 19 and 21 of the **"CÓDIGO DOS CONTRATOS PÚBLICOS"** (code of public contracts), with regards to leasing and supplying goods and services contracts with a prior consultation process, at least three entities are to be invited by the procurer to bid.

However, what happens in practice, is that via this process, if it is the same company wins a contract with the same procurer for 3 times, it is not possible for the procurer to work with that company any more for at least 2 years, even though the company is offering the best quality-price ratio.

This **creates concrete barriers to innovation**, as sometimes, if we take the example of **PCP and PPI processes**, it is needed to work again with the same company because of the solution created (which could be applied to other sectors, or may need to be updated/modified, or simply because it is more efficient and logical that the same company works again on its solution, etc.).

When dealing with the drafting of tender specifications and the contract itself, public procurers highlighted an important "vicious loop" problem, consisting in the need to consult and speak with companies, in order to be able to properly prepare the tender text. Different products and services have variable prices and technical requirements public procurers need to know.

1. Code of public contracts in Portugal: <https://dre.pt/web/guest/legislacao-consolidada/-/lc/114291580/201711301833/indice>





# "How to know **what a competitive price is**, in order to issue a fair call for tender?"


Public procurers would need to consult with those same companies, which most likely would be the bidders themselves in the future. And this of course may generate bias and problems of non-transparency, conflict of interest, etc. Such core problem may be overcome by public procurers through **informal meetings with providers**, companies, organisations, etc., to provide public procurers with the technical support needed to properly draft tender specifications.

**The drafting of the tender specifications**, as well the contract itself, **is considered a heavy burden on the shoulders of PP personnel**, who has to "deal with it alone" (a public entity has multiple different needs, from logistics to stationery and to innovative technologies. The personnel in charge of PP often find themselves dealing with topics they do not master).

The political landscape is perceived by the personnel in charge of PP to be capable of eventually influencing procurement processes, discouraging PP personnel and not providing the right contribution to foster an environment dedicated to encouraging the procurement of innovation. It is important to underline at the same time that the above-mentioned complaint comes from a municipal level point of view and, more specifically, from non-for-profit entities owned by municipalities.

However, PPI is often seen as a *"slower path"* to the specific objectives of the entity: there are innovative products and services already on the market that could serve the needs of procurers, by modifying them or adapting their implementation to the specific need. Such products and services can be procured via traditional PP processes, leading to the perception that ***"PPI implies more work, and sometimes it's not really what is needed"***.





In terms of personnel, each public entity has a responsible for public procurement who, in turn, is often aware of PPI, no PPI-specialized personnel seems to be employed though; in some case the personnel attended PPI trainings upon the initiative of the personnel himself.

Regarding the “overall time dedicated to public procurement”, it appears it really depends on two main factors: the type of goods and services to be procured estimated budget.

**If the budget is below 200.000€, the PP process may take from 1 to 2 months (which is considered “fast”).**

## This however implies that:




Tender requirements are well elaborated and presented;



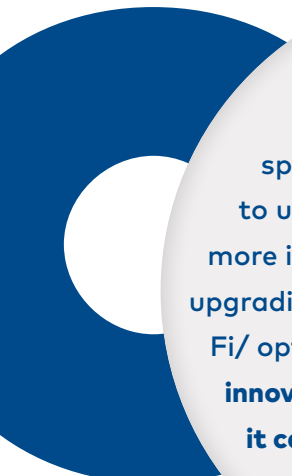
No issues with the evaluation itself are raised (normally the criteria for winning is the lowest price).

None of the above-mentioned points are to be given for granted in any PP process, even more when applying more demanding processes as PPIs.





**It appears there isn't any long/short-term strategy specifically for PPI and no budget line is reserved at the beginning of the fiscal year for this type of (procured) investments. "Innovation" is instead a common objective benefitting from specific annual budgets:**



Public entities reserve specific budget to be procured to upgrading, updating or making more innovative certain processes (i.e. upgrading maintenance processes of Wi-Fi/ optical fibre infrastructures). **Such innovation is however perceived as if it can be reached with traditional procurement.**

The participation in EU projects is considered as an "alternative innovation budget line". Often EU projects (mainly H2020) are used to bring innovation (or implement awareness-raising activities) in public bodies, with special regards to participatory approaches of citizens. In a way, it is an "alternative" revenue stream for public entities.


Overall, our analysis revealed a misleading meaning attributed to the word "innovation", when associated with public procurement: it appears that PPI is not perceived as "another way to structure a PP process", it is rather perceived as a different and less-known way to purchase innovative goods and services, whose public contracts may be procured by public entities with a "more traditional" process anyway.



## **Why going for PPI then?** It all lies in the process itself:

**The fact PPI process is divided into stages, is seen by public authorities as an important advantage because it reduces risks for public buyers (in terms of transparency, solutions provided gradually screened, multiple deadlines, etc.).**





In this regard, the fact PRONTO is now understanding the barriers and problems of public procurers and, in the light of these analyses, the project will organise trainings tailored to the identified needs, is considered to be the best added value for public procurers. It was suggested to keep trainings as concrete as possible, meaning that PRONTO should identify the technical needs/ requirements of public procurers, and train them on those specific needs (i.e. if a public body has to purchase certain goods, they need training on what the price of those goods are, and what are the most suitable goods for their objectives are).

In other words, the trainings shall help procurers to avoid informal consultations with companies, needed to properly draft the (technical) tender specifications.



Market dialogue is an element often easier said than done, where PP personnel feels the need of an external support to organise the info-days for providers to present their solutions (considered as vital for both parties). However, PP personnel is often overwhelmed with traditional workload and the organisation of these event is often a duty of the PP personnel themselves.

**An external support in this regard is perceived **extremely positively** and as really useful.**

Regarding staff exchanges, transferring empirical information and suggestions from peers is considered as an extremely useful tool for procurers, if the bureaucratic/ administrative/ political framework of the countries is similar (i.e. a staff exchange on PPI practices between Portugal and Italy is considered as more fruitful, than a staff exchange between Portugal and Sweden).



## The case of Portugal.



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
Portugal	1 Regional Purchasing Body 1 Public Waste Management Association 1 Public Theatre 1 Municipal ICT Association	2	-	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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This project has received funding from  
the European Union's COSME programme  
under grant agreement No 857810



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