Hitchhiker's Guide on Procurement opportunities for **startups in Romania**

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About Spherik Accelerator

Spherik is an NGO founded in 2013 to advance tech entrepreneurship in Romania as an essential step towards accelerating innovation.

Through their national and European acceleration programs they match startups with strategic resources and support their growth at a global scale. At the same time, as Startup Europe Ambassador Spherik exerts a strong position within the policy-making process both at national and European level.

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startups.be

About Startups.be

Startups.be is the one-stop-shop for Belgian tech entrepreneurs with a global ambition. We help them by providing easy and qualitative access to investors, customers and experts.

As a non-profit organisation, we connect the dots in the tech ecosystem and we are the voice of the startups in Belgium, looking to foster the startup culture with a neutral and inclusive approach and a national and international reach.

Since its foundation in 2013, Startups.be has quickly grown to represent more than 1500 startups, and over 120 Belgian organisations working for entrepreneurs.

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About MY-GATEWAY

Startup Europe initiative which aims to strengthen the capacities of high-tech startups and innovative SMEs in the Central and Eastern European region to become better connected, gain higher market exposure and have improved, streamlined access to funding opportunities and talent.

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Table of content

Interactive index

Click on the page numbers to navigate through the document.

1. Executive summary 06

1.2. What is the aim of the guide? 06

2. What is Procurement? 07

2.1. What is Public Procurement? 07

2.2. What is Private Procurement? 07

2.3. The main distinction between Public and Private Procurement 07

2.4. Public procurement procedures in the EU 08

3. Procurement opportunities for startups 09

3.1. Public Procurement opportunities 09

3.1.1. European level 09

3.1.2. The national level – Romania 12

3.2. Private procurement opportunities 16

4. Barriers to startups benefiting from procurement opportunities 17

4.1. European Level 17

4.2. Romania 17

5. How to benefit from public opportunities in Romania? . . . 18

5.1. Instruments and opportunities 18

5.1.1. E-procurement Romania 19

5.1.2. Available trainings and workshops 19

6. Main trends 20

7. References 21

1. Executive summary

1.2. What is the aim of the guide?

The goal of this document is to provide the reader with information on public and private procurement, and on the available possibilities for startups. The information was collected on both European and national level with the aim to offer Slovenian startups a practical guide with all the relevant information clearly explained. This guide was developed to help startups orienting in the field of public procurement and offer them the appropriate support. It also contains recommendations on where to find information, how to access support if needed, how to look for the actual public tenders, who to contact and how to proceed in case startups are interested in public procurement. This guide also offers an overview of the difficulties and some barriers which startups might face on their way to the public tender.

The "Hitchhiker´s Guide on Procurement Opportunities for Startups" explores the existing opportunities that public and private procurements provide in Slovenia. These financial means are often missed, and the reasons range from the overwhelming administration and bureaucracy to the often-mentioned disadvantageous conditions for startups which are amplified by certain "myths" connected to public procurement.

Indeed, procurement opportunities, due to their administrative and regulatory barriers, are not being fully utilised by startups. The startups that see potential in their local market and have a solid expansion strategy (city by city or country by country), may benefit from public procurement and procurement contracts that, in turn, may stimulate their growth phase. One of the reasons why procurement is not being fully utilised is that procuring from public entities (local and international) is often long and very complicated. Furthermore, startups do not have the necessary knowledge and resources to pursue these opportunities; authorities may also find procuring from startups more challenging than from established companies. As concern corporate procurement opportunities, startups often have difficulties in accessing them.

2. What is Procurement?

Procurement is a process of gaining services and goods from an external source. The procurement process includes the preparation and processing of demand as well as the end receipt and approval of payment. It involves purchase planning, standards determination, development of specifications, supplier research and selection, value analysis, financing, price negotiation, making the purchase, supply contract administration, inventory control and stores, disposals and other related functions[1].

2.1. What is Public Procurement?

Every year, over 250 000 public authorities in the EU spend around 14% of GDP on the purchase of services, works and supplies. Public procurement refers to the process by which public authorities, such as government departments or local authorities, purchase work, goods or services from companies. Examples include the building of a state school, purchasing furniture for a public prosecutor's office and contracting cleaning services for a public university[2].

2.2. What is Private Procurement?

The private sector comprises privately run organisations. Private procurement is completed within the context of for-profit organisations (FP's). Private procurement happens within privately owned companies.

2.3. The main distinction between Public and Private Procurement

The public and private sector are fundamentally different areas with unlike goals. Whereas the public institutions' purpose is the effective organisation of public good, the aim of private companies and corporates is gaining profit for their owners. Regarding the topic of procurement, however, both the sectors share the same requirements, responsibilities and barriers such as proving the value for money, responsible decision making regarding the expenses and meeting the rules of public procurement and financial policies.

The main differences are:

- **Financing and the ability to react**
  The private companies are more flexible in the sense of transferring money between the departments or divisions in case the business conditions change. On the contrary, the public institutions cannot be this flexible as the budgets are strictly assigned to the departments for a specific (usually longer) period of time. In case the price increases or if another supplier pushes the prices down, the public institutions can react only very slowly.
- **Number of stakeholders**
  The public sector is, with regards to public procurement, under the pressure of a big number of stakeholders (superior institutions, governments, Parliaments or their clients) who require information and regular reports.
- **Bureaucracy**
  The work in the public sector involves a greater accent on the rules and procedures that need to be met. The process is lengthy and under higher control than it is in the private sector.

1 www.thebalancesmb.com/procurement-2948316

2 ec.europa.eu/growth/single-market/public-procurement_en

2.4.

Public procurement procedures in the EU

EU public procurement accounts for approximately €2 trillion every year (14% of EU GDP). There are several types of public procurement procedures on the European level[3]:

Open procedure:

- Open to any business
- Time limit for submission: 35 days from the publication date of the contract notice or 15 days if prior information notice was published previously

Restricted procedure:

- Restricted procedure may be submitted by any business. Of those, only pre-selected businesses are invited to submit a tender
- Contracting authorities must select at least 5 candidates
- Time limit for submission: 37 days from the publication date of the contract notice, 36 days if prior notice was previously published, 40 days if 5 candidates are selected, 15 days only for urgent cases and 10 days for urgent cases where the notice is sent electronically

Negotiated procedure:

- Contracting authority shall invite at least 3 businesses with whom start the contract negotiation
- This procedure is used only for a restricted number of cases (e.g. supplies intended exclusively for research or testing purposes) and specific sectors (e.g. water, energy, transport or postal services)
- Time limit for submission: 37 days from the publication of the contract notice, 15 days in the event of urgent cases, or 10 days if the notice is sent electronically. No publication may occur when a) no tenders were submitted in an open or restricted procedure, b) extremely urgent cases arise, c) the contract can be carried out only by a single business due to technical reasons

Competitive dialogue:

- Employed for complex contracts
- Contracting authority must invite at least 3 candidates to the dialogue stage which is sought to define technical, legal and economic aspects. After the dialogue, candidates must submit the final tender
- Time limit for submission: 37 days from the publication of the contract notice
- This procedure cannot be used in the water, energy, transport and postal services sectors

3 europa.eu/youreurope/business/selling-in-eu/public-contracts/rules-procedures/index_en.htm

3. Procurement opportunities for startups

3.1. Public Procurement opportunities

3.1.1. European level

The EU declares that public procurement allows to increase employment, growth and investment, and it contributes to creating innovative, resource and energy efficient, socially-inclusive economies. However, it is estimated that further efforts to increase collaboration with public authorities and other stakeholders might lead to 1% of efficiency gain (€20 billion per year).

Two pillars of the EU procurement's landscape are the **Pre-Commercial Procurement (PCP)** and the **Public Procurement of Innovative solutions (PPI)**[4]. These two instruments are both implemented by the Innovation Procurement and, when coupled, can sustain public procurers to drive innovation from the demand side and enable the public sector to modernize public services faster while creating opportunities for companies in Europe to gain leadership in new markets. PCP can go up to the development, and possibly also the purchase of the limited volume of first products developed in the PCP. However, PCP does not cover large scale commercialisation, which is the remit of PPI. On the other hand, PPI enable larger scale deployment of solutions that were developed in small quantity in a preceding PCP. PPI can also be used independently, to bring to the market innovative solutions that do not result from R&D but for example from organisational or process.

Therefore, these two instruments are complementary and create synergies among each other. Currently, compared to other parts of the world, PCP and PPI are underutilized in Europe.

Criticisms of the actual EU public procurement system include[5]:

- About 55% of procurement procedures still use the lowest price as the only award criterion. Whereas tenders which include social, environmental, innovative, accessibility or similar qualitative criteria are not widespread yet
- 5% of public awarded contracts do not have a published call of tenders
- SMEs ability to win public tenders' calls are well below their weight in the economy (46%)
- Digital transformation of the public procurement process is limited to only 4 EU member states
- Contracting authorities are rarely buying together, as only 11 % of procedures are carried out by cooperative procurement

Pre-Commercial Procurement (PCP)[6]

The PCP challenges industry from the demand side to develop innovative solutions for public sector needs and it provides a first customer reference that enables companies to create competitive advantage on the market. PCP enables public procurers to compare potential alternative solution approaches and filter out the best possible solutions that the market can deliver to address the public need.

4 ec.europa.eu/digital-single-market/en/innovation-procurement

5 ec.europa.eu/growth/single-market/public-procurement_en

6 ec.europa.eu/digital-single-market/en/pre-commercial-procurement

In PCP, public procurers buy R&D from several competing suppliers in parallel to compare alternative solution approaches and identify the best value for money solutions that the market can deliver to address their needs. R&D is split into phases (solution design, prototyping, original development and validation/testing of a limited set of first products) with the number of competing R&D providers being reduced after each R&D phase. Here, procurers share the benefits and risks related to the IPRs resulting from the research and development (R&D) with suppliers at market price. Suppliers retain IPR ownership rights, while procurers keep some usage and licensing rights.

Moreover, PCP can be used when there are no near-to-the-market solutions yet and new R&D is needed. This instrument can then compare the pros and cons of alternative competing solutions approaches. This will, in turn, enable to de-risk the most promising innovations step-by-step via solution design, prototyping, development and first product testing.

Public Procurement of Innovative solutions (PPI)[7]

PPI is used when challenges can be addressed by innovative solutions that are nearly or already in small quantity in the market and do not need new R&D. This instrument facilitates wide diffusion of innovative solutions on the market and it provides enough demand to incentivise industry to invest in wide commercialisation and bring innovative solutions to the market with the quality and price needed for mass market deployment. This enables the public sector to modernize public services with better value for money solutions and provides growth opportunities for companies.

PPI happens when the public sector uses its purchasing power to act as early adopter of innovative solutions which are not yet available on large scale commercial basis. The first step is to form a critical mass of purchasing power on the demand side (one large enough buyers or several smaller buyers in a buyers group). One that can incentivise industry to scale up the production to bring solutions to the market with the price and quality requirements for large scale deployment.

For the second step, the procurer(s) make an early announcement of the innovation needs (with the required functionality/performance and possibly also price requirements). They express the intention to buy a critical mass of innovative products if industry can bring them to the market with the predefined price/quality requirements by a specific date. The procurers may wish to perform a conformance testing of solutions of suppliers that have come forward with potential solutions by the target date. This is done to verify that there are indeed solutions that can meet their needs, before actually procuring the innovative solutions.

The third step is the actual public procurement of the innovative solutions through one of the existing public procurement procedures (e.g. open/negotiated procedure, competitive dialogue etc).

Projects implementing PCP and PPI[8]

PCP and PPI are also implemented via FP7, CIP and Horizon 2020 fund projects. Here several examples of EU co-financed projects that are implementing PCP and PPI[9]:

PCP:

- **FABULOS:** Consortium that focuses on how cities can use automated buses in a systematic way, aiming ultimately for the operations of an autonomous bus line as part of the public transportation ecosystem.
- **SELECTforcities:** Consortium of cities that is working towards a standardized, open, data-driven, service-oriented & user-centric platform enabling large scale co-creation, testing & validation of IoE services for Cities.
- **MAGIC:** Consortium of health care providers that aims to improve care delivery systems that empower patients in optimising their recovery from a stroke together with healthcare professionals.

7 ec.europa.eu/digital-single-market/en/public-procurement-innovative-solutions

8 ec.europa.eu/digital-single-market/en/eu-funded-projects

9 ec.europa.eu/digital-single-market/en/eu-funded-projects

- **EMPATTICS:** Consortium of health care providers that focuses on new ICT solutions that can empower chronic patients as decision makers in the treatment of their disease.
- **STARS:** Consortium of healthcare procurers that aim for smart solutions that provide patients with individualized avoidance and reduction of unnecessary healthcare related stress factors, across the preclinical, hospitalisation and aftercare periods. Technical challenges to overcome for suppliers relate to vital signs measuring, wireless real-time transfer of large data amounts and big data analysis and decision making.
- **SILVER:** (completed) - Consortium of local and regional authorities that identified robotics solutions which enable care-givers to reach 10% more of elderly persons who can live independently by 2020. First solutions are currently being commercialised.

PPI:

- **PPI4HPC:** Consortium of leading supercomputing centers that is implementing for the first time in Europe a joint Public Procurement of Innovative solutions for High Performance Computing. This 73 EUR million procurement enables a significant enhancement of the planned pre-exascale HPC infrastructure and paves the path for future joint investments in Europe in the context of the EUROHPC.
- **THALEA II:** Consortium of hospitals that is preparing to start a PPI after the **THALEA** PCP to deploy highly interoperable telemedicine-platforms that detect increased risk ICU-patients.
- **RITMOCORE:** Consortium of hospitals that is preparing a PPI to procure innovative solutions for the treatment of elderly patients with arrhythmias. This includes a support center for remote monitoring of pacemakers, delivering pre-defined information sets to all stakeholders in the care path, integration and quality labelling of vital signs home monitoring devices and wearables and support for patient activation.
- **STOP AND GO:** Consortium that procured innovative ICT based telecare services for elderly that suffer from multiple conditions such as heart failure, diabetes, etc. In Barcelona for example newly procured implantable cardioverter defibrillators led to a 9,8% reduction in hospital visits, reduced the risk of death by 29% and the implants were successful in 98,12% cases, compared to 90% under the old approach.

Why does the EU believe in public procurement?

To create a level playing field for all businesses across Europe, the EU law sets out minimum harmonised public procurement rules. These rules organise the way public authorities and certain public utility operators purchase goods, work and services. They are transposed into national legislations and apply to tenders in which monetary value exceeds a certain amount. For tenders of lower value, national rules apply. Nevertheless, these national rules must also respect the general principles of EU law[10].

The European Commission's public procurement strategy adopted in October 2017, focuses on six strategic policy priorities:

- Ensuring wider uptake of innovative, green, and social procurement
- Professionalising public buyers
- Increasing access to procurement markets
- Improving transparency, integrity and data
- Boosting the digital transformation of procurement
- Cooperating to procure together

For who do the rules apply?

Every business registered in the EU has the right to compete for public contracts in other EU countries. The EU law sets minimum harmonised rules that apply to tenders above a certain value (see thresholds below)[11].

10 ec.europa.eu/growth/single-market/public-procurement_en

11 europa.eu/youreurope/business/selling-in-eu/public-contracts/rules-procedures/index_en.htm

As mentioned above, for lower value tenders national rules apply, yet they need to respect the general principles of the EU law. Below threshold, procedures may be simplified compared to EU-wide tenders.

For all the tenders, public authorities:

- May not discriminate against businesses registered in another EU country
- May not refer to specific brands, trademarks or patents when describing the characteristics of products and services they wish to purchase
- May not refuse to accept supporting documents (certificates, diplomas, etc.) issued by another EU country, as long as they provide the same level of guarantee
- Must make all information regarding tenders available to all interested companies, regardless of the EU country they are registered in[12]

For more rules, please consult the following website: link.

What does the EU do to make it easier?

- Increasing the impact of public investment through efficient and professional procurement[13].
- Making procurement better through PEPPOL[14]. Open PEPPOL is a non-profit association of both public sector and private members. Its purpose is to enable European businesses to easily communicate electronically with any European public sector buyer during their procurement processes, thereby increasing opportunities for greater competition for government contracts and providing better value for taxpayers' money.

Public procurement in EU countries

Below, a list of websites providing information on the existing tenders in the EU countries:

- Practical information, guidance and good practice on the websites of national administrations in EU countries (in native languages unless otherwise indicated): ec.europa.eu/info/policies/public-procurement/support-tools-public-buyers/public-procurement-eu-countries_en
- Tenders: ec.europa.eu/info/funding-tenders_en
- Tender opportunities – by department: ec.europa.eu/info/funding-tenders/tenders/tender-opportunities-department_en
- (Tenders Electronic Daily) is the online version of the 'Supplement to the Official Journal' of the EU, dedicated to European public procurement ted.europa.eu/TED/main/HomePage.do
- Open tender: platform allows you to search and analyse tender data from 33 jurisdictions: www.opentender.eu/start
- Business Europe: www.businesseurope.eu/policies/eu-single-market/public-contracts

3.1.2. The national level – Romania

Due to its relatively low level of economic development (in terms of GDP per capita), Romania relies on a high level of funding from the EU. In 2016, the Romanian public procurement accounted for 11% of total GDP (15.9 bn EUR)[15]. SMEs currently win 59% of public contracts above thresholds and thus do not seem to be significantly disadvantaged during the Romanian public procurement procedures. Over 90% of contracts are awarded to domestic bidders.

12 europa.eu/youreurope/business/selling-in-eu/public-contracts/rules-procedures/index_en.htm

13 europa.eu/youreurope/business/index_en.htm

14 peppol.eu/

15 https://ec.europa.eu/regional_policy/sources/policy/how/improving-investment/public-procurement/study/country_profile/ro.pdf.

Strengths:

- Central authorities offer training and guides in the matter of national law for public procurement
- Lately, the procurement system has been re-organized. Positive changes are visible in terms of commitments and efforts to improve the national procurement system (e.g. National Public Procurement Strategy 2015/2020, Green Procurement Action Plan) and to limit corruption and conflict of interest over public procurement procedures
- The positive response from the use of e-procurement platform

Weaknesses:

- Public procurement is strongly centralized, and it is challenged by the limitations of the country administrative capacity which results in insufficiency of staff and restricted provision of training on public procurement. As a result, public procurement procedures may vary strongly in terms of time and application practices according to the contracting authority
- Corruption, conflicts and fraud are strongly impacting the country
- Budget constraints

National opportunities in the startup areas of interest

The Romanian public procurement portal (SEAP) is the centralized online information portal of the Agency for the Digital Agenda of Romania (ADAR) (belonging to the Ministry of Communications and Information Society), to which the contracting authorities or entities directly send for publication all the necessary documentation related to public procurement, and other documentation for which the Romanian law governing public procurement requires the publication on the public procurement portal (e.g. decisions on the public procurement).

Through publications on the public procurement portal, both domestic and foreign companies may find business opportunities in the Romanian public procurement market. The portal offers 2 main searching tools, which allow filtering of published procurement by Activity Sector (12 categories) and by an advanced Applied Filtering (http://sicap-prod.e-licitatie.ro/pub/notices/contract-notices/list/0/0), through which users can search the awarded contracts or the ongoing public contracts.

The portal is available in both Romanian and English language, which means that foreign companies can access directly the public procurement opportunities.

For easier evidence of published contracts and to receive alerts / notifications about public auctioned bids, economic operators also have a site offering these features consult: https://www.licitatie-publica.ro/.

Local opportunities

According to the Law of Public Administration, Romania has 3 major types of territorial divisions: Regional level, County Level and Local Level.

- **Regional level**
  8 development regions division
- **County Level**
  the city of Bucharest + 41 counties
- **Local Level**
  Metropolitan areas
  103 municipalities (including Bucharest)
  320 cities
  2859 communes

Therefore, Romania is divided into 8 development regions, 103 municipalities, and 41(+1) counties, 320 cities and 2859 communes, all classified as local administrative units. With the public procurement platform being centralized, all municipalities must use the centralized online public procurement portal SEAP.

Key players and documents

A.N.A.P. - National Agency for Public Procurement[16]

A.N.A.P. is in charge of designing and implementing public procurement policies, the establishment and implementation of the verification and control systems for the unitary application of the legal and procedural provisions in the field of public procurement as well as the monitoring of the efficient functioning of the public procurement system.

ANAPP fulfils the following responsibilities and functions:

- Make the Strategy, which ensures the elaboration and implementation of the National Strategy in the field of public procurement as well as the action plans, in accordance with the obligations assumed by the Romanian Government and the European Union
- Regulation, which ensures the development, promotion and implementation of public procurement policy
- Establishing and implementing the system for verification and control of the unitary application by contracting authorities of the legal and procedural provisions in the field of public procurement
- Monitoring the efficient functioning of the public procurement system
- Ex-ante control of the procurement process and public procurement framework agreements, sectoral framework contracts and agreements and works concession and service concession contracts and, respectively, amendments to those framework contracts and agreements
- Providing operational support to contracting authorities, through the implementation of dedicated tools for dissemination, including by means of IT, of good practices related to the implementation of the public procurement process

This agency offers the most comprehensive Guide for Access to Public Procurement for all the companies interested: https://www.achizitiipublice.gov.ro/workflows/view

N.C.S.C. – National Council for solving complaints[17]

Starting with 01 January 2007, N.C.S.C. obtained the status of Romanian legal person, and thus Romania complied with one more commitment assumed in the process of cohesion to the European structures.

Through its specialized chambers, the Council is competent to resolve the complaints lodged within the awarding procedure, before the contract is concluded. In order to perform its responsibilities, the Council issues decisions.

In its activity, the agency is guided both by the national legislation in force and by the European legislation.

N.A.C. - The National Authority for Qualifications[18]

The National Authority for Qualifications (NAC) regulates and coordinates the general framework of adult education and training. The NAC develops the National Qualifications Framework and manages the National Register of Qualifications, the National Register of Approved Vocational Training Providers, the National Register of Graduates of Adult Training Authorization Programs. The NAC also coordinates and controls the authorization and licensing process of adult vocational training providers and professional competence assessment centres, as well as the certification of professional competence assessors.

Under this authority, all the organized courses and training on Public Procurement Specialist title are awarded national and European recognized certificates.

16 http://anap.gov.ro/web/prezentare-valori-obiective-misiune

17 http://www.cnsc.ro/en/

18 https://www.edu.ro/ANC

R.C.A. – Romanian Court of Accounts[19]

The institution controls the performance of public procurement contracts, respecting the law and eligibility of expenditure.

Its function is to exert control over the way the state and public sector's financial resources are established, managed and used; it subsequently provides the Parliament, authorities, public institutions and taxpayers reports on their sound use and management, to ensure efficiency and effectiveness. It promotes accountability, correctness and best practices in the operations involving public funds, by providing quality services in the field of control and external public audit. The aim is to obtain and supply realistic and objective information on the legality, efficiency and transparency of public and external funds. It continuously improves the control and external public audit mechanisms, and by the mean of Reports, it supports the Parliament in the performance of its constitutional powers and duties. The R.C.A is committed to enhancing the implementation of the legislation in the field of public money expenditure and, by means of actions, to promote a high professional level, so that the external public audit in Romania is in line with the European and international good practice.

Other relevant actors/institutions:

- The Department for Fighting Fraud (DLAF)[20]
- National Office for the Prevention and Combating of Money Laundering (ONPCSB)[21]
- National Agency for Fiscal Administration[22]
- The National Integrity Agency (ANI)[23]
- Competition Council[24]
- The Chamber of Financial Auditors of Romania[25]
- The National Association of Public Procurement Specialists[26]

Key documents:

As a European Union Member State, Romania's legislation on public procurement reflects the transposition of the European directives in public procurement, namely European Directives 2014/23/EU regarding the Award of Concession Contracts, 2014/24/EU regarding Public Procurement and 2014/25/EU regarding Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors[27].

The relevant **Romanian public procurement laws and regulations**:

- **Law no. 98 of 2016** on Public Procurement ("Public Procurement Law"), amended by the Government Emergency Ordinance no. 107 of 2017 on the Amendment and Supplementation of Several Legal Norms having Impact on the Public Procurement Sector ("GEO no. 107")
- **Law no. 99 of 2016** on Sectorial Procurement ("Sectorial Law"), it regulates the way in which contracting entities implement sectoral procurement, the procedures for the award of sectoral contracts and the organization of competitions, the specific instruments and techniques that may be used for the award of sectoral contracts, as well as certain specific aspects relating to the execution of the contracts sector

19 http://www.curteadeconturi.ro/DefaultEN.aspx
20 http://www.antifrauda.gov.ro/new/
21 http://www.onpcsb.ro/
22 https://www.anaf.ro
23 https://www.integritate.eu/
24 http://www.consiliulconcurentei.ro/en/about-us.html
25 https://www.cafr.ro/
26 http://www.ansar.ro/
27 https://www.buzescu.com/romanian-public-procurement-laws/

- **Law no. 100 of 2016** on Works and Services Concessions ("Concessions Law") regulates the award of work concession contracts and service concession contracts, the legal arrangements applicable to such contracts, as well as specific aspects of their execution
- **Law no. 101 of 2016** on Remedies and Appeals Concerning the award of public procurement contracts, sectorial contracts and of work concession contracts and service concession contracts, and for the organization and functioning of the National Council for Solving Complaints ("Remedies Law") [28]

Public Procurement Law

The provisions of the Public Procurement Law entered into effect on May 26, 2016, and they will replace the provisions of the Government Emergency Ordinance no. 34 of 2006 regarding the Award of Public Contracts, Public Works Concession Contracts and Services Concession Contracts ("GEO no. 34") and any other contrary provisions stipulated by other legal norms.

The Public Procurement Laws implemented the European Directives 2014/23/EU regarding the Award of Concession Contracts, 2014/24/EU regarding Public Procurement and 2014/25/EU regarding Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors[29].

3.2.

Private procurement opportunities

Startup – corporate collaboration opportunities: Romania

Unfortunately, there is no similar platform to support contracting between Corporate, Startups and SMEs in Romania (only one virtuous case: https://www.licitatie-publica.ro). Instead, there are a lot of programs, fairs, events (organized both by Public authorities and corporative sector), social media groups (LinkedIn and Facebook) that bring together entrepreneurs, startup representatives and decision-makers from large national and multinational companies and create the space for discussions and pre-contracting.

Moreover, there are many examples of good practices and collaborations between start-ups, SMEs and corporations through **acceleration and pre-acceleration** programs, collaboration and **funding programs** between these two sectors, and through **cluster activities** in major cities (gathering all the relevant actors of the local and regional ecosystem).

28 https://www.buzescu.com/romanian-public-procurement-laws/

29 https://www.buzescu.com/romanian-public-procurement-laws/

4. Barriers to startups benefiting from procurement opportunities

4.1. European Level

- The public procurement law favours well-established companies, for example through the so-called qualitative selection procedure.
- The scale of the contract in question.
- The way in which technical specifications are described, in other words, the purpose of the contract, is also decisive in enabling SMEs, especially innovative SMEs, to take part.
- Very few contracting authorities make an effort to envisage innovative procurement. This is particularly the case when there are experimental solutions for which a specific need has not yet been identified by the authorities.

4.2. Romania

In Romania, the following issues were identified:

- A lot of bureaucracy and many time-consuming processes and actions that require additional human time and resources.
- Payment delays, which can lead to cash flow bottlenecks (especially for companies with lower social capital yet accessing large contracts).
- The authorities are forcing new contractual clauses during the process of delivering products or services which are already contracted. These may cause disruption of the production process or may lead to additional unforeseen costs for an already signed contract.
- There are cases where the reception of the services or products stipulated in the contract takes a long time, which can block the activity of the companies and SMEs.
- Frustration from the inequality of treating the delays: the authorities are less responsive to their own delays than that of the companies in the situation of being overdue in delivering of a product or service.
- The risk of not falling within the contractual period, given different situations of delay by the authorities in making the authorizations, decisions, approvals, etc. available to the contractor.
- Sometimes there are errors and mistakes in the technical papers and illogical or unnecessary technical characteristics. It is probably the "copy-paste" system or the non-existent specialists having expertise in the specific domain.
- Some of the contracting authorities prefer a specific equipment from manufacturers and, implicitly, traders, without always having a real and credible technical justification for these preferences. The reason for those preferences is often missing in the official documents.
- Fake auctions: there are some previous agreements between certain contracting authorities and some of the beneficiaries before the publication in the SEAP platform. This explains the very short time between the date and time of publication and the date and time limit for the submission of bids. It is not usual to put in 10-12 hours, or even 1-3 days for complex, expensive supplies (tens / hundreds of thousands of euros) or less common materials that companies usually do not stock – apart from those notified in advance. In addition, delivery periods are very short in these cases (a few days or a maximum of one week). The import of goods takes 15-25 days with truck and 45 days by shipping which makes it impossible to respond with a public offer to that requirement.

5. How to benefit from public opportunities in Romania?

5.1. Instruments and opportunities

In Romania, there are no real examples of good practice of startups getting access to public procurement contracts. Indeed, to have a broader understanding of the level of understanding that Romanian startups may have on procurement and their first-hand experiences, an interview with different stakeholders has been conducted. This was an additional task, but extremely relevant for the purposes of this report, has shown that 9 out of 11 interviewed startups were involved in public procurement at least once in their existence. However, their impressions are mainly negative, as accessing a public procurement contract is difficult due to the limitations imposed by the contract specifications and the conditions of participating in the public auctions. None of the respondents participated in public auctions in other countries, thus demonstrating that startups are not aware of the possibilities they may have or do not see the potential to offer their services or goods in other countries via public procurement.

Furthermore, there here have been cases where associations between medium or large companies (already established on the market) and SMEs/startups have won public procurement contracts. There are also cases where startups became part of the consortium that made a public offer in order to win public procurement contracts. Yet, there seem to be no startups that would access such contracts by relying only on their own powers.

Instruments:

For easier evidence of published contracts and to receive alerts / notifications about public auctioned bids, economic operators also have a site offering these features: https://www.licitatie-publica.ro/

Identifying opportunities:

Any company interested in the up-to-date public auction contracts can directly consult the public procurement platform and, with the help of filters, identify exactly the interest-related contingencies according to the field of the business interest and the ***CAEN*** code (national index/code of economic activity) of the economic operators. The contract identification tool can be found on the public procurement platform: http://sicap-prod.e-licitatie.ro/pub/notices/contract-notices/list/0/0

Public Procurement Guide:

Perhaps the most useful tool available to startups and SMEs is the **Guide for Access to Public Procurement**, published on the government website of the **National Agency for Public Procurement** (belonging to the Ministry of Public Finance), which offers any interested company all the necessary information and walking steps:

https://www.achizitiipublice.gov.ro/workflows/view (for the **English version**: https://www.achizitiipublice.gov.ro/workflows/view/0)

5.1.1.

E-procurement Romania

- **www.anap.gov.ro**
  Site of National Agency for Public Procurements (ANAP)
  In RO language
- **www.e-licitatie.ro**
  www.sicap-prod.e-licitatie.ro/pub
  e-Platform of the Electronic System of Public Procurements
  Both in EN and RO language
- **www.cnsc.ro**
  Site of National Council for Solving Complaints
  Both in EN and RO language
- **www.simap.europa.eu**
  Site of European Commission for Information related to European Public Procurements
  In all EU languages
- **www.achizitiipublice.gov.ro**
  Site of the National Public Procurements Guide
  Both in EN and RO language
- **https://www.achizitiipublice.gov.ro/workflows/view**
  National Agency for Public Procurement
  Both in EN and RO language

5.1.2.

Available trainings and workshops

With the support of government funding through ANAP programs (National Agency for Public Procurements) and European funding (ex-POSDRU Programme and the current PODCA structural funds programme), in Romania a lot of training programmes have been implemented and are still under implementation for *Public Acquisition Specialists* (training or specialization at work type of learning process). Those who complete these courses are certified to the National Agency for Qualifications (ANC), and the certification is recognized at European level, as most of the courses include modules to access the European public procurement market.

Most of the trainees are representatives of public institutions (local, regional and national public authorities), as well as representatives of large companies, startups and SMEs.

6. Main trends

- Emphasising value for money through procurement
- Public procurement for innovative solutions (PPI)
- Smaller and younger companies are more successful in the local government procurement
- Increase of the procurement collaboration across the public sector
- Enhancement of the central procurement capabilities while simplifying processes and empowering departmental decision makers
- Innovate sourcing approaches, including full use of available tools and approaches (e.g. negotiation, piggyback contracts, e-Procurement, e-Sourcing)
- Strategic public procurement and Circular economy
- The strategic perspective of public procurement
- Public procurement will remain a crucial instrument of policy delivery
- Strategic public procurement: buying green, socially responsible and innovative services and products. Prioritised sectors for which targeted efforts on strategic procurement uptake are needed are construction, healthcare and IT, security and defence

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