

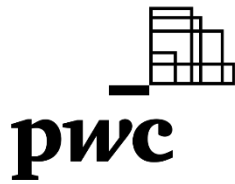


Czech Republic

COUNTRY PROFILE – Benchmarking of national policy frameworks for innovation procurement

This is the country profile of Czech Republic in the 2024 Europe wide benchmarking of national policy frameworks for innovation procurement. It is based on the most recent available data: Indicators 1 to 10 reflect the status of national policies that support innovation procurement at the end of 2023. The part of indicator 10 that uses data from the EU single market scoreboard uses the 2022 data from that scoreboard.

This report was prepared for the European Commission by PwC EU Services EESV



Internal identification

Contract Number: LC-01986029

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Czech Republic



1. National policy framework for innovation procurement

Governance and legal framework

Act. No. 134/2016 Coll.¹, the **Public Procurement Act**, implements all the EU directives on public procurement for public authorities, utilities and defence procurers. In January 2021, an amendment to Article 6 of the Act was introduced to make it mandatory for public buyers to implement environmental, social and innovation procurement whenever possible according to the procurement needs.²

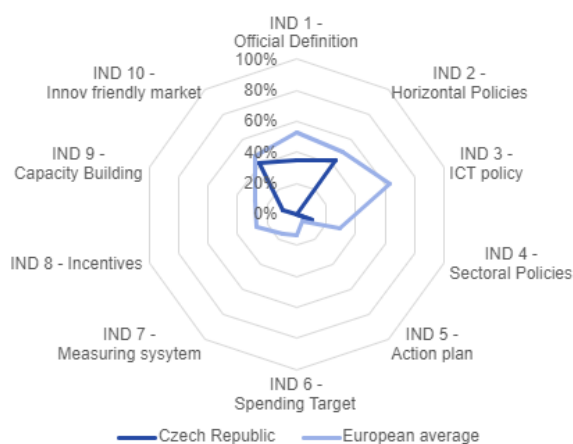
The **Ministry of Regional Development (MMR)** is responsible for public procurement and regional development policies, as well as for drafting the PPA Act, providing guidance on the implementation of the innovation principle in public procurement² and managing the public procurement portal.

The **Ministry of Industry and Trade (MPO)** is responsible for policies related to industry and trade and promotes innovation in public procurement by providing support and guidance to authorities.

The **National research, development and innovation council (VYZKUM)**³ under the **Ministry of Science, Research and Innovation** encourages the use of innovation procurement via its national R&D&I policy, whilst the **Technology agency** distributes financial support from the national budget to support R&D and innovation.⁴

Innovation Procurement Policy Framework Benchmarking (2024)

In the benchmarking of national innovation procurement policy frameworks across Europe, Czech Republic is at the 27th position of the overall ranking with a total score of 13.81%. Even though the country improved its score a bit, it lost 3 positions in the overall ranking (from 24th to 27th position) compared to the previous benchmarking as other countries improved their policy framework faster. The country's performance is below European average of 33.05% in total, and below European average on all 10 indicators. Out of the 30 countries analysed, Czech Republic is in the group of the lowest performers. As Czech Republic implemented just one sixth (13.81%) of the policy measures to establish a comprehensive policy framework for innovation procurement, a very strong reinforcement of the policy framework is still required in Czech Republic for it to realize its full potential.



Strengths

There is clear push for innovation procurement from public procurement and R&D&I policy (mandatory for public buyers to implement innovation principle). First signs of assistance activities to public procurers are appearing.

Weaknesses

Innovation procurement is still in early emerging phase: there is no action plan, spending target, monitoring system, incentives for innovation procurement or structured widescale capacity building activities. Apart from defence, no other sectoral policy promotes innovation procurement as strategic tool. No innovation procurement is not foreseen yet in ICT policy either. Value for money criteria, use of variants and preliminary market consultations are underutilised. There is a need to reinforce the level of competition on the Czech public procurement market. Lack of legislation with IPR regime for public procurement that promotes innovation. Reinforcing policies for strategic technologies and financial incentives for R&D procurements in key technologies and sensitive sectors could help boost strategic autonomy.

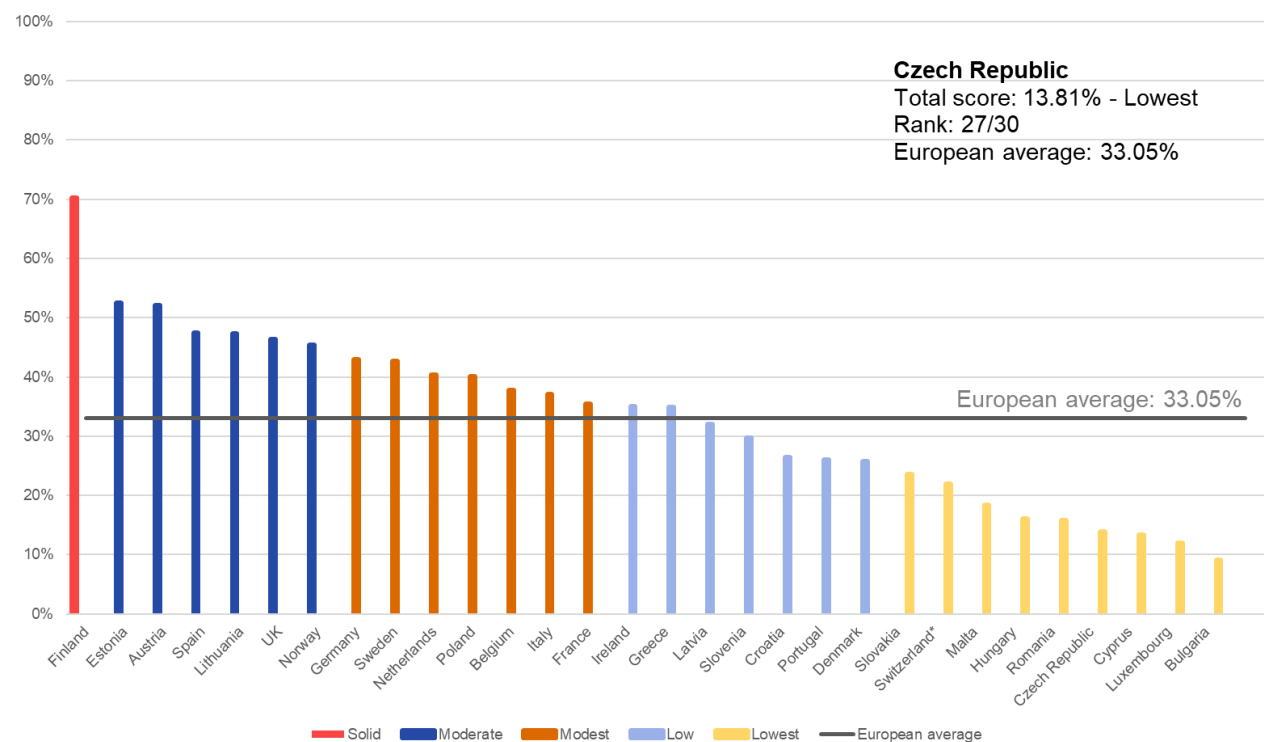
¹<https://portal-vz.cz/legislativa-a-judikatura/narodni-legislativa/zakon-o-zadavani-verejnych-zakazek-a-jeho-provade-ci-predpisy/uplne-aktualni-zneni-zakona-o-zadavani-verejnych-zakazek/>

²[Nové zásady sociálně-odpovědného-environmentálně-odpovědného-a-inovativního-zadávání-od-1.1.2021---metodické-stanovisko-1.doc](#)

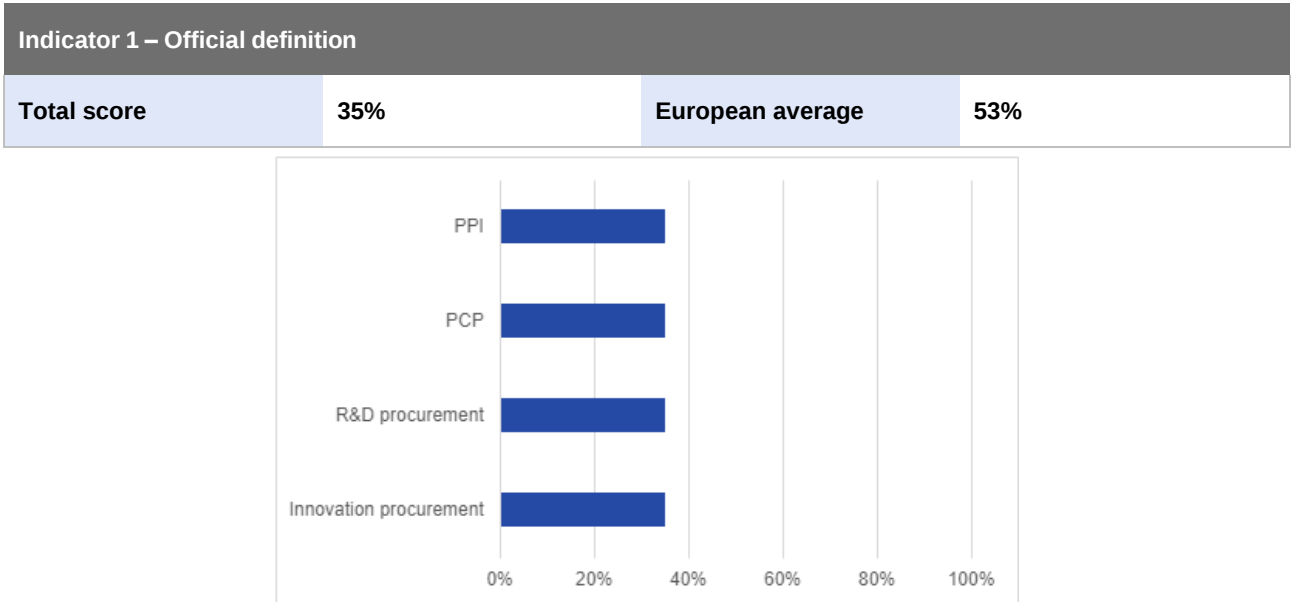
³<https://vyzkum.gov.cz/Default.aspx?lang=en>

⁴<https://www.tacr.cz/en/technology-agency-of-the-czech-republic/>

Overall ranking



Overview per indicator



The Czech Public Procurement Act (PPA) provides a legal basis for all types of procurers in the country to implement all types of innovation procurement, including Research and development procurement (R&D), Pre-commercial procurement (PCP) and Public procurement of innovative solutions (PPI), however it only provides an official definition for innovation.

The PPA does not provide an official definition of **innovation procurement**, but article 28(1)(r) provides a definition of **innovation**: “...the implementation of a new or significantly enhanced product, service or procedure related to the subject of the public contract ”. The official MMR guidelines² do not provide a definition of innovation or innovation procurement. The definition in the PPA is applicable to all types of public procurers countrywide; but more restrictive than the EU definition

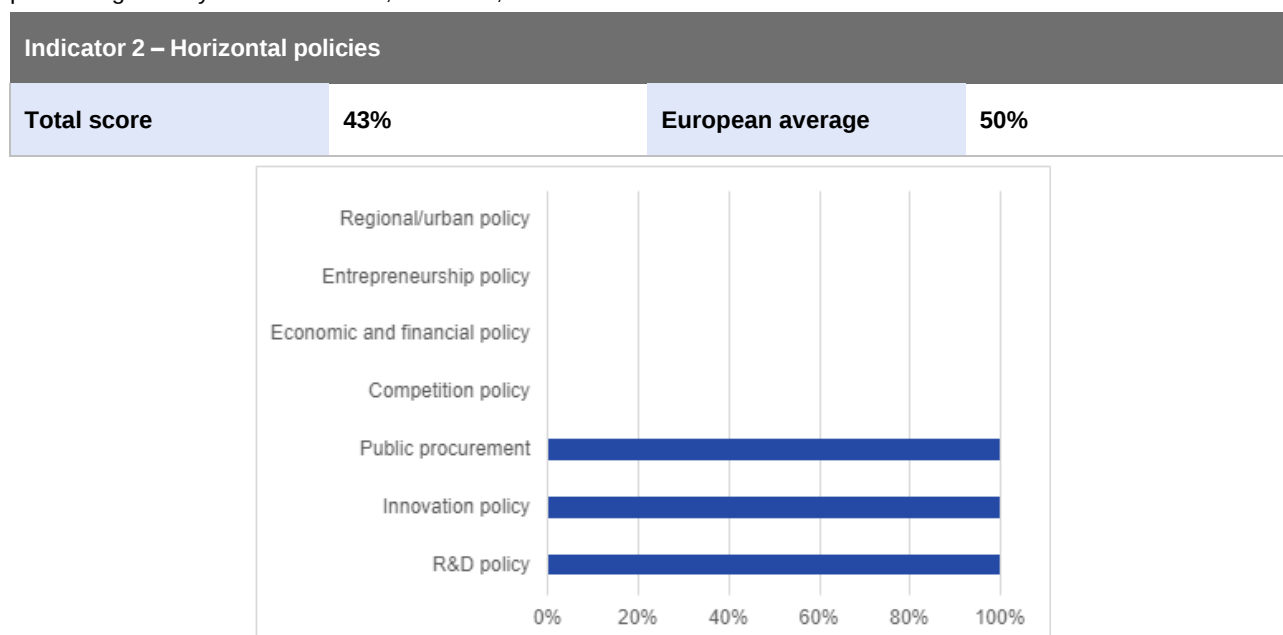
(marketing innovation and organisational innovation are no longer included in the definition). Therefore, the total score for sub-indicator innovation procurement definition amounts to 35%.

No official definition **of research and development** exist in Czech Republic. Appendix 2, § 29 paragraph 1 of the PPA identifies R&D as activities that have the CPV codes for fundamental research, applied research and experimental development². Since the PPA provides a legal basis for implementing R&D procurement that is applicable to all procurers countrywide and coherent with EU definition, the total score for sub-indicator R&D procurement definition is 35%.

Article 29(1)(r) of the PPA transposes the exclusion for R&D services which forms the legal basis for implementation of **pre-commercial procurement**: *"The contracting authority is not obliged to award a public contract ... for a public service contract involving research and development services if: the prize for carrying out research and development is paid exclusively by the Contracting Authority and the result of such research and development is used exclusively by the contracting authority for its activities."* The MMR guidelines² do not provide a definition of PCP. The legal basis in the PPA is applicable to all procurers in the country and coherent with the EU definition. Therefore, the total score for sub-indicator PCP definition is 35%.

The PPA does not provide a definition but establishes the legal basis for **public procurement of innovative solutions** by allowing the use of both innovation related selection and award criteria: Article 37(1)(d) *"The conditions of participation in the award procedure may be specified by the contracting authority as (d) specific conditions for the performance of a public contract, in particular in the field of the environmental impact of the subject-matter of the public contract, the social consequences arising from the subject of a public contract, economic area or innovation"* and article 116(2)(d) *"Quality criteria can be in particular: social, environment or innovation aspects"*. This provides a clear legal basis for implementing PPI that it is compliant with EU definition and applicable to all procurers in the country. The MMR guidelines do not provide a definition of PPI. Therefore, the total score for this sub-indicator is 35%.

The overall score of the indicator amounts to 35%, which is the same as in the previous benchmarking. There is room for future improvement as the performance is still significantly below the European average (53%) and far below the top performing country on this indicator, Lithuania, which scores 76%.



Three horizontal policies recognise the strategic importance of innovation procurement: innovation policy, R&D policy and public procurement policy.

The **Innovation Strategy of the Czech Republic 2019–2030**⁵ states under the *Smart Investment Goals*: *"Encourage public procurement to support investment in innovation including following tools; (1) Focus the public procurement system increasingly on the purchase of innovative technologies – within the framework of the Public Procurement Act; (2) prepare a methodology sheet to take into account best value."* According to this document, public procurement of innovative solutions is embedded as a goal of strategic importance in the innovation policy. Taken into consideration that those provisions and statements are applicable countrywide and that they encourage public procurement of innovation solutions, the total score for sub-indicator **innovation policy** is 100%.

The **National Research, Development and Innovation Policy of the Czech Republic 2021**⁶ emphasizes putting in place legislative environment for the working of R&D system which would help *"achieve the expansion of research, development and innovation in business and in the public sector"* (objective 5). The policy also envisages to *"support public-sector involvement in creating demand for research and development and cooperate in the execution of research projects"* and recognizes that *"there is extensive innovation potential: not just in public administration itself, but throughout*

⁵ <https://vyzkum.gov.cz/Default.aspx?lang=en>

⁶ <https://vyzkum.gov.cz/FrontClanek.aspx?idsekce=932081>

the public sector, whose innovation demand could drive dynamic growth in new solutions and thus opportunities for endogenous “Czech” business”. As evident, the policy clearly recognizes the need to boost R&D and innovation in the country through public demand, which results in awarding 100% for the sub-indicator **R&D policy**.

In January 2022 the government announced that it would develop a **national public procurement strategy**, which has not been published yet. However, the government amended Article 6(4) of the PPA to enforce its strategic decision to make the “principle of innovation” mandatory: “The contracting authority is obliged, when proceeding pursuant to this Act and drafting tender requirements, evaluating tenders, and selecting the supplier, to comply with **the principles of socially responsible procurement, environmentally responsible procurement and innovation within the meaning of this Act, where possible given the nature and the purpose of the contract**”. According to **official guidance** about these three new principles on the public procurement portal⁷ this obligation means that, if according to the procurement need it is possible to apply an innovation procurement (if there is no existing solutions that meets the procurement need or if existing solutions do not meet the procurement need with sufficient quality and with sufficient parameters), then the procurer must implement an innovation procurement. Since this policy is applicable countrywide, the total score for sub-indicator **public procurement policy** amounts to 100%.

In terms of **regional policy**, the **2021+ National Regional Development Strategy**⁸ mentions the importance of public procurement to support other wider strategic and societal goals but it does not mention innovation procurement. Moreover, the **2021-2027 National Research and Innovation Strategy for Smart Specialisation**⁹ does not recognise or promote public procurement as a driver for R&I. Thus, the score for the sub-indicator regional sector policy is 0%.

The total score for this indicator is 43% which is the same as in the previous benchmarking. There is room for future improvement as the performance is still below the European average (50%) and far below the top performing countries, Norway, Estonia and Finland, which score 86% on this indicator.

Indicator 3 – ICT policies			
Total score	0%	European average	63%

The **Strategic Plan for the Digitalisation of Czechia by 2030** recognises the need to stimulate the demand for innovative solutions based on digital technologies in the public sphere (via measure 4ac.1 under the smart specialisation strategy); however, it only plans to specifically stimulate the demand from citizens and companies for innovative digital solutions. Stimulating public sector demand for innovative technologies by stimulating the increased use of innovation procurement is not specifically planned.

For what regards encouraging the use of innovation procurement to accelerate the uptake and reinforce EU strategic autonomy for strategic ICT technologies:

The **2019 Czech National Artificial Intelligence Strategy**¹⁰ that is part of the 2019-2023 national research and innovation strategy mentions the need for “removing legal barriers to AI development, including public law and for example public procurement” however the strategy does not specifically encourage public buyers to implement more innovation procurements of AI based solutions.

Czech Republic developed also policies for other strategic ICT technology fields, such as and the **2021-2025 Czech National Cybersecurity Strategy**¹¹ and the **Czech national semiconductor initiative**¹² however unlike in other European countries, also these policies do not promote the use of innovation procurement as a tool to improve the strategic autonomy for those strategic ICT technologies. The **Czech National Quantum strategy**¹³ is still under development.

Therefore, Czech Republic does not have ICT policy in the country that endorses innovation procurement among its strategic tools or objectives, therefore the total score for this indicator is 0%. Considering the previous benchmarking, the result for indicator ICT policies remained unchanged. The performance is significantly below the European average (63%) and far below 15 top performing countries that score 100% on this indicator. Czech Republic can further improve in the future by actively encouraging innovation procurement through its overarching national digital policy and by including it also in strategies for specific strategic ICT technologies where it is currently still missing.

⁷ <https://portal-vz.cz/>

⁸ https://mmr.gov.cz/getmedia/a9985cb6-b672-4a97-a92c-c4c68bea2925/EN-III_ma_SRR-prac_doplneni-schemat-a-map_kontrola.pdf.aspx?ext=.pdf

⁹ <https://www.mpo.cz/en/business/ris3-strategy/ris3-strategy--265275/>

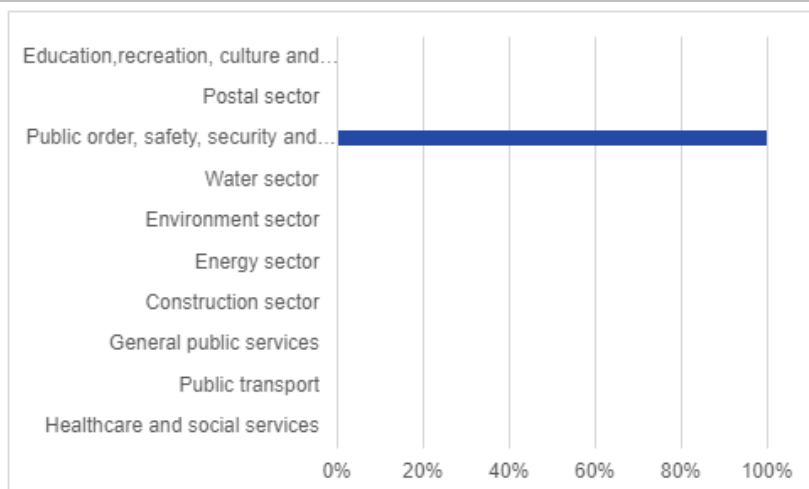
¹⁰ https://www.mpo.gov.cz/assets/en/guidepost/for-the-media/press-releases/2019/5/NAIS_eng_web.pdf

¹¹ <https://www.czechia.eu/wp-content/uploads/2021/12/The-National-Cyber-Security-Strategy-of-the-Czech-Republic-2021-2025.pdf>

¹² https://mzv.gov.cz/tokyo/en/economy_and_trade/czech_republic_takes_steps_to_bolster.html

¹³ <https://vlada.gov.cz/cz/media-centrum/aktualne/zmocnencem-pro-kvantove-technologie-bude-petr-kavalir-208332/>

Indicator 4 – Sectoral policies			
Total score	10%	European average	30%



In Czech Republic, only one sectoral policy explicitly recognises the role of innovation procurement within its strategic goals: the defence policy.

The 2023 **Defence Strategy**¹⁴ stipulates that “The Czech Republic will create conditions conducive to the direct involvement of relevant state organizations and institutions in research and development projects led by private entities that can be used for defence. For this purpose, it is necessary to create an innovation infrastructure and eliminate the fragmentation of research and development activities within the Ministry of Defence.” The same document also explains that the Ministry of Defence uses efficiently the opportunities provided by international programmes in the field of innovation, which implies that defence sector embeds innovation procurement in its strategic goals, which results in 100% for the sub-indicator **defence policy**.

The **Czech Republic circular economy strategy 2040**¹⁵ recognises the need to support innovation to develop a circular economy and it highlights the important role that public procurement has to drive demand for circular solutions, but does not link the two. It promotes green procurement but it does not recognise the importance of innovation procurement.

The result of this indicator is thus 10%, which is an increase compared to the previous benchmarking where the score for this indicator was 0%. There is room for future improvement as the score is still significantly below the European average (30%) and far below the top performing country, the UK, which scores 90% on this indicator.

Indicator 5 – Action plan			
Total score	0%	European average	6%

Czech Republic does not have a dedicated action plan for innovation procurement yet and the score remains 0%. The performance is below the European average (6%). There is room for future improvement as the performance is still significantly below the top performing country, Finland, which scores 69% on this indicator.

Indicator 6 – Spending target			
Total score	0%	European average	14%

There is no specific spending target for innovation procurement in Czech Republic and the score remains 0%. The performance is below the European average (14%). There is room for future improvement as the performance is still significantly below the top performing country, Poland, which scores 80% on this indicator.

¹⁴ https://www.army.cz/assets/en/ministry-of-defence/basic-documents/defence-strategy-of-the-czech-republic_2023_final.pdf

¹⁵ [https://www.mzp.cz/C1257458002F0DC7/cz/news_20211213_Vlada-schvalila-Cirkulami_Cesko_2040/\\$FILE/Cirkul%C3%A1rn%C3%AD%20%C4%8Cesko_2040_web.pdf](https://www.mzp.cz/C1257458002F0DC7/cz/news_20211213_Vlada-schvalila-Cirkulami_Cesko_2040/$FILE/Cirkul%C3%A1rn%C3%AD%20%C4%8Cesko_2040_web.pdf)

Indicator 7 – Monitoring system			
Total score	0%	European average	15%

Czech Republic does not have a structured system for measuring innovation procurement expenditure or for evaluating the impacts of completed innovation procurements. There are plans to monitor the expenditure on innovation procurement through the eForms, but the system is not yet implemented.

In comparison with the previous benchmarking, the score remained unchanged at 0%. The performance is below the European average (15%). There is room for future improvement as the performance is still significantly below the top performing countries: Estonia and Poland which score highest (100%) on the first sub-indicator for having the most comprehensive expenditure measurement systems and Finland and Austria which score highest (50%) on the second sub-indicator for their impact evaluation systems.

Indicator 8 – Incentives			
Total score	0%	European average	27%

There are no financial or personal incentives for public procurers to implement innovation procurements in Czech Republic. The score for this indicator is 0% which is lower when compared to the previous benchmarking, where the total score was 14% as there were some ESIF funds activated for innovation procurement at that time.

The score is significantly below the European average (27%). There is room for future improvement for developing financial incentives as the performance on this sub-indicator is still significantly below the top performing countries: Norway for financial incentives for R&D procurements, Estonia and Belgium (Flemish region) for financial incentives for public procurement of innovative solutions. The score is below the European average (27%). There is room for future improvement for developing both financial and personal incentives as the performance on this indicator is still significantly below the top performing countries Lithuania, Finland, Spain and Austria which all score more than 50% on the indicator.

Indicator 9 – Capacity building and assistance measures							
Total score	9%			European average		28%	
	Existence	Connection with relevant international/EU initiatives	Free of charge	Covering all aspects and types of innovation procurement	Available and applicable to all public procurers in the country	Mainstreaming innovation procurement at a large scale	Sub-total score
Central website							0%
Good practices	✓		✓				33%
Trainings/workshops							0%
Handbooks/guidelines	✓		✓		✓		50%
Assistance to public procurers							0%
Template tender documents							0%
Coordination/pre-approval							0%
Networking of procurers							0%
One-stop-shop /competence centre							0%

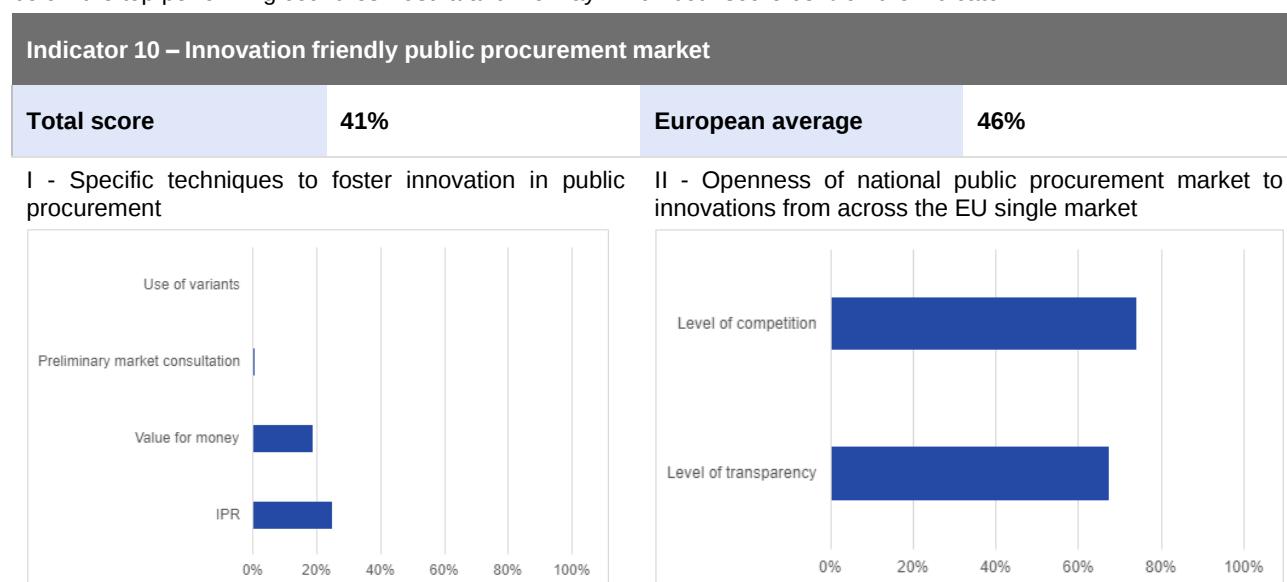
In Czech Republic, there is no national **competence centre** on innovation procurement that acts as one-stop-shop entry point for all capacity building measures or a **central website** with all information about innovation procurement in one place.

Official guidance on the Public Procurement Portal¹⁶ explains the mandatory innovation principle in the public procurement act. It explains that if according to the procurement need it is possible to apply an innovation procurement (if there is no existing solutions that meets the procurement need or if existing solutions do not meet the procurement need with sufficient quality and with sufficient parameters) then the procurer should implement an innovation procurement. It explains that public procurers can implement preliminary market consultations and can take innovative aspects into account into every step of every procurement procedure (selection, evaluation criteria etc). However the guidance is very short and does not explain or provide examples on how to implement innovation procurements using all the different possible procurement procedures. The guidance refers to the EU guidance notice on innovation procurement for further information on how to implement innovation procurement using different types of procedures. The guidance is available free of charge, applicable to all procurers countrywide but still too limited to promote innovation procurement at a large scale. Therefore, the total result for sub-indicator **guidelines** is 50%.

There is no official list with good practice **case examples** approved by MMR. The Technology Agency published three case examples of innovation procurements, but they only illustrate how the agency can implement innovation procurements itself within the limitations of its funding programmes¹⁷, but they do not interconnect to EU initiatives, do not cover all types of innovation procurement and therefore also do not promote innovation at a large scale. The score for **good practice case examples** is therefore 33%.

It is evident that the country is aware of the need to further invest in utilizing the innovation procurement potential. However, it has still not launched any **trainings** or workshops or **assistance** measures for procurers (such as **networking** activities or **coordination** of procurements or **template tender documents**) to increase the know-how of public procurers on the use of innovation procurement.

Total score for the indicator capacity building and assistance measures is 9% which is a slight increase when compared to the 0% in the previous benchmarking. There is room for future improvement as the performance is still significantly below the top performing countries Austria and Norway which both score 65% on the indicator.



This indicator synthesises to what extent the national public procurement market in Czech Republic encourages the implementation of innovation procurement. It is composed of two sub-indicators that reflect:

I. The use of specific techniques to foster innovation in public procurement in the country

II. The openness of the national public procurement market to innovations from across the EU single market

With regard to the **sub-indicator I**, the Czech Republic shows the following evidence:

- a. **IPR default regime:** The total score of this sub-indicator is 25%, which is below the 40% European average, because there is no predefined default scenario on distribution of IPR rights between procurers and suppliers in the Czech Republic. The Czech Republic law, general terms and conditions for government contracts and guidelines on public procurement do not define how IPR allocation is dealt with in procurement contracts. It is left to the individual responsibility of each Czech procurer to specify clearly the IPR allocation for the procurement in its tender documents so that is compliant with applicable IPR/copyright law. The Czech public procurement law foresees that procurers can require in the tender specifications the transfer of IPR rights to the procurer. However, the Czech Copyright Act¹⁸ assigns copyright to the creator and determines that the copyright (moral right) cannot

¹⁶Nové zásady sociálně-odpovědného-environmentálně-odpovědného-a-inovativního-zadávání-od-1.1.2021---metodické-stanovisko-1.doc

¹⁷https://www.tacr.cz/wp-content/uploads/documents/2022/09/27/1664284386_Metodika_VZ_na_Inovace%20-%20Jana%20Slipkova_en%20-%20Jana%20Sl%20C3%ADpkov%20C3%A1.pdf

¹⁸ https://mk.gov.cz/doc/cms_library/2005_01334.doc

be transferred by the creator to another party, even when he is commissioned by the procurer (the contractor) or employed by a contractor (e.g. as a subcontractor) to work on the procurement contract. As the economic rights are also not transferrable under Czech law, if the procurer wants to use the commissioned work, he cannot require a transfer of those rights, but he can only require in the tender specifications to obtain a non-exclusive license to the economic rights (e.g. for usage, licensing, publication, modification, reproduction rights) at equitable payment. Copyright protects also scientific work (product designs, product specifications, tests etc.), computer programs and databases. For computer programs and databases produced on order there is an exception in the Czech Copyright Act which provides that the procurer shall have in any case economic rights.

- b. **Use of value for money award criteria:** Based on the EU Single Market Scoreboard, only 19% of the public procurement procedures published in TED have been awarded not solely based on the lowest price. This score is below the European average (43.87%) and far below the satisfactory level of 80% set in EU Single Market Scoreboard. The country still shows an over-reliance of lowest price criteria in procurement procedures.
- c. **Use of variants:** Czech Republic has allowed the use of variants in less than 1% of the procedures (0.24%) published on TED. This percentage is well below the European average of 3.28%.
- d. **Preliminary Market Consultations:** Czech Republic has used preliminary market consultations in 0.70% of the procedures published on TED. This percentage is slightly below the European average of 1.39%.

Based on this evidence, the score for the sub-indicator I is 11.24%, which is significantly below the European average of 22.13%. This is due to the below average performances on all four techniques to foster innovation in public procurement.

With regard to the **sub-indicator II**, the Czech Republic shows the following evidence (based on the EU Single Market Scoreboard):

- e. **Level of competition:** The level of competition of the national public procurement market is 74% which is below the European average 82.37% and significantly below the 92.5% satisfactory level set by the EU single market scoreboard. This result is both driven by the below average percentage of procurements with more than one bidder (58%), which is still far below the satisfactory level (90%), and below average percentage of procurements implemented with a call for bid (90%), which is also still below the satisfactory level (95%).
- f. **Level of transparency:** The level of transparency of the national public procurement market is 67.57% which is slightly above the European average 58.14% and just reaching the 66.33% satisfactory level set by the EU Single Market Scoreboard. This result is due to the average TED publication rate (6%), slightly above average percentage of procurements without missing call for bids information (99%) and slightly above average percentage of procurements that include buyer registration numbers (98%).

Based on this evidence, the score for the sub-indicator II is 70.78%, which is slightly above the European average of 70.25% and below the satisfactory level of 79.4% set by the EU Single Market Scoreboard. This is mainly due to lack of competition on the Czech public procurement market.

Based on the scores for the sub-indicators I and II, the total score the **indicator "Innovation friendly public procurement market"** is 41%, which is **slightly below the 46% European average**. This performance is due to both below average use of techniques to foster innovation in public procurement and below average openness of the Czech public procurement market to innovations from across the EU single market. Compared to the previous benchmarking the total score for this indicator increased slightly (from 38% to 41%) mainly due to improvement in the level of transparency of the Czech public procurement market. There are however still significant improvements needed to improve the level of competition on the Czech procurement market, to increase the use of preliminary market consultations, variants and value for money award criteria and to anchor in legislation an IPR default regime that promotes innovation in public procurement.



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