

CENTRALIZED PUBLIC PROCUREMENT UNITS – A POSSIBILITY TO IMPROVE PUBLIC PROCUREMENT EFFICIENCY

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Abstract: *Public procurement is a key element of the European Union (EU) single market from an economic point of view, facilitating contracting authorities’ selection of the best performing companies through qualification and selection criteria, in order to obtain the best cost-benefit ratio. In turn, this contributes to ensuring the competitiveness of markets and protects the public interest. From this perspective, public procurement stands out as a major and constant lever through which action can be taken for the transformation of our economies and societies.*

The main objective of this paper is to provide a scientific perspective on how to approach centralised public procurement. The starting point is, the one hand, the reality of the EU single market, namely the fact that it is estimated that approximately two trillion euros, i.e. 14% of the EU’s gross domestic product, are spent annually on public procurement and, on the other hand, the current legislation. The way in which contracting authorities can manage public funds approved through their own revenue and expenditure budgets in order to provide goods or services necessary for the operation and/or realization of investments, forces us to look deeper into the research of the possibility of public institutions to purchase centrally. The purpose of centralizing purchases should be, on the one hand, to carry out public purchases of products or services in a centralized system and, on the other, to streamline the use of public funds by awarding framework agreements or public procurement contracts, regardless of whether or not the products or services target a public interest.

Keywords: public, procurement, contracting, authorities, centralized

1. Introduction

Public procurement is a key element of EU policy in regulating the economic single market, facilitating the contracting authorities’ (CAs) selection of the best performing economic operators through qualification and selection criteria, in order to obtain the best value for money. This in turn helps to ensure the competitiveness of markets and protects the public interest. From this perspective, public procurement stands out as a major and constant lever through the transformation of our economies and societies is possible.

The main objective of this paper is to provide a scientific perspective on how to approach centralized public procurement, starting, on the one hand, from the reality of the single market of the European Union (EU), namely the fact that it is estimated that “approximately two trillion euros, i.e. 14% of the EU gross domestic product, are spent annually on public procurement” [1], and on the other hand, from the current legislation. The way in which contracting authorities can manage public funds approved through their own revenue and expenditure budgets in order to ensure the

goods or services necessary for the operation and/or the realization of investments, forces us to look deeper into the research of the possibility of public institutions to purchase products or services through a centralized procurement system. The purpose of centralizing procurement should be, on the one hand, to carry out public procurement of products or services and, on the other hand, to streamline the use of public funds by awarding framework agreements or public procurement contracts, regardless of whether the products or services are intended to achieve a public interest or not.

2. Considerations regarding the Concept of a Centralized Purchasing Unit

At the level of the EU, the approach to public procurement in general and to centralised public procurement in particular, is part of collaborative procurement or joint procurement, and is stipulated as one of the six priorities formulated by the European Commission in 2017 [2]. Centralised procurement in the EU is very important both from the point of view of the compliance with the treaties, provisions, and directives but also from an economic point of view, bringing savings to national budgets such as the budgets of France, Ireland or Italy, waste disposal or

procurement under the Structural and Investment Funds.

For public policy, public procurement is considered an instrument that bring gains in terms of generating economies of scale as a result of the aggregation of demand and the reduction of transaction costs, mainly due to the use of centralized contracting mechanisms. These aforementioned benefits of public procurement are demonstrated both at international and European level through studies, analyses, statistics [3] and directives [4] but especially at national level through the creation of a specific regulatory framework and the effective functioning of centralized units at local level.

Against this background, Romania has transposed into legislation all European directives in the field of public procurement. Moreover, in the field of centralized procurement, Romania has specific legislation for the functioning of centralized procurement units at central, local or regional level [5].

In the course of the public procurement process in Romania, the CA has several legal approaches available when the intent is to purchase products or services, as shown in the following figure:

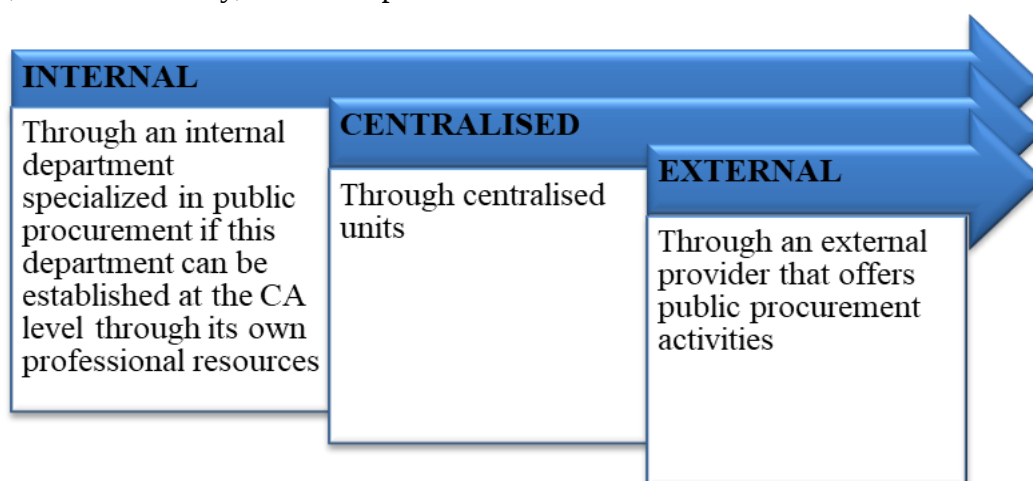


Figure 1: Approaches regarding the conduct of the public procurement process in Romania
Source: Own processing, according to HG 395/2016, with subsequent amendments and additions

As illustrated in Figure 1, it can be appreciated that when a CA carries out a public procurement process, it can turn to a centralized unit, given that it cannot set up a specialized public procurement department for various reasons or does not have the financial resources to call on an external procurement service provider.

But what is a centralized public procurement unit? In fact, the centralized procurement unit is nothing more than another contracting authority established by a government decision or by a decision of local deliberative authorities [6], a contracting authority that permanently purchases and supplies products or services in its own name for other contracting authorities or that permanently purchases products or services in the name and for another contracting authority. Based on this, we can observe that a centralized procurement unit acts and fulfils two roles in the public procurement process: as a wholesaler for other contracting authorities, more specifically storing or reselling to another contracting authority, or as an intermediary when carrying out public procurement procedures on behalf of other contracting authorities.

Another feature of the use of centralized units by contracting authorities is that they are not obliged to apply the award procedures regulated by Law 98/2016 on public procurement when awarding a public service contract to a centralized procurement unit for the provision of centralized procurement activities. More precisely, centralized public procurement is a way in which several public institutions “pool” their financial resources to jointly purchase products or services on the premise that they can obtain a much better price than if they were to organize separate public procurement procedures.

In support of the above, we can mention the establishment of the following centralized public procurement units in Romania:

a) at national level: in 2012, the designation by GEO no. 71/2012 of the Ministry of Health as a centralized public procurement

unit and the establishment in 2018 by GEO no. 46/2018 of the National Office for Centralized Procurement (ONAC/NOCP) [7]; b) at local level: as part of the project carried out by the National Agency for Public Procurement (ANAP/NAPP) entitled SIPOCA 625 “Support in the implementation of the National Strategy in the field of Public Procurement (SNAP/NSPP) by strengthening the administrative capacity of NAPP and contracting authorities”, implemented with the support of the European Investment Bank (EIB). Thus, centralized public procurement units are established at the level of Sibiu and Harghita county councils and at the level of Timișoara City Hall, in 2021, through the National Recovery and Resilience Plan (PNRR/NRRP) in Bihor and Brașov county councils in 2024, and at the level of the city halls of Cluj-Napoca and Sector 6 of Bucharest in 2025.

3. The Role, Objectives and Responsibilities of Centralized Units in Romania

In Romania, achieving savings and streamlining processes through the use of centralized procurement was established as a specific priority objective in the field of centralized procurement by Government Decision No. 554/2023 for the Approval of the National Strategy in the Field of Public Procurement 2023-2027. To achieve this objective, the following directions of action were also established:

- expanding the scope of centralized procurement in the central administration, especially in the health, education, transport and digitalization sectors, considered to be priorities in the National Recovery and Resilience Plan (Component C14 – Good Governance – Specific Objective 5 – A more efficient national public procurement system, including by strengthening the administrative capacity of contracting authorities/entities, within a flexible and coherent legal framework – Reform 8 Reforming the national public procurement system, Target 435: Centralized Procurement

Units (CUs) operational at local level);

- collaboration with local UCAs to review products included or planned to be included and to assess the potential for expansion and revision;
- consultancy by providing guidance and documentation necessary to support the creation of new UCAs at local level;
- promoting the use of the National Office for Centralized Procurement's IT platform by other UCAs;
- increasing the administrative capacity of contracting authorities in the field of centralized procurement.

As observed, the document refers both to the National Agency for Public Procurement (ANAP), an institution with a role in providing guidance and documentation necessary for the establishment and effective operationalization of the UCA, and to the National Office for Centralized Procurement (ONAC), an institution with a role in the acquisition and operationalization of an electronic platform for centralized public procurement for other UCAs.

Generally, by law or by decisions of local deliberative authorities, the UCA may award framework agreements on behalf of and for other CAs or may administer dynamic procurement systems exclusively for products and services purchased in a centralized system. In other words, the purpose of the UCA is to achieve the following main objectives:

- optimizing the conditions and the procurement process based on economic and quality criteria and under conditions of ensuring legal security, by aggregating user needs;
- increasing transparency and public procurement;
- improving and professionalizing the public procurement system;
- ensuring the availability of products and services purchased in a centralized system for the users.

UCAs may have attributions in:

- collecting users' needs in relation to products and services purchased in the

centralized system;

- establishing the annual public procurement program for products and services purchased in the centralized system;
- organizing centralized award procedures and concluding centralized framework agreements;
- ensuring users' availability of centralized framework agreements;
- monitoring centralized framework agreements, as well as exercising the rights and fulfilling the resulting obligations of users in the situations provided for by the methodological rules for the application of this emergency ordinance;
- participating as a party in administrative-jurisdictional procedures or before courts of law in relation to the acts issued in the exercise of its powers;
- providing auxiliary procurement activities.

4. Conclusions

Improving governance, simplifying procedures and making greater use of centralised purchasing and electronic tools in public procurement are important tools in the fight against fraud and corruption that the European Commission highlights in its strategy.

In Romania, conducting public procurement through UCA can lead on the one hand to savings in the general consolidated budget and on the other hand to the use of public funds in an economic, efficient, and effective manner. These benefits can be achieved through:

- simplification of public procurement procedures and reduction of associated costs: the UCA can organize award procedures on behalf of the CA, unlike the situation where each CA organizes its own award procedures;
- cumulation of CA requests and savings: the UCA can organize award procedures for large volumes of products or services, based on the cumulative needs of the CA, which increases the attractiveness of award

procedures and allows savings to be achieved in accordance to the volumes purchased;

- improvement of the administrative capacity and expertise: UCA can concentrate expertise and specialized personnel in the field of public procurement, which contributes to improved confidence in their activity and to increased competition in the award procedures organized by them;
- improvement of transparency: due to an easier control by the competent authorities (compared to monitoring thousands of small contracting authorities located throughout the country), the UCA has an important role in combating corruption;
- reduction of costs of hiring and training staff: CAs only need specialized staff or a specialized department in the field of public procurement because they can turn to the UCA;
- standardization of procurement of products and services: UCA can impose a procurement model or a way of purchasing products and services both for economic operators and for CAs;
- ensuring quality services to obtain economically and qualitatively advantageous contracts on behalf of the contracting authorities;
- ensuring easier access for all economic operators interested in participating in such procurement procedures;
- reducing the risk of fraud in the public procurement process, by reducing risks and the phenomenon of corruption.

Undoubtedly, there are also certain disadvantages in conducting public procurement through UCAs, such as:

- reduced flexibility for local authorities;
- possible delays in the procurement process;
- generation of monopsonistic effects (one buyer and several sellers): these effects are likely to distort competition at local level and cancel the benefits associated with the pooling of public procurement;
- abusive exercise of negotiating power: by aggregating public procurement and associations of CAs, UCAs can acquire the status of dominant buyers on the regional/local market;
- emphasis on market concentration trends: centralization of public procurement accentuates market concentration trends, both at the level of buyers and at the level of sellers/suppliers;
- emergence of the waterbed effect: CAs carrying out public procurement will pay higher procurement prices than those obtained by associations/consortia of contracting authorities or regional centralized public procurement units;
- collusion and secret agreements between bidders;
- discouragement of innovation;
- increase in the number of complex litigations and their associated costs;
- reduction of the autonomy of contracting authorities.

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- [6] GEO no. 71/2012 on the designation of the Ministry of Health as a centralized public procurement unit; GEO no. 46/2018 on the establishment, organization and operation of ONAC (as well as the methodological norms for its implementation, adopted by GD no. 119/2019), supplemented by GD no. 502/2018; the decisions of local and county councils by which the first three local UCAs were established at the level of Harghita County Council, Sibiu County Council and Timișoara City Hall.
- [7] Art. 40 of Law No. 98 of May 19, 2016, on public procurement, with subsequent amendments and additions.
- [8] GEO no. 46/2018 on the establishment, organization and operation of the National Office for Centralized Procurement.