



Sustainable procurement in a European context:

practises of IT procurement in five EU countries

procure  fair

Campaign
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Sustainable procurement in a European context: practises of IT procurement in five EU countries

1 Introduction

Public procurement is the term used to describe the purchasing of works, products and services by all public bodies, including central government, local authorities, fire and police authorities, defence, health services, and public and private utilities.

The EU public procurement market is a fundamental part of the European single market and is governed by rules and regulations intended to remove barriers and guarantee non-discriminatory and competitive markets. The principle of public procurement is to introduce a broad range of potential suppliers to the public sector and utilities resulting in reduced cost, while at the same time opening up national markets for all EU-based bidders. The principles of non-discrimination, transparency and economic viability are aimed at ensuring the free movement of goods and services within the EU. Moreover, they are also intended to safeguard the responsible management of public funds. These principles are applied through the advertising of contracts across the EU, treating all enquiries equally to avoid discrimination on the grounds of nationality or the origins of goods and services. They also encourage the use of EU-based technical standards as opposed to national ones, and the use of objective criteria in tendering and contract award procedures.

The European Procurement Directives (referred to here as “the Directives”) are based on the principles stated above.¹ In general, the Directives set out regulations that need to be followed for all procurement processes within the European Union that have a value above centrally determined thresholds. For all tenders with an expected value above these thresholds, the Directives determine the permitted procedures that can be applied, and set out a number of rules. Among other things, these rules determine that all tenders need to be published Europe-wide and that all interested parties can participate. The Directives also determine the awarding criteria, which must be based on either 1) the lowest price or 2) the best-value-for-money principle. Finally, the Directives establish rules regarding the technical specifications.

Table 1: Directive thresholds for public contracts as of January 1st, 2008

	Supplies	Services	Works
Central government	€133,000	€133,000	€5,150,000
Other levels of government	€206,000	€206,000	€5,150,000

The Directives have to be transposed into national law in each EU country. This transposition process offers clear possibilities for member states to address social and environmental issues. The Directives explicitly mention the possibilities to purchase products which meet environmental and social criteria.²

¹ The Directives we refer to in this paper are Directive 2004/17/EC and Directive 2004/18/EC of the European Parliament and of the Council. For a concise overview of these Directives, see <http://europa.eu/scadplus/leg/en/s11000.htm> (16-09-08).

² Directive 2004/18/EC of the European Parliament and of the Council, March 31st, 2004, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:134:01:14:0240:EN:PDF> (18-07-08) p.1. “This Directive is based on Court of Justice case-law, in particular case-law on award criteria, which clarifies the possibilities for the contracting authorities to meet the needs of the public concerned, including in the environmental and/or social area, provided that such criteria are linked to the subject-matter of the contract, do not confer an unrestricted freedom of choice on the contracting authority, are expressly mentioned and comply with the fundamental principles (non-discrimination, transparency and economic viability) mentioned in recital 2.”

ICLEI, the Local Governments for Sustainability initiative, has drafted a manual, in which they describe all the opportunities of the Directives for inclusion of environmental and social criteria.³

This briefing paper compares the implementation processes of the European Procurement Directives in five European countries. Moreover, it identifies differences both in the implementation of the Directives, as well as in the national procurement legislation that applies to contracts below the Directive thresholds. The second section of the paper will look at how concerns about sustainability have been taken into consideration in the transposition of the Directives into national law, and what possibilities exist for sustainable procurement. Finally, the procurement of IT hardware is described as an example of a product group in which significant improvements can be made with regards to sustainable procurement.

In chapter 4 of this briefing paper, you will find examples of public institutions and their approach to IT hardware procurement. These will serve as illustrations of the daily practice of IT procurement and describe the role currently played by sustainability criteria. These examples show the difference in approach between different types, sizes and locations of purchasing institutions. The common characteristic of these examples is that the labour and human rights conditions in the production chain of IT hardware are not currently considered as criteria when purchasing computers.

ProcureITfair

ProcureITfair is a coalition of NGOs from various European countries that intend to raise awareness on the working conditions and environmental pollution in the production of computers and asks politicians and public purchasers to use their (buying) powers to demand compliance with international labour rights and ecological standards in the global supply chain of computers.

This is the first in a series of briefing papers addressing issues of public procurement, environmental issues and labour rights in the IT hardware production chain.

2 Procurement laws in five European countries

Each EU member state should have transposed the European Procurement Directives into national legislation by January 31st, 2006. However, few member states met this deadline.⁴ In December 2006, the European Coalition for Corporate Justice (ECCJ) urged all member states to proceed with this transposition.⁵ In July 2008, more than two and a half years after the deadline passed, still not all countries had finalised the transposition process.

It is the responsibility of the member states to transfer the Directives into national law. Such national procurement laws may vary between the member states, as long as they do not contradict the Directives. The case law of the European Court of Justice should also be taken into account, which constantly supplements the EU procurement regulations. Additional differences between countries may exist in the laws and policies that apply below the Directives' thresholds.

³ ICLEI, The Procura+ Manual: A Guide to Cost-Effective Sustainable Public Procurement, 2007, http://www.iclei-europe.org/fileadmin/template/projects/procuraplus/New_website/Printed_Manual/Procura_Manual_complete.pdf (09-07-08).

⁴ Ministerie van Economische Zaken, Eindrapport Aanbesteden in Europa, September 2006, <http://www.ez.nl/dsresource?objectid=145170&type=PDF> (21-07-08).

⁵ B. Slob, J. Oldenziel & T. Steinweg, Sustainable Procurement in the European Union, European Coalition for Corporate Justice advocacy briefing, February 2007, <http://www.corporatejustice.org/spip.php?article77&lang=en> (09-07-08).

In **The Netherlands**, the Directives were transposed into two separate decrees in 2005. One decree deals with the procurement of goods and services in general, while the other deals with the specific sectors of water and energy provision, transport and postal services. When these two decrees were implemented in 2005, they replaced the former national legislation. The most notable change in comparison with the older laws is the introduction of the *competitive dialogue* as an additional procedure. The decrees are very similar to the European Procurement Directives, as there were only a few specific adjustments to fit the Dutch national context.⁷

In 2007, the Dutch Lower House approved a new framework law (*Aanbestedingswet*) to create a national legal framework for public procurement. This law would make several adjustments to the existing decrees, as it would introduce new requirements regarding the integrity of companies, renewed eligibility clauses, decrease of paperwork through the use of electronic means of tendering, and a harmonisation of policies applicable to procurements under and above the European thresholds.⁸ This framework law would also apply to all tenders below the European thresholds. While the proposal for the new procurement law passed the Lower House in 2007, it was rejected by the Upper House in July 2008.⁹ It is unclear how these adjustments to the current decrees will be taken up in future legislation.

In **Germany**, only some parts of the Directives have been transposed into national law, even though all EU member states should have implemented them before January 1st, 2006. The current German procurement law makes no mention of the possibilities to include social and environmental criteria in public tenders. In Germany it is still controversial as to whether it is appropriate to introduce such criteria in procurement.

Germany has included the Directive thresholds in its procurement laws. The thresholds are used to determine which national laws or regulations are applicable. The federal procurement law is only in force for procurements above these thresholds, applying both to federal institutions and states and their institutions. The federal law has a so-called "opening paragraph", allowing states to implement their own procurement laws, as long as they complement the federal law. This makes the current situation highly complex, as there are significant differences between the laws in different states, and because these state laws are also applicable below the thresholds.

The federal legislation was in the process of being reformed in 2004, but the proposed law was not followed up by the next government, after the elections in 2005. A new law proposal has recently been drafted, and is expected to pass parliament before the end of this year. This new draft does allow for environmental and social criteria being taken up in the procurement process. This will be described in greater detail in the next section.

The main reason for the delay of full implementation of the Directives lies in a lack of political will. Over the years, there has been a prolonged debate surrounding the purpose of government procurement, and its role regarding sustainability. The recent proposal signifies a shift in attitude, and a possible breakthrough in Germany's approach to the Directives.

7 Interview with Karin van IJsselmuide, Dutch Association of Procurement Management (NEVI), (24-07-2008).

8 Ministerie van Economische Zaken website, "Nieuwe Aanbestedingswet", no date, http://www.ez.nl/Onderwerpen/Markt_en_consument/Aanbestedingen/Nieuwe_Aanbestedingswet?rid=144711 (01-07-08).

9 Eerste Kamer der Staten Generaal website, "Eerste Kamer verwerpt Aanbestedingswet", 08-07-08, <http://www.eerstekamer.nl/> (09-07-08).

In the **Czech Republic**, the Directives were transposed in 2006, when the Law 137/2006 on Public Procurement was signed. Before being harmonised with the Directives, the Czech legislation was in line with the Model Law on Public Procurement of Goods, Works and Services, which was adopted by the UN Commission for International Commercial Law.¹⁰

The current legislation is completely in line with the Directives with regards to its principles, rules and procedures. The legislation has a slightly more complicated system of thresholds. There are three categories; the 'above-the-thresholds', the 'below-the-thresholds', and procurement of 'minor public contracts'. For procurement of minor public contracts, the national legislation does not apply, but procurement needs to be in line with the Directive principles of transparency, non-discrimination and market price.¹¹ For all procurements below the thresholds, all procedures of the Directive may be followed but have a number of simplified requirements, mostly related to the certifications of impunity and economic situation.¹² In addition, the Czech Republic has the 'simplified below-the-thresholds procedure'. This procedure has a shorter time limit than defined in the Directives, and does not require the tender to be publicised at a European level, but merely in the national information centre administered by the Ministry for Regional Development.¹³

Table 2: Procurement thresholds in Czech Republic¹⁴

Type	Above-the-thresholds	Below-the-thresholds	Minor public contracts
Products and services	above €158,000	between €83,160 and €158,000	below €83,160
Works	above €6,070,000	between €249,484 and €6,070,000	below €248,484

* these are the thresholds that apply for the federal government. Different thresholds exist for local governments and 'sector submitters'.

In **Austria**, the first public procurement law, the so-called "Bundesvergabegesetz", came into force in 1994. Since then, the law has been revised several times, in 2002 and 2006, and amended in 2007.¹⁵ The current legislation, the Bundesvergabegesetz 2006 is a complete transposition of European Procurement Directives. The principles, rules and procedures are taken up literally, while Austria has also already implemented the latest revision of Directive thresholds in national law. All purchases above these thresholds are published through European channels.

Below the Directive thresholds, the Directive principles still need to be adhered to, but various simplification measures have been put in place. These measures, mostly allowing for easier procedures, are implemented in order to save transaction costs, and allow for greater flexibility for individual purchasing institutions. Similar to the situation in the Czech Republic, there are several additional thresholds that determine the procedures that can be followed when tendering, while none of these tenders need to be published Europe-wide. For procurements below the Directive thresholds, Austrian public institutions can use the negotiated procedure but need to publish the tender nationally. Below the first national thresholds of €80,000 for supplies and services, institutions may use the restricted

10 Public Procurement Network, Public Procurement in Europe, 2006, http://www.publicprocurementnetwork.org/pdf/11_public_procurement_in_europe.pdf (21-07-08). p.33.

11 Act No. 137 on Public Contracts, 14 March 2006, http://www.compet.cz/fileadmin/user_upload/Legislativa/legislativa_EN/PP_Act.pdf (21-07-08).

12 Interview with Karel Spada, Ministry for Local Development, July 2008.

13 OECD, Interguity in Public Procurement, Good Practice from A to Z (OECD, Paris, 2007), p.49.

14 The figures given in tables in this paper are all calculated using the exchange rate of 15-09-08, www.oanda.com.

15 Hot Topics in Austrian Procurement Law, presentation by Dr. Johannes S. Schnitzer, 16-05-08, <http://old.mendelu.cz/~podeko/verejnezakazky/download/Hot%20Topics%20in%20Austrian%20Public%20Procurement%20Law%20-%20Dr.%20Johannes%20S.%20Schnitzer.PPT> (16-09-08).

procedure without publication. For tenders up to €60,000, a negotiated procedure can be used, without the obligation to publish. Direct contracts may only be awarded for procurement below the threshold of €40,000.

Table 3: Relevant thresholds and allowed procedures for supplies and services in Austria

Thresholds	Allowed procedure
Above Directives' thresholds	According to Directive rules
between €80,000 and Directives' thresholds	Negotiated procedure with publication
between €60,000 and €80,000	Restricted procedure without publication
between €40,000 and €60,000	Negotiated procedure without publication
Below €40,000	Direct awarding of contracts

In **Hungary**, the initial public procurement law was passed in 1995, primarily aiming for rational, effective and transparent use of budgetary resources. In 2003, the current Public Procurement Act (Act CXXIX of 2003 on Public Procurement) came into force, which was later amended to transpose the requirements of the Directives. These amendments follow the Directives exactly, including the latest European amendment on the thresholds.

As is the case in the Czech Republic, the Hungarian legislation follows the Directives regarding its principles, rules, thresholds and procedures. Again, there are a number of additional thresholds put in place, that determine what procedures can be followed. In total there are three thresholds in place. The first are the Directive thresholds, above which procurement logically follows the policies as outlined in the Directives. The second is below the Directive threshold but above the national threshold; all procurement that falls in this category is obliged to follow the national Hungarian legislation. The third category is below the national threshold, but above the one labelled 'all other public procurement thresholds'. And finally, the remaining category includes all other public procurement, which does not have to follow any specific procedure, and tenders might be awarded privately.

3 Sustainable procurement laws and policies

Public procurement can be a powerful tool to promote sustainability, considering the strong buying power of public institutions. When public institutions apply social and environmental criteria to the products they purchase, this promotes a more sustainable approach in an entire sector.

The Directives can be a tool for sustainable procurement, and do not limit the possibilities of including social criteria in the procurement process. Environmental issues are already widely considered within the context of the Directives. For example, the European Commission has initiated the Green Public Procurement programme, which developed a toolkit that lays out all the possibilities, including environmental criteria in purchasing processes. Social considerations are also specifically mentioned in the Directives as a possible contract performance condition.¹⁶

¹⁶ Article 26 of Directive 2004/18/EC of the European Parliament and of the Council, March 31st, 2004, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:134:0114:0240:EN:PDF> (18-07-08).

Additionally, two of the five countries discussed here (Austria and the Netherlands) have ratified ILO Convention No. 94 on Labour Clauses in Public Contracts. These two countries have thereby committed themselves to including clauses on wages, working hours and labour conditions in all contracts awarded to third parties. A recent decision by an ILO commission states that merely having adequate labour laws in place is not sufficient for adhering to this convention.¹⁷ It seems, however, that this Convention is not followed in daily practice, and that many public authorities are not even aware of the existence of this convention. Recently, the ILO has established that this convention is in line with, and does not contradict, the Directives. However, some uncertainty exists about potential conflict between recent European case law and ILO Convention 94.¹⁸

This section describes how and if sustainability is mentioned in the national procurement laws, and analyses the various policies that promote sustainable procurement.

Sustainability in procurement law

There are clear differences in the approaches, ambition levels and focus fields in the sustainability laws and policies of the five countries. Whereas some do not consider sustainability an issue at all or only focus on environmental issues, others have taken up various social policies to guide the public purchasing.

In **Germany**, social and environmental considerations are not mentioned at all in federal procurement law. However, supplementary regulations that govern the procurement process point to some possibilities to include environmental criteria in accordance with certain eco-labels while social criteria are not mentioned.

Although sustainability considerations are not specifically mentioned in German federal procurement law and are referred to only marginally in supplementary regulations, social and environmental criteria can nevertheless be included in public tenders. While defining the subject matter of the tender, the purchasing agency is theoretically free to choose any article or service needed, including those that abide by social and ecological criteria (e.g. fair trade coffee, green energy), as long as this does not contradict the principle of non-discrimination in EU law and the principle of equal treatment under the German constitution. Once defined in the subject matter, there is also room to apply sustainability criteria to a certain extent in other phases of public tenders (technical specifications, selection criteria, contract awarding criteria).

However, regarding sustainable procurement practice, uncertainty and diffidence is prevalent among public purchasers in Germany as the opportunities for using sustainability criteria are not explicitly stated. Further sources of uncertainty are the highly complex structure of German procurement law and its legal interpretation as well as a strong lobby against the application of social and environmental criteria in business associations and among conservative legal experts.

As mentioned before, the adoption of the German law into the European Procurement Directives, which is due to take place in November 2008, will alter this contradictory situation to some extent as it is expected that the explicit passages on sustainability criteria will be introduced in German federal law. Legal uncertainty will therefore probably be reduced in the future.

17 International Labour Conference, Report III (Part 1B) General Survey concerning the Labour Clauses (Public Contracts) Convention, 1949 (No. 94) and Recommendation (No.84), 97th Session, 2008, http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_091400.pdf (18-07-08), p.40

18 European Parliament, Parliamentary questions, written question by Sahra Wagenknecht 16-07-08, answer given by Mr McCreevy on behalf of the Commission, 08-09-08, <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=P-2008-4113&language=EN> (15-09-08).

The **Czech Republic** seems to be lagging behind many of the other European countries regarding policies on sustainable procurement. Neither environmental nor social considerations are mentioned in the relevant legislation. The Ministry of Local Development, the Czech government body responsible for procurement policies, is not aware of the use of sustainability criteria in procurement practices:

“We cannot say whether the submitters [procuring agencies] make use of this possibility [to include environmental and/or social criteria]. We have no such statistics at our disposition. According to our experiences, however, we suppose that this possibility is not largely made use of because we have never come across such requirement [criteria] from the submitter’s [procuring agencies] part.”¹⁹

Sustainable procurement is incorporated into **Hungary’s** National Environmental Policy and Programme, which came into effect in 2003. The policy document emphasises the need for environmentally sound procurement, in order to promote the wider use of environmentally friendly products and services. The Programme includes encouragement and support for environmentally friendly management of public institutions, such as schools, local governments, and cultural institutions, in order to boost overall environmental awareness.

No information was found on whether social considerations were incorporated to any degree into Hungary’s procurement policies. A Hungarian government official is referred to by the ILO as stating that employers who violate labour laws are excluded from bidding for public contracts in the pre-selection phase. In the same document, this official is also quoted as saying: “these regulations should not...apply to orders given by public undertakings and workplaces for the procurement of raw materials or semi-manufactured and unfinished products necessary for their functioning.”²¹

Austria is the only country included in this research project that explicitly mentions the adherence to a number of ILO norms in its procurement law. In the *Bundesvergabeversetz* of 2006, which was adopted to transpose the Directives into national law, an article is adopted that literally states that: “For all procurement procedures executed in Austria, the obligations following the Conventions 29, 87, 94, 95, 100, 105, 111, 138, 182 and 183 have to be met”.²²

Convention title	Convention No.
Forced Labour	29 & 105
Freedom of association and right to collective bargaining	87 & 98
Labour Clauses (Public Contracts)	94
Wage protection	95
Equal remuneration	100
Discrimination	111
Minimum wage	138
Worst forms of child labour	182
Maternity rights (SP)	183

19 email correspondence with a certified advisor of the Ministry of Local Development, March 2008.

21 International Labour Conference, Report III (Part 1B) General Survey concerning the Labour Clauses (Public Contracts) Convention, 1949 (No. 94) and Recommendation (No.84), 97th Session, 2008, http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_091400.pdf (18-07-08), p. 22 and 103.

22 Bundesvergabegesetz 2006, Bundesgesetzblatt für die Republik Österreich, www.signatur.rtr.at/repository/legal-bvergg2006-20060131-de.pdf, January 2006, p. 48 and 108. “(1) Bei allen in Österreich durchzuführenden Vergabeverfahren sind die sich aus den Übereinkommen Nr. 29, 87, 94, 95, 98, 100, 105, 111, 138, 182 und 183 der Internationalen Arbeitsorganisation, BGBl. Nr. 228/1950, Nr. 20/1952, Nr. 39/1954, Nr. 81/1958, Nr. 86/1961, Nr. 111/1973, BGBl. III Nr. 200/2001, BGBl. III Nr. 41/2002 und BGBl. III Nr. 105/2004 ergebenden Verpflichtungen einzuhalten.”

While Austria is the country that is most clear in defining the approach to social issues, questions remain regarding the scope of this legislation. It is unclear whether these labour conditions need to be met only within the company executing the public contract, or whether these conventions apply throughout the supply chain of products purchased by government institutions.

National policies on sustainable procurement

Several European countries have developed policies to encourage sustainable procurement. As is the case for the procurement laws, the levels of ambition and scope vary widely among these EU member states. Whereas some countries have clearly formulated National Action Plans, in which they describe their goals, tools and measures to implement the sustainability policies, others have not given any indication that they intend to promote these practices.

In 2005, the **Dutch** government decided that all central departments of the government should use sustainability as a paramount criterion in public procurement procedures by 2010. In 2007, the government redefined this aim and stated that provinces and water boards should include sustainability as a criterion in 50 percent of all their tenders by 2010. Municipalities need to include sustainability as a criterion in public procurement by 2015.

Interestingly, the framework law on public procurement that was rejected by the Dutch senate in July 2008 did not mention the possibilities to include social and environmental criteria in sustainable procurement. Many civil society organisations and consultants considered this a mistake, as it would have been a good opportunity to embed social and environmental principles in national procurement law.²³ Considering that the law was sent back to the lower house, there may be still possibilities to include guidance on the use of social and environmental criteria in the revision of the new framework law.

In **Hungary**, the legal and institutional framework for sustainable procurement is currently being developed, as the country's National Action Plan for Green Public Purchasing is drafted. It is expected that the action plan is adopted in 2008, and will be based on the EU Integrated Product Policy.²⁴ The task force developing the national action plan is composed of several stakeholders. Whereas the national procurement policies do not specifically mention the use of environmental criteria, there are still several possibilities to include these criteria in the procurement process. These include the use of environmental properties as technical specifications, as well as environmental criteria to weigh up the products offered.

In addition to the inclusion of ILO Conventions in its national procurement legislation, **Austria** has also developed a National Action Plan (NAP), in which it sets out its approach towards sustainable procurement. This NAP was formulated by the council of ministries in July 2007. The plan included efforts to map out the status quo regarding environmental procurement, as well as pilot projects at three ministries for five different product groups. 400 public purchasers were required to formulate concrete targets and activities towards sustainable procurement. While the focus of the NAP is clearly on environmental considerations, social criteria are mentioned as well.

Germany does not have a National Action Plan on the inclusion of social and environmental criteria in public procurement. The situation in which sustainable procurement is dependent on the willingness of individual government purchasers has therefore remained in place.

The **Czech Republic** has also not developed a National Action Plan as yet, and has not shown any intent to address the issue of sustainable procurement.

23 MVO Platform, letter to the Minister of Economic Affairs, 12-03-2008, http://www.ez.nl/Onderwerpen/Markt_en_consument/Aanbestedingen/Consultatiedocument/Reacties_van_belanghebbenden_op_eigen_initiatief/MVO_Platform?rid=155893 (16-07-2008).

24 The Integrated Product Policy seeks to minimise environmental degradation by looking at all phases of a product's life-cycle. For more information, see the European Union website, <http://ec.europa.eu/environment/ipp/integratedpp.htm> (15-09-08).

4 The practice of IT hardware procurement

Examples of purchasing practices for IT

University of Economics, Prague, Czech Republic

“The criteria [for purchasing IT] is suitability of computers for the administration of the University [...] in time perspective [i.e. durability, or longevity of PCs] for the lowest possible price as well as good service conditions [i.e. long warranty].”

*Dana Vaclavikova,
Information Systems Support and
Development Department
(May 5th, 2008)*

Regional Government of Southern Bohemia, Czech Republic

“In the decision-making process for IT purchasing, we prefer suppliers who offer good guarantee conditions and good after-guarantee service. Other criteria are price and guarantee period. (...) The average annual expenses for IT purchases [including desktops, monitors, laptops, printers and other facilities] of our Regional Government are around 2-3 million CZK [€100,000]. The financial volumes per year are descending in time parallel to the descending prices in electronics. (...) The selection criteria for purchasing of electronics are price, long guarantee period and service.”

*Petr Vobedja, Head of
Department of Informatics
(April 18th, 2008)*

The transposition of the Directives, and the inclusion of social and environmental considerations in a country's legislative and policy framework are important developments. However, such laws and policies would also need to be implemented and reflected in the practice of public purchasing. This paper uses the example of the purchasing of IT, as public institutions are very large consumers of this product group, and have significant buying power. This section will give an overview of the importance of IT for public purchasing in the five countries discussed here, identify the most important institutions for the procurement of IT, and will give a number of examples of purchasing practice for central and non-central institutions.

Amounts of IT purchased

This report has attempted to gather data on the purchasing of IT in the different EU member states discussed here. While it has proven possible to gather figures on the amounts of IT purchased in most instances, it has proven to be very difficult to come to any comparisons of these figures. Differences exist in the form of what has been included in the IT figures (hardware, software and services), inclusion of long term framework contracts, VAT, the year of reporting, and the distinction between central and non-central governments. While the figures given below should serve as indicators of the size of the IT procurement in the five countries, precaution should be taken when trying to compare them.

In the **Netherlands**, ICT products and services account for approximately 17% of all central government purchasing, making it the second largest category behind temporary personnel and consultancy services.²⁵ In total, the costs for IT hardware, software and ICT services accounted for €900 million.

In the **Czech Republic**, the combined figures of central and non-central government IT procurement amounted to €150 million in 2007.²⁶ The figures represent the entire budget spent on IT hardware, software and services. No further information was found about the specific spending on IT hardware. As no figures were found on the total market of IT in the Czech Republic, it was not possible to determine the relative share of IT procured by the government.

In 2006, **German** public institutions spent a total of €17 billion on the procurement of IT. This includes both central and non-central governments, as well as hospitals, universities and other institutions. In total, this amounted to 20% of all IT sold in

25 Regiebureau Inkoop Rijksoverheid, Factsheet Rijksbrede Inkoopanalyse, April 2008, <http://www.pianoo.nl/dsresource?objectid=15419&type=pdf> (15-09-08).

26 Information System for Public Procurement website, “Úvodem”, no date, <http://www.isvz.cz/isvz/> (09-07-08) & email correspondence with L. Potesmil, Official at the Department for Public Investments, Department 323- Informatics, Ministry for Local Development, April 2008.

Regional Government of Nordrhein-Westfalia, Germany

Most of the procurement of state agencies in Nordrhein-Westfalia goes through the State Agency for Data Processing and Statistics. In the last two years, the agency spent approximately €2 million on IT purchases. The procurement procedures are according to the Directives, and framework contracts are the most common. The most important criteria when purchasing IT are price and administrative costs, while environmental criteria are also taken into consideration. According to Mr. Flüs, environmental criteria are applied on the basis of individual initiatives, and no requirements are in place. Environmental performance is assessed through various energy labels, while social criteria have not been adopted due to difficulties in assessments. *Interview with Mr Flüs, Advisor Technical Department, State Agency for Data Processing and Statistics (June 16th, 2008)*

Humboldt University, Berlin

The Central Procurement Office of the Humboldt University in Berlin purchased a total of €1.2 million worth of IT in the last year. All the tenders were above the Directive thresholds, and tenders were awarded mostly on the basis of price. Lifecycle costs are also taken into consideration. During the procurement procedure, the purchasers do look for labels regarding the energy use and other environmental performance aspects, as well as those that say something about the chemicals used. No attention has ever been given to social criteria, such as labour and human rights conditions during the production of IT. *Interview with Ms. Domke, Head of Procurement (June 6th, 2008)*

Germany. Looking at the federal government alone, IT procurement amounted to €3 billion. No figures were available for 2007.

No financial information was available for **Austria**. It is only known that the Bundesbeschaffungsgesellschaft, the central procurement office, purchased 25,000 computers and 15,000 laptops last year.²⁷

Recent information for **Hungary** was only obtained for the spending through the Central Directorate of Public Procurement (see Table 4). IT products account for 50% of all spending through this central Directorate. The data for non-central procurement was only available for 2005, when almost €35 million was purchased.

Table 4: Public procurement of IT products through the Central Directorate of Public Procurement in Hungary

Year	Euro (million) ^a	HUF (million)
2003	125	29,409
2004	142	33,445
2005	119	28,075
2006	117	27,528
2007	134	33,584

Purchasing agencies

Several differences can be identified regarding the ways in which the procurement of IT is organised within the five countries. While some countries have a very centralised and top-down approach, others allow for much greater freedom for individual institutions. The differences between the purchasing agencies among the five countries have clear consequences for the practice of sustainable procurement of IT.

In the **Czech Republic**, most central and non-central governments have specific Departments of Informatics. These departments are responsible for the lion's share of IT procurement in the Czech Republic, while a smaller share is procured through Departments of Economy Administration. While all procurement needs to be in accordance to the principles of the Directives, there are no centrally determined policies on the procurement of IT. *"There are no explicit criteria concerning IT procurement established centrally (by the government). Every submitter (Ministry, Region, etc.) has its own internal rules for IT purchasing, which corresponds to its needs."*²⁸

27 Interview with Florian Unterberger, Official at the Austrian Bundesbeschaffungsgesellschaft (BBG), 04-07-08.

28 email correspondence with L. Potesmil, Official at the Department for Public Investments, Department 323- Informatics, Ministry for Local Development, April 2008.

University of Duisburg, Essen

Most of the IT used at the University of Duisburg Essen is purchased through the IT Service Department, but faculties are also allowed to make individual purchases. Due to all purchases being below the thresholds (total IT procurement amounts to €80,000), they do not have to follow the Directives.

The most important criterion applied is the quality of the product, while price and environmental considerations also play a role. Aspects of environmental performance that are considered include eco labels, energy efficiency, chemicals and pollutants, recycling, and that the production of hardware is based in Europe. With regards to social criteria, the university only expresses a preference for local companies, where the computers are assembled and the labour conditions are known. Labour and human rights conditions in the production phase of IT hardware are not considered.

Interview with Mr. Reul, Procurement Officer, IT Service Department (June 17th, 2008)

In **Germany**, a large variety of agencies are responsible for the procurement of IT hardware. There is no central agency that organises procurement. The situation is similar at the federal state level,; in some cases there are specific institutions for the procurement of IT. One example is Berlin, where a state-owned company acts as the central authority for IT procurement. At the municipal level, great varieties exist regarding the placement of procurement departments. For example, these can be located at the department of environmental affairs, such as in the city of Neuss, or in the administrative department of buildings and grounds, as in the city of Bonn. Municipalities often decide to tender for products jointly, usually to reduce costs and increase efficiency.

In **Austria**, most of the IT used by both central and non-central governments is purchased through the central procurement office, the *Bundesbeschaffungsgesellschaft (BBG)*. While the BBG is the largest public purchasing body, other institutions with significant IT purchases include individual federal governments, social insurance institutions, and the national railways.²⁹ All procurement through the BBG is carried out in accordance with the Directives, and use the open procedure for tendering. Environmental issues, such as energy use and toner consumption, are incorporated into the 'total cost of ownership' principle used in the procurement process. However, ILO Conventions are not explicitly mentioned in the procurement of IT. This is surprising, considering Austria's reference to a number of ILO Conventions in the national procurement legislation, as well as its ratification of ILO Convention No. 94, on social clauses in public contracts.

In **Hungary**, the practice of public procurement is highly centralised. The Prime Minister's Office hosts the procurement department, the Directorate of Public Procurement, which centrally organises the procurement of more than 1,000 budgetary institutions and 581 other public institutions. The latter institutions voluntarily joined this initiative. Moreover, the government has listed a number of product groups as 'prioritised products', which includes IT. As a prioritised product, IT can only be procured by the ministries with written permission from the Prime Minister's office. The reason for this centralised approach is Hungary's high state deficit.

In **The Netherlands**, all procurement is characterised by a highly decentralised structure. Provinces, water boards and municipalities have a high degree of independence in their decisions as to what and how to procure. This also applies to the procurement of IT hardware. In some cases, several ministries and institutions team up to create economies of scale, and save costs in the procurement of IT hardware. In 2007, six ministries and 31 other government bodies jointly purchased IT hardware for a total of €70 million.³⁰

29 Interview with Florian Unterberger, Official at the Austrian Bundesbeschaffungsgesellschaft (BBG), 04-07-08.

30 Ministerie van Sociale Zaken en Werkgelegenheid, "Succesvol ICT-project levert overheid ruim tien miljoen euro op", persbericht Nr. 07/076, 08-08-07.

5 Recommendations

The comparison between the five European countries and their procurement laws and policies, lead to the following recommendations for policy makers in EU member states.

- Countries that have not already done so should completely transpose the Directives into national law. The Directives provide a framework with ample space for sustainability considerations in tendering processes.
- Central governments should give a prominent place to sustainability in their procurement laws and develop specific guidance for public buyers how to include environmental and social criteria.
- Governments should adopt the best practices of surrounding countries, such as the reference to ILO norms in Austria's procurement law and the goal of 100% sustainable procurement by 2010 in the Netherlands.
- Governments should consider the possibilities of ratifying ILO Convention No. 94, and evaluating the compatibility of this convention with the Directives and the EC Services Directive. In any case, governments should take the principles of these conventions into account when developing their national sustainable procurement policies.
- Countries that have ratified ILO Convention No. 94 should actively implement this in their purchasing policies and develop guidance on how to use this convention in everyday procurement practice.
- More consideration should be given to social criteria when purchasing IT. This includes requirements of compliance with the core ILO conventions in public contracts. Such requirements should apply throughout the entire supply chain.
- Governments should continuously set targets for sustainable procurement, with particular attention to developing and applying social criteria.

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