



**SOCIAL
INNOVATION
COMMUNITY**

T5.5 SIC Policy Brief

Social Innovation and Public Procurement

Introduction

According to the European Commission, approximately 1,9 trillion EUR is spent annually for public procurement. Public procurement could thus correctly be considered as a powerful means to orientate economic development in Europe, and to contribute to the achievement of common objectives.

Nevertheless, while approaching the matter, it has to be kept in mind that public procurement, as such, is not a policy *in se*, but rather an *instrument* for public authorities to procure goods and services to comply with their mission (that is always one of general interest, by definition). The *policy* dimension refers to *how public procurement is organised and used*.

Social innovation does not escape this general frame. In other words, public authorities cannot procure social innovation *stricto sensu*. They can make a strategic use of public procurement - through the public procurement process as such (e.g. by making it more participative) or with the outcome of the process (the type of products/services/providers selected and their impact) - to foster social innovation as long as it finally generates a new service or product that enables the public authority to better accomplish at least a part of its general interest mission. This for the moment still very much underused potential has also been recognised and highlighted by the European Commission.

To fully exploit existing opportunities, public procurers, but also potential innovators, must be well informed, trained and, ideally, engaged in a sustained dialogue with each other. The Lisbon Social Innovation Declaration therefore includes a specific recommendation encouraging the use of so-called “procurement pathfinders”.

Hereafter, we would like to propose some additional elements for further reflection around this issue.

1. Regulatory context

Quoting directive 24/2014/EU helps to understand: “Research and innovation, including eco-innovation and social innovation, are among the main drivers for future growth and have been put at the centre of the Europe 2020 strategy for smart, sustainable and inclusive growth. Public authorities should make the best strategic use of public procurement to spur innovation. Buying innovative products, works and services plays a key role in improving the efficiency and quality of public services while addressing major societal challenges. It contributes to achieving best value for public money as well as wider economic, environmental and societal benefits, in terms of generating new ideas, translating them into innovative products and services and thus promoting sustainable economic growth” (dir. 24/2014/EU, recital 47).

This is a first point to take into account: public procurement does not *replace* policies supporting research and social innovation but can be used in a strategic way in order to let society benefit from the latter.

A second point concerns ways the existing legal framework can be used to foster social innovation in public procurement procedures or, more correctly, to procure innovative products or services.

The EU directive points out that “where a need for development of innovative product or services or innovative works and the subsequent purchase of the resulting supplies, services or works cannot be met by solutions already available on the market, contracting authorities should have access to a specific procurement procedure” (dir. 24/2014/EU, recital 49). A first aspect to be underlined here is the existence of an identified need for innovative products, that is to say a perception of the fact that the market is not providing solutions to a perceived need, or is providing solutions in an unsatisfactory way. This is a delicate point as public procurers might be faced with different situations. For instance, it might be difficult to clearly identify a need for innovative products or services. It is a particularly sensitive issue when it comes to *social* innovation, as the latter could result in a new service or product to be used in order to improve the performance of delivering a welfare-related service, but also in the re-organisation of a whole procedure of service production.

An example for the first situation could be the creation of a purchase-card which low-income families could use in order to buy essential products. In such a case, a specific technological product (a card) applied in welfare sector turns into a social innovation product.

For the second kind of situation – re-organisation of a whole procedure - one could quote the examples of co-creation of welfare or healthcare services by public and private players, provided they are realised through the spending of public money. In such a case, the social innovation element lies upstream the delivery phase. Indeed, the innovation partnership starts at the time of identification of a social need and decision on how to organise the response to the need. Here, the final beneficiary of the service may not see a difference (unless beneficiaries were involved in the design phase) while accessing the service but should be able to appreciate an improvement in the quality of the service.

Social innovation could also apply not strictly related to welfare services, but as a way to generate social value as a secondary effect of the purchase of products and services. For instance, while buying a new system of public lighting, a public authority might want to choose a system that has a positive impact on the social life of a district (for instance by improving security in specific areas). It could try to identify which intensity of the light is likely to generate positive effects on human and animal well-being, or it could seek to identify proposals that link the economies generated by the new system of public lighting to the production of social services for the citizens – to give just some examples...

This last case might appear particularly challenging, as it may require a large spectrum of competences in contracting authorities. In order to cope with such a weakness, the directive underlines that the procedures for procuring innovation (including social) “should allow contracting authorities to establish a long-term innovation partnership for the development and subsequent purchase of a new, innovative product, service or works provided that such innovative product or service or innovative works can be delivered to agreed performance levels and costs, without the need for a separate procurement procedure for the purchase. The innovation partnership should be based on the procedural rules that apply to the competitive procedure with negotiation and contracts should be awarded on the sole basis of the best price-quality ratio, which is most suitable for comparing tenders for innovative solution.” (dir. 24/2014/EU, recital 49).

The suggested way to organise the development of innovation in public procurement is thus the establishment of innovation partnerships, which seems quite logical especially when referring to

social innovation. Indeed, the development of a socially innovative product or service might go through several stages, which necessitate the existence of a strong dialogue and exchange between the purchaser (the contracting authority) and the provider (the private player). The dialogue could start already in the clarification of the need of the contracting authority, to continue with the definition of the characteristics the generated product or service should have, the definition of the experimentation protocol, and so on.

It is important to stress that the above-mentioned recital refers to both the development and the subsequent purchase of the service or product; in other words, the contracting authority should not necessarily organise two different procedures for the development phase and for the actual purchase of the product.

In terms of procedures to be used in order to apply the innovation partnership method, one should keep in mind that “Member States shall provide that contracting authorities may apply innovation partnership” (dir. 24/2014/EU, art. 26, point. 3), which means that the use of innovation partnerships is not an obligation, but rather an option.

The procedure for innovation partnership is regulated by Article 31 of the directive.

Thus, the contracting authority needs to demonstrate a sufficiently clear view on the need to be met and on the fact that the solution to the need is not already present on the market.

This point might be particularly sensitive, as it presupposes that the contracting authority has all means to a) identify the need for an innovative product or service in a pretty clear way (to be clearly understood by the bidders); b) screen the market in depth to be sure that the service or product does not already exist.

As for point a) one should reflect on how, through which means, a public authority could finally identify the need for an innovative product, especially when it comes to social innovation.

As for point b), the screening of the market, a question one has to deal with is the comparability of social and societal contexts (on which a social innovation is likely to impact). Indeed, a social innovation developed and producing positive impact in one specific context, might not be adapted *to* and produce the same positive impact in another one (it might also have a negative impact). Thus, the contracting authority should evaluate not simply the existence of solutions, but also the existence of solutions *which are concretely and positively applicable in (or adaptable to) their own context*. This would require the contracting authority to preliminarily define the specific context-based elements (of cultural, geographical or other nature) in which the product or service will have to operate and then carry out the screening of the market. It would be useful as well that the contracting authority makes this analysis public, in order to help understanding why the choice was to start an innovation partnership instead of relying on existing, apparently comparable, providers.

These are just some elements to help identifying a frame for social innovation in public procurement. A guide¹ issued by the European Commission on the topic “innovation procurement” provides a large overview *of* and more details *about* procedures.

However, even though the social innovation partnership is the most concrete tool, proposed by the 2014 Directive, to support socially *innovative* procurement, it is not the only way to promote the development and purchase of socially innovative products and services. Social considerations (social clauses, other performance-related criteria, etc.) might not be anything ‘new’ for some cities or regions – in others, however, their application is rather recent and is being considered as something leading to social innovation in a specific local context.

¹ Commission notice: Guidance on innovation procurement, Brussels, 15.5.2018 C(2018) 3051 final

Also initiatives/processes prior to the official procurement procedures might pave the way for socially innovative public procurement. Among them figure public – (social) private partnerships in which concrete needs are explored and possible solutions tested before a public procurement procedure is launched or different type of multi-stakeholder quality dialogue on *needs for* and/or *quality of* products or services (*practice examples: see below*).

2. Public Procurement Pathfinders

Public authorities frequently lack capacities/knowledge which would enable them to use the opportunities opened by Directive 24/2014/EU in particular with regard to social innovation. Many of them are simply not aware of the different procedures and possibilities that do exist, or do not know how to concretely apply them. Another frequent obstacle is lack of awareness on the additional impact public procurement might have in terms of social innovation and lack of motivation on the part of civil servants. This might prevent public authorities already from the outset to look for cooperation with relevant social innovators.

On the other hand, often, public authorities do not necessarily have an overview and knowledge of all potential social innovators with whom they could collaborate in the framework of public procurement procedures and of all existing socially innovative products or services. Cooperation with different stakeholders, facilitated by different forms of “pathfinders”, appears thus to be a necessity not only with respect to service delivery, but also all other preceding stages (including definition and analysis of needs, context etc.).

Access to public procurement remains a major challenge for smaller organisations/enterprises that generate social innovation - due to the aforementioned lack of visibility and of competences within public authorities, but also because they might themselves not have the capacity, including also human resources and turnover, to respond to specific calls or search for opportunities of cooperation.

A public consultation carried out by SIC found that public procurement is considered amongst the main obstacles that are holding social innovators back in Europe. A high proportion of respondents (58%; n=111) responded to SIC’s public consultation to say that difficulties in having their socially innovative products or services procured by public authorities, due – amongst other elements – to the risks incurred, presented a big challenge for them or their organisation.

The Lisbon Social Innovation Declaration, elaborated by the Social Innovation Community project, proposes, with Recommendation 10, to “establish Public Procurement Pathfinders to connect government agencies with social innovation actors (including civic start-ups, social innovation-focused SMEs or social economy players)”.

“Public Procurement Pathfinders” could be defined a) as facilitators (persons or organisations) or b) tools which act, on one hand, as *bridgebuilders* by enabling wider interaction between key public and social innovation stakeholders (e.g. by bringing social innovators and public authorities, social innovators themselves and social innovators and other type of organisations/enterprises together to find opportunities to collaborate). In certain instances, this could be done also with the explicit intention of actively contributing to *capacity-building* to increase effectiveness of public procurement of social innovation.

3. Good practice examples

Good practices for what could be considered “pathfinders” already exist or are being set up in different cities/regions in Europe:

Consultation bodies/Committees and Civil Dialogue

Barcelona City, Spain: Social Public Procurement Decree/Sustainable Public Procurement Committee

The City of Barcelona developed a specific Social Public Procurement Guide and adopted a related Mayoral Decree (24 April 2017). Both are results of the work of the Sustainable Public Procurement Committee (bringing together representatives of business, social economy, trade unions, local associations and civil society).

Barcelona City, Spain: BCN Open Challenge Initiative

In 2013, the city of Barcelona launched, in cooperation with Citymart, the BCN Open Challenge Initiative. Companies – among them many SMEs and start-ups – were encouraged to present their ideas and solutions to six problems instead of making offers for already pre-defined solutions. The process was coupled with training programs, realised by Citymart, to enable local enterprises to take part in such challenge-based procurement.

City of Gdynia, Poland: Gdynia Dialogue on Quality of Care Services

In 2011 and 2012, the city organized “Gdynia’s dialogue on quality of care services” – a participatory process involving around 1000 persons, among them final users of care services, service purchasers and service providers, front line staff, voluntary workers and others. A unique opportunity thus for public authorities to better get in touch with and get to know also different type of social innovators.

Among the final results of the process figure the drafting and publication of two documents:

1. the “Charter of Quality of Care Services” which lays down main principles and quality standards for the design, organization and provision of care services, and
2. “Gdynia’s standard for residential care services”.

The care standard has now also been integrated into public procurement procedures. With concrete requirements regarding the employment of care givers (minimum salary, existence of a proper contract, but also existence of a training fund or contribution to a local training fund by the employers) the local authorities aim, for instance, to improve the image of the care giver profession and the level of education of care givers.

Support platforms

Belgium : SAW-B

In Belgium, Solidarité des Alternatives Wallonnes (SAW-B), a federation of social economy organisations, has developed several programmes and tools aimed at spreading social clauses in public procurement procedures (among these tools figure meetings with public buyers and local social enterprises, a helpdesk service and counselling services for contracting authorities on how to manage the use of social considerations in public procurement).

France: Plateforme des achats d'innovation de l'état et de ses établissements publics (Platform for innovation procurement of the State and its public bodies)

Apart from encouraging the purchase of innovative products and services by public authorities, the objective of this platform, established by the French national government, is a) to support SMEs generating (social) innovation, b) to help defining and analysing a performance axis « innovation » for each procurement strategy, c) to develop and carry out awareness-raising measures towards public purchasers regarding the added value of innovation and d) to facilitate the relationship between public purchasers and enterprises generating innovation.

Social Economy Slovenia: Digital platform

The Social Economy Association of Slovenia is implementing a transnational project titled "Buy Creative Inclusion to Decent Work" (supported by the Ministry for Economic Affairs and ESF), which focuses on the activation and social inclusion of precarious (freelance) workers.

The project will be implemented through the set-up of a cooperative and use of a high-tech tool - a blockchain platform to support activation, market access and access to services most needed by precarious (freelance) workers in the market access phase.

Activities of the platform will include

- support to precarious workers/freelancers in the provision of services of an administrative and technical nature (from applications to tenders, over the organisation of insurance, to payments, issuing invoices, business management and books, etc.)
- creating creative teams for the implementation of innovative project ideas and projects,
- access to the market through the co-creation of a supportive environment (where freelancers or cooperatives will co-create and create a creative hub for the empowerment and activation of a wider community of workers), through an integrated approach through the Community Principle, enabled better conditions and a negotiating position for activating co-workers in the field of cultural and creative industries and arts in public procurement procedures (which by ZJN3 give special opportunities to social enterprises).

Ukraine: Pro Zorro

ProZorro is a public e-procurement system in Ukraine which digitises and opens up all the information about public tenders (including the offers put forward by private companies) for anyone – civil society, journalists, the public, business, government – to view. As of April 2017, 764,000 tenders worth UAH 561 billion (€19 billion) had been awarded through ProZorro, saving UAH 23 billion (€800 million). An initial impact measurement carried out with the Open Contracting Partnership found that between January 2015 and March 2017, the average number of bids per tender rose 15 per cent and the average number of unique suppliers rose 45 per cent, both indicating increased competition. This in turn led to almost ten per cent savings on procurement by participating authorities in a country where government spends 45 per cent of its budget on procurement.

Support programmes

City of Amsterdam (Netherlands): Start-up in Residence Amsterdam

Inspired by the US Start-Up in Residence programme, Start-up in Residence (STIR) brings together public authorities and innovators (start-ups and scale-ups) to jointly develop solutions for specific social challenges, i.e. socially innovative products and services. Participating enterprises benefit from additional training and other type of support by professional mentors and coaches. The city also provides working space and access to its network. Participation in the programme obviously increases the possibility for enterprises to access public procurement.

Networks/Peer-Learning

Scotland, UK: Community Benefits in Procurement Champions Network

Established in 2009 by the Scottish government, the Community Benefits in Procurement Champions Network brings together a large variety of public authorities in order to promote peer-learning and exchange with regard to the application of so-called community clauses (that might refer to recruitment and training, small business and social enterprise development or community engagement). Next to the possibility to exchange with procurement lawyers and procurement experts, members of the network are also given advice on how to best get in touch with third sector organisations (i.e. the social economy/social enterprise and other social innovators). The network has proven particularly useful also for smaller local authorities.

4. Public Procurement Pathfinders: Pre-conditions for success

The examples described above show that a variety of forms of 'pathfinders' facilitating interaction between public authorities and social innovators do exist. However, they will be fully successful only in combination with other type of elements for which a number of recommendations are listed below:

⇒ National, regional and local governments should establish (socially) sustainable procurement strategies that include a number of instruments facilitating the contact between public authorities and social innovators. Such strategies should also facilitate better cooperation between different departments of a public authority (which might then also positively influence the capacity of administration to break down contracts into lots etc.).

⇒ The aforementioned strategies could have specific relevance and impact if they would be developed by Multi-stakeholder Sustainable Procurement Committees (including representatives of different departments of the public authority, civil society, enterprises etc.), such as they have been set up by several cities and regions². These committees are usually considered as fulfilling a pathfinder function. Moreover, they could contribute to defining better the features of social innovators/of organisations they would consider social innovators in their specific context (or they would *not* consider being social innovators) – another kind of pathfinder tool for public procurers that perceive the lack of an appropriate definition of social innovators as a main obstacle in applying social (innovative) procurement.

⇒ When developing (socially) sustainable procurement strategies, public authorities should also take into consideration phases that might be *of importance for* but not be *part of* official procurement procedures. An example are initiatives exploring real needs and possible innovation that might finally

² An example here is the city of Barcelona.

lead to public procurement. Here, public authorities should be more experimental. This could happen, for example, in the framework of specific public-private partnerships analysing needs and testing innovative solutions, or through start-up in residence schemes, to name only two possibilities. Wider involvement of various kind of stakeholder, including citizens and community groups, in the development of socially innovative products and services will improve their effectiveness and social acceptance.

The European Commission, but also national governments *have been* or *are* working on guidelines and training initiatives for policy-makers, civil servants and social innovators on the ground that might facilitate (socially) sustainable procurement. However, often, guidelines refer to a very specific aspect (a certain procedure, a sector, a specific procurement phase..., ...).

⇒ The update of guidelines such as the Commission notice “Guidance on Innovation Procurement”, including a stronger focus on social innovation, could be of great use (next to more synthetic documents such as the “Buy Social” guide which is currently being updated).

The engagement or establishment of “Pathfinders” simply connecting public authorities and social innovators might, in a number of territories, not have the desired impact, if actions are not combined with capacity-building measures for public authorities (on possibilities to bring social innovation into public procurement, procedures and other technical aspects, etc.), on one hand, and for social innovators, on the other:

⇒ Policymakers at national and regional level should use opportunities provided, for example, by the European Structural and Investment Funds, to invest in capacity-building of their administration with regard to social innovation procurement. The European Commission could extend the initiatives it has already launched for a training of public authorities on possibilities to cooperate with the social economy (and social innovators more in general) through public procurement also to other EU Member States. Moreover, European peer-learning programmes and pilot projects in the field of social (innovation) procurement might also encourage public authorities to adopt new approaches.

⇒ Social (innovation) procurement should also become a topic in curricula of Institutes for Public Administration, University courses on administrative sciences and other educational/training institutions.

In a number of countries there is an increasing tendency for public authorities (including public bodies such as hospitals) to delegate procurement to a central procurement organisation. This, in turn, leads to large size tenders/contracts that often go beyond the capacities of (smaller) social innovators. In consequence, public authorities miss opportunities to benefit from the innovation capacity of small enterprises/organisations. A number of organisations (including the social economy and other type of SMEs generating innovation) do not even try *to have access to/take part in* public procurement due to the contract size, including requested turnover.

⇒ Policymakers and administration should consider re-decentralising public procurement, where appropriate, to make it more tailored to the specific local situation and allow flexibility in reducing

contract sizes so that they are more accessible for (smaller) social innovators. A decentralisation of procurement, in turn, necessitates again a stronger training of public administration 'on the ground'.³

⇒ "Pathfinder Study Visits" for public administration in organisations generating social innovation, training and peer learning combined with better cooperation between departments appear useful tools to raise knowledge of public procurers on social innovation in their specific local context and consider more frequently possibilities such as the division of contracts into lots.

⇒ Pathfinders – be they persons, organisations or tools – should also be mobilised to encourage and help different organisations to bid together, to form consortia. This should be done not only as a response to the aforementioned situation (contract size goes beyond the capacity of enterprises/organisations). Studies have shown that organisations taking part in public procurement on a regular basis are more successful also because they had the occasion to learn by experience and shape their competences. Being part of a partnership or consortium could help a (smaller) organisation/enterprise to gain valuable practical experience.

⇒ The previous point also necessitates to well define the appropriate format and dimension of "pathfinder tools". To give just one example: Horizontal (online) platforms managed by larger organisations/a central structure (e.g. chamber of commerce) and that bring together different organisations coming from a *large variety of sectors* are not necessarily considered useful and efficient when it comes to creating connections and clusters for joint bids. Depending on case and context it might be more interesting to create thematic (sub-)networks/platforms (example: platform/networks linking the organic farmer with the bio supermarket and the bio caterer). This needs to be well assessed on a case-by-case basis.

These are all elements which might help coming closer to what was expressed by the Lisbon Social Innovation Declaration: "A desire to look for creative ways to improve the quality and inclusiveness of services or products developed using public money, guided by a firm resolve that social innovation should never be an excuse to divest from public services or leave citizens less well off."

³ In a German region, for example, where procurement for a number of products and services had been decentralised, public administration did not feel prepared enough to deal with this new competence.