

European Parliament Public Hearing

Procurement of Innovation: The government/procurer as
active innovator



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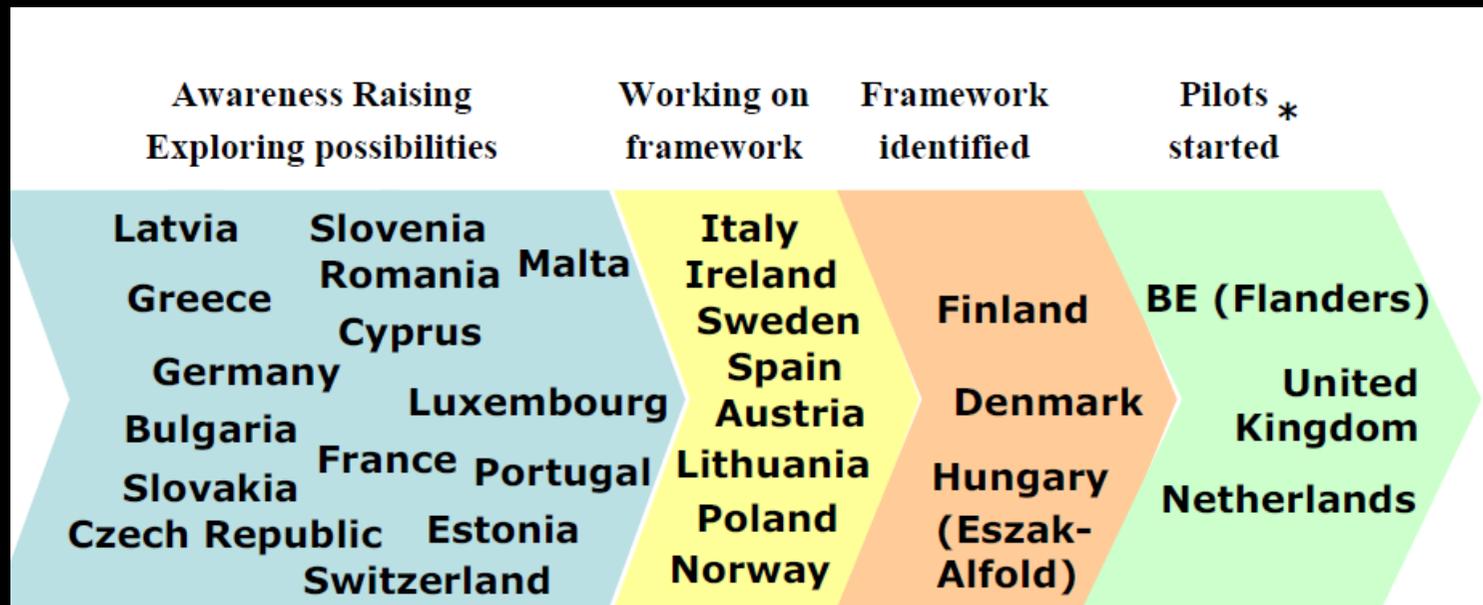
Agency for Innovation of Flanders

- 120 colleagues
- 2009: Common Decision of the Flemish Government: launch of The Action plan on Procurement of Innovation
 - Creation of the Knowledge Centre on PCP
 - Promising methodology with a phase approach on PPI and PCP
 - Launch of 15 pilots on PCP
- Budget 10 M €



Status of implementation across Europe

First results of ongoing EC survey
 Source EC DG INFSO

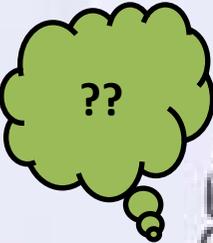


* Only one PCP approach has been notified to the Commission so far (UK Energy Technology Institute) and has been verified not to contain State aid. Other approaches referred to here (UK SBRI, NL SBIR, Belgium / Flanders pilot) have not been examined by the Commission from a State aid point of view.

Definitions Procurement of Innovation

- Two distinctive categories:
 1. Procurement of innovative solutions goods and services (new to the procurer but available on the market)
 2. Purchase of innovative products, services or processes (not yet available on the market) by a procurer with as goal (A/16f):
 - To solve socio-economic challenges
 - To improve the performance, functionality of public services

**“Today we’ll
Procure
Innovation !”**



Procurement of R&D requires a phased approach

➔ Flemish methodology in
3 phases

Phase 1: Innovation Platform

as market consultation



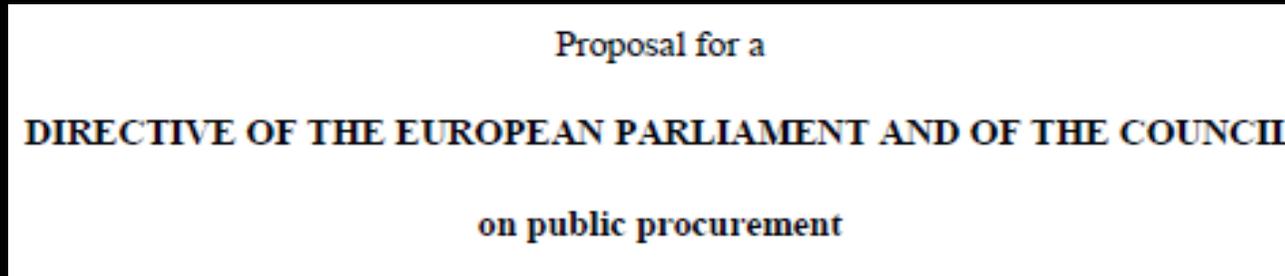
Phase 2: Pre-commercial Procurement



Phase 3: Commercial Tender



What is missing in the Proposed Directive?



- A clear distinction between the **exclusion of Art. 13** Research and development services (ex Art 16f) and the **Innovation Partnerships** and **PCP**?
- Difference between buying innovative solutions (available on the market but new to the procurer) and solutions not yet available and requiring R&D
- The **notion of R&D** under the procurements rules remains unclear (what is covered?)(refer to State aid rules and GPA description). Clear definition could encourage greater usage of procurement of R&D

What is missing in the Proposed Directive?

- Reference, in the “preamble”, to different methods to spur innovation through Public Procurement :
 - ✓ Only reference is made to Innovation Partnerships
 - ✓ Not the existing possibilities: Procurement of R&D (ex. 16f) & PCP is lacking (controlling entities are reluctant to consider the use of those procedures without a legal basis)
- IPR are now explicitly mentioned but the guidance on how to practically define arrangements between suppliers and procurers is lacking (State Aid) (example: PCP COM/2007/799 and SEC/2007/1168)
- A legal framework for Joint cross-border procurement is provided but in conflict with the idea of “splitting contracts into lots” as proposed measure to facilitate the access of SME’s.
Bundling the demand increase the contract size and do not favour the SMEs to win contracts
- Clarification of the use of the negotiated procedure without publication for the purchase of R&D supplies

Reflection on the new Innovation Partnerships?

- The new “procedure” remains vague, which are the objectives? Is it Forward Commitment Procurement?
- How to implement such a procedure, how to manage the transition between the R&D phase and the purchase of subsequent products (competition rules)?
- A long lasting contract with a specific provider to recuperate R&D costs → stimulate a lock-in situation and favour large scaled firms against small SMEs
- Double-funding of R&D is not allowed under State Aid rules → exclusion of companies willing to participate to a innovation partnership procedure launched by another Member States on the same topic
- IPR issues and arrangements are against the business logic (procurer keeps all the IPRs) → enterprises willing to participate under this conditions?; differentiation with PCP procedure
- Procedure do not apply for non-technological type of innovations (organisational, design)

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PROJECT IN DE KIJKER GEZONDHEIDSZORG

Oogscreening

Kind en Gezin wil een systematische oogscreening invoeren voor alle kinderen
Dit moet afwijkingen op jonge leeftijd aan het licht brengen.

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Conclusion:

Public Procurement of Innovation as leverage instrument



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