

JOINT PUBLIC PROCUREMENT BY MUNICIPALITIES – SLOVAK EXPERIENCE AND LESSONS TO BE LEARNED FROM SELECTED EUROPEAN UNION MEMBER STATES (NATIONAL REPORT AND LEGAL COMPARATIVE STUDY)¹

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Abstract: The paper analyses the institute of joint public procurement (the JPP) that can be used by municipalities to jointly purchase goods, services or works to achieve the cost efficiency. The JPP has potential to rationalise the public spending on the level of municipalities, and the relevant scientific literature is also pointing out to using of cooperation in public procurement as a potentially effective tool of municipal cooperation. In order to analyse the specific conditions for use of this institute at the level of municipalities in the Slovak Republic, the author conducted a legal comparative analysis of the legal regulation of the JPP in the selected member states of the European Union and by using method of quantitate research also analysed data provided by the Slovak Office for Public Procurement to assess the usage of the JPP at the level of municipalities in the Slovak Republic in the period from 2018 to 2023. It can be concluded that even though the regular usage of the JPP by municipalities in general has potential to create functional microregions at the level of local government, it is not sufficiently used and therefore its potential is not achieved in the conditions of the Slovak Republic.

Key words: public procurement, joint public procurement, municipal cooperation, public finance

Introduction and basis of scientific research

Centralisation and decentralisation of the public procurement is very common theme that is being constantly resonating among the contracting authorities in the search for efficient solutions of public finance spending. Centralisation and cooperation in the public procurement generally makes sense if the contracting parties have similar needs in terms of product characteristics and quality, time and place of delivery or

¹ The paper is a scientific output of the project AVPP-22-0482 entitled "*Financing of local government - the potential of functional microregions*".

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when there is a high degree of homogeneity of demand and economies of scale may be achieved by suppliers or provider.³

Joint public procurement (hereinafter as the "JPP")⁴ represents a form of centralisation of the public procurement⁵ allowing two or more contracting authorities (from the same or eventually even from different countries, i.e. in cross-border regime)⁶ jointly purchase goods, services or works and eventually achieve cost efficiency or product efficiency. The legal basis of the JPP under European Union (hereinafter as the "EU") law is Articles 37 and 38 of Directive No 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (hereinafter as the "**Directive No 2014/24/EU**"), and Articles 55 and 56 of Directive No 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive No 2004/17/EC, which regulate the JPP in the form of a central purchasing body (more institutional

³ PREDĂ, Ionel: Analysis of Centralized Public Procurement in the European Union, the United States of America and Romania. In: REVISTA DE MANAGEMENT COMPARAT INTERNATIONAL/REVIEW OF INTERNATIONAL COMPARATIVE MANAGEMENT, Faculty of Management, Academy of Economic Studies, Bucharest, Romania, vol. 20(4), 2019. p. 470.

⁴ The JPP is also a public procurement tool used at the level of the European Union to promote other key policies of the European Union in various areas, e. g. industrial policy (see e. g.: NICOLI, Francesco – BEETSMA, Roel: Joint public procurement as a tool for European Union industrial policy. Research Report. Bruegel Policy Brief, No. 18/2024, 14 p.), environmental policy (see e. g.: BLAŽO, Ondrej – KOVÁČIKOVÁ, Hana – MOKRÁ, Lucia: European Environmental policy and public procurement – connected or disconnected? In: International and Comparative Law Review, 2019, vol. 19, no. 2, p. 239–265.) or health policy (e. g. COVID-19 vaccines, see latest report from the Health Emergency Preparedness and Response Authority: Health Emergency Preparedness and Response Authority: Commission signs joint procurement contract for COVID-19 vaccines to ensure preparedness and continued protection of citizens. News Announcement, 24.1.2025. Available at: https://health.ec.europa.eu/latest-updates/commission-signs-joint-procurement-contract-covid-19-vaccines-ensure-preparedness-and-continued-2025-01-24_en [accessed on 27.09.2025].

⁵ TÁTRAI, Tünde – VÖRÖSMARTY, Gyöngyi: Comparative Analysis of the European Centralised Public Procurement. In: Cent. Eur. J. Public Policy 2023, 17(2), p. 83.

⁶ Critical legal analysis of the joint cross-border procurement at the European Union level shows that existence of complicated administrative and technical rules makes the cross-border joint procurement in the European Union in general (not only on the municipal level) very complex, contracting authorities favour other alternatives of public procurement than the joint cross border procurement and this type of the cross-border cooperation in the public procurement is not spread in use (In: LOMBARDI, Roberta – ROSA, Stefano: Theoretical Models and Implementation Practices: Critical Legal Analysis of Joint Cross-Border Procurement. In: Ceridap, 2024(1), p. 84). Potential opportunities and challenges for European cross-border procurements in the context of innovations were subject of the research of Cavallo Perin and M. Racca (CAVALLO PERIN, Roberto – M. RACCA, Gabriella: European Joint Cross-border Procurement and Innovation. p. 93 – 132. In: M. RACCA, Gabriella – R. YUKINS (eds.): Joint Public Procurement and Innovation. Lessons Across Borders. Collection. Bruxelles : Bruylant, 2019, 648 p.)

form), as well as in the form of occasional public procurement (less formal and flexible form) both for contracting authorities and sector procurers, with the legal regulation being fundamentally similar.⁷ The JPP is a common institute stemming from the EU law that is (or in legal theory should) be accordingly implemented into national public procurement rules in all EU member states. On the other hand, there was identified a negative trend of tailor-made laws enacted in public procurement in the Central-Eastern Europe (including the Slovak Republic) that are generally against the basic ideas of the institutes of the public procurement designed at the EU level for benefit of policymakers and are based on non-economic objectives.⁸

This paper and the research presented therein will be focused specifically on the use of the JPP in a form of occasional public procurement organised by local government/municipalities to fill in the literature gap in this area of the JPP in the specific legal economic conditions of the Slovak Republic. From the relevant literature review follows that it has been identified that the JPP could be a beneficial purchasing tool for municipalities and municipal unions not only due to cost saving but also for other efficiencies. Study of Italian practice in intermunicipal cooperation in public procurement shows that application of the JPP in between 2012 – 2020 by municipal unions led also to improved efficiency during contract execution which can ultimately more important than cost saving.⁹ English example shows that local government use variety of public procurement mechanism to cooperate including the JPP (central purchasing agencies or occasional joint procedure), framework agreements or dynamic purchasing systems to get the most value from the public finance.¹⁰

There is a lack of comprehensive and reliable data on usage of the JPP in other countries by local government authorities/municipalities. The only relevant publicly available data about using joint procurement (however including both the JPP and procurement conducted by a Central Purchasing Body) in the EU member states and other European countries (methodologically similarly gathered and published as data used for the data analysis for the purposes of this article with regards to the Slovak

⁷ JAKAB, Radomír: Joint public procurement in European Union Law. In: *Prawo Budżetowe Państwa i Samorządu*, 10 (4), 2022, p. 57.

⁸ KISS, Rebeka – SEBŐK, Mikós: The concept of tailor-made laws and legislative backsliding in Central–Eastern Europe. In: *Comparative European Politics*, 23 (3), 2025, p. 378.

⁹ ARACHI, Giampaolo – ASSISI, Debora – CESI, Bernardino – GIURANNO, Michele G. – RUSSO, Felice: Intermunicipal cooperation in public procurement. In: *Regional Studies*, 58(11), 2024, p. 2055.

¹⁰ PARKER, Steven – LIDDLE, Joyce: Local government procurement in English regions: organisations, collaborations and mechanisms. In: *Local Government Studies*, 2024, p. 21.

Republic) is data published by Public Procurement Data Space¹¹ from Austria, Germany, Finland and Norway.¹² The pertinent data shows that share of the usage of joint procurement (not solely JPP but also centralised public procurement procedures) by local governmental authorities/municipalities compared to all public procurements organised by the local government authorities/municipalities in 2024 represents 5 % in Austria, 16 % in Norway, 24 % in Germany and 51 % in Finland.¹³ Moreover, also older data analysis for the European Commission conducted by PWC-Ecorys group in 2011 shows that Scandinavian states have the best results in using particularly the JPP in general (not only at the local government level) at the European level (in particular in 2011 Norway used the JPP in 11% of all public procurements, Denmark in 7 % of all public procurements, Sweden in 6 % of all public procurements, Germany and Austria in 5 % of all public procurements and the Slovak Republic in 3 % of all public procurements).¹⁴ The data analysis conducted by PWC-Ecorys group in 2011 supports the assumption that Scandinavian states have been pioneers in using joint procurement procedures (both the JPP and centralized public procurement procedures) in general, regardless of the lack of exact data demonstrating current state of usage of the JPP in other countries.

This paper within the pertinent research areas addresses the following partial scientific questions/objectives:

- 1) Is legal regulation of the JPP in the Slovak Republic compliant with the EU standard? (i.e. is there any Slovak specific legal limit for application of the JPP in the Slovak Republic compared to other selected EU member states?)
- 2) What is the current state of usage of the JPP by the municipalities in the Slovak Republic?

¹¹ Public Procurement Data Space is a service where policy makers, public buyers, companies, and other stakeholders can access public procurement information at the EU level as well as at the level of selected EU member states (Available at: <https://www.public-procurement-data-space.europa.eu/en>).

¹² These countries were chosen due to fact that only data from these countries together with data published in TED are available in Public Procurement Data Space service and no other national/regional data about any form of joint procurement (the JPP and/or centralized public procurement) are included in Public Procurement Data Space service.

¹³ The shares of the usage of the joint procurement at local government level as demonstrated by Public Procurement Data Space service dataset can be influenced by the methodology of reporting and assessment of the data in the respective countries but on the other hand it clearly demonstrates that the joint procurement (even it cannot be what the exact share of the JPP procedures and centralized public procurement procedures) are used more in Scandinavian region compared to Austria that is a direct neighbor to the Slovak Republic.

¹⁴ PWC-Ecorys. Public Procurement in Europe — Cost and Effectiveness. A study on procurement regulation. Prepared for the European Commission by PWC-Ecorys. 2011. [online]. p. 38. Available at: <https://www.scribd.com/document/234610075/Public-Procurement-in-Europe-Cost-and-Effectiveness> [accessed on 27.09.2025].

3) Has intermunicipal cooperation in a form of the JPP (occasional or even regular) potential to create functional microregions in the Slovak Republic?

The research objectives are based on the basic premise that (regular) cooperation in public procurement by municipalities in a form of the JPP can be an indicator that these municipalities are forming (or are eligible to form) a functional microregion in broader sense (i.e. apart cooperation in the public procurement also in provision of other public services that municipalities have to secure for its inhabitants like public transport, education or joint exercise of local government).

Research areas and applied research methods

The scientific findings presented in this paper are results of two relatively separate scientific analyses¹⁵ conducted within the relevant research area to give answers to partial research questions/objectives of the paper.

The legal comparative analysis is based on analysis of implementation of the relevant provision enshrined in Article 38 of Directive No 2024/24/EU into legal order of the Slovak Republic compared to other selected EU member states. For the comparative legal analyses were chosen the EU member states that could be deemed as standard or role model for the Slovak Republic, consisting of: 1) the most developed EU member states by GDP assuming they will also achieve the best results in a form of implementation and subsequent usage of the JPP; together with 2) the EU member states that have the similar economic, legal and social conditions compared to the Slovak Republic. The comparison sample consists of 15 EU member states in total, namely Germany, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Italy, Netherlands, Lithuania, Latvia, Hungary, Poland, Sweden and Spain (hereinafter jointly as the "**Selected Member States**").

The data analysis was conducted on the data about all public procurements that took place in the Slovak Republic between 1.1.2018 and 15.10.2023 (hereinafter as the "**Relevant Time Period**") provided for research purposes by the Slovak Office for Public Procurement¹⁶ (hereinafter as the "**OPP**"). The sample covered more than 40.000 records that were created (extracted) from the notifications used in the public procurements for publication of results of the public tenders in the Official Journal of

¹⁵ Basic results of the legal comparative analysis and partial outcomes of the data analysis conducted within the project AVPP-22-0482 entitled "*Financing of local government - the potential of functional microregions*" were also enshrined and published by researchers participating in the project in the scientific article: KATKOVČIN, Maroš – RUÑANIN, Marián – TAZBERÍK, Peter: Spoločné verejné obstarávania ako nástroj zvyšovania efektivity medziobecnej spolupráce. In: *Mílniky práva v stredoeurópskom priestore 2025* (zväzok 2), 1. ed. Bratislava: Univerzita Komenského v Bratislave. Právnická fakulta UK, 2025, p. 1081-1089.

¹⁶ The Office for the Public Procurement is a central government body responsible for the area of public procurement in the legal and economic conditions of the Slovak Republic.

the public procurements in the Slovak Republic¹⁷ using SQL language for extraction from the OPP' database. These records contain a total of 20.303 unique both above threshold and below threshold public procurements of which 6.187 public procurement procedures were cancelled by the contracting authorities and 14.116 public procurement procedures ended with awarding of the tender to the supplier. In total of 4.464 unique both above threshold and below threshold public procurement procedures were completed in the Relevant Time Period by local governments – municipalities (i.e. contracting authorities within the meaning of Section 7 paragraph 1 letter b) of the Act No. 343/2015 Coll., on Public Procurement and on Amendments to Certain Acts, as amended (hereinafter as the “**Slovak Public Procurement Act**”). Afterwards the public procurements that had a note of usage of some kind of joint procedure were filtered and categorised by the nature of the contracting authority (state entity/local government – municipality). All filtered results were then checked whether they meet the analysed criteria of usage of the JPP (i.e. not centralised form of the JPP but just occasional form within the meaning of Section 16 of the Slovak Public Procurement Act) by municipality or municipal unions. The accuracy of the findings (limits of the research) can be influenced by the change of legislation resulting in the changes of information enshrined in the notifications published, as well as by the correctness of data entered by the contracting authorities into the notification (the entered data is not checked before publishing by the OPP before publishing and some notifications of used JPP procedures due to error on the side of the contracting authority were not sent for publishing or their publication was not then required by law). There could also occur some public procurement procedures that are not covered in the data provided by the OPP in the Relevant Time Period due to their financial value and no statutory obligation of the contracting authorities to publish the result of these public procurement procedures in the Official Journal of the public procurements in the Slovak Republic (i.e. there could be some small and occasional public procurement procedures even below the financial limit statutory set in for the below threshold public procurement procedure using any form of the JPP). However, based on the nature and possible quantity of errors (after consultation with the OPP it should be just marginal number of records affected by the limitations above) in the dataset provided by the OPP, the main findings and trends identified cannot be considered as negated or significantly affected. The methodological apparatus predominantly used to perform the respective parts of the scientific research includes the methods of formal logic and deductive reasoning (analysis, synthesis, generalisation, comparative methods) and methods

¹⁷ Available at (published every working day): <https://www.uvo.gov.sk/vestnik-a-registre/vestnik> [accessed on 25.09.2025].

of quantitative research (mostly data analysis in a form of descriptive research and statistical methods).

Legal comparative analysis of the JPP – the Slovak approach in comparison with the Selected Member States

Basic legal regulation of the JPP under the Slovak laws is enshrined in Section 16 of the Slovak Public Procurement Act. When comparing the wording of Section 16 of the Public Procurement Act with Article 38 of Directive No 2024/24/EU, it can be stated that the Slovak national implementation of the institute of JPP is fully based on and in compliance with the wording of Article 38 of Directive No 2024/24/EU.

Under the Slovak Public Procurement Act, the application of an occasional JPP generally assumes a prior agreement between contracting authorities (concluded in writing from the point of view of the formality of legal acts of public law entities) that, for certain reasons (economic, administrative or technical), decide to procure a certain subject of the contract jointly in order to satisfy a common need and achieve the greatest possible level of economy, efficiency and effectiveness of the procedure leading to the expenditure of public funds.¹⁸ The elemental practical limit to the use of the JPP is the fact that for its implementation, there must be a common need for a specific purchase or performance on the part of the participating contracting authorities at a specific time, as well as complete agreement not only on the form of the public procurement procedure but also an agreement between public contracting authorities on sharing costs and possible responsibility for the implementation of the JPP.¹⁹

With regards to the comparative legal analysis, it can be concluded that all Selected Member States (except Sweden and Italy that have only cross-border JPP in their respective laws) explicitly have implemented the JPP into their nationally specific legal regulation of the public procurement. There are slight differences in specific national institutes or conditions for the use of the JPP (e. g. the Czech legislation requires a written contract governing mutual rights and obligations before concluding a joint procurement agreement, in Estonia the subject of the JPP cannot be a commercial activity of the participating contracting authorities, the relevant legislation in Spain distinguishes between vertical and horizontal cooperation and regulates the conditions for their use) and subsequent joint or partial liability for the JPP.

¹⁸ Compare with: AZUD, Ján – PLAVÁKOVÁ, Lucia – BARTOŠ, Peter: Zákon o verejnom obstarávaní. Komentár. Komentár k § 16 [Príležitostné spoločné obstarávanie]. Bratislava: C. H. Beck, 2019, p. 489.

¹⁹ MICHALICA, Jakub – KATKOVČIN, Maroš.: Centrálné verejné obstarávanie a spoločné verejné obstarávanie. In: Verejné obstarávanie - právo a prax : odborný dvojmesačník. Vol. 11, Issue 4 (2024). Bratislava: Wolters Kluwer, p. 13.

The comparative legal analysis with the Selected Member States proves that the Slovak implementation of Article 38 of Directive No 24/2024/EU is in compliance with the EU standard set by Selected Member States and therefore it can be concluded that potential non-usage of the JPP by municipalities in the conditions of the Slovak Republic is not caused by any specific legal limit to application of the JPP in general or particularly towards municipalities.

Key findings of the data analysis in relation to the JPP usage by municipalities in the Relevant Time Period

The key findings of the data analysis in the Relevant Time Period in relation to the research objective of this paper can be summed up as follows:

A) Share of the JPP by municipalities/municipal unions

There were identified 89 unique public procurement procedures completed by municipalities/municipal unions that use the JPP in the Relevant Time Period. The share of the JPP by municipalities/municipal unions account for only approx. 2 % of all public procurement realised by municipalities/municipal unions (in total of 4.464 unique public procurement procedures resulting in awarding of the tender) in the Relevant Time Period. This finding confirms the assumption that the JPP is not commonly and widely used by municipalities in the conditions of the Slovak Republic for exercising of public purchases. In order to make an illustrative comparison with data about usage of the JPP by municipalities from Germany, Austria, Finland and Norway for 2024, the share of usage of the JPP by municipalities in the Slovak Republic in 2022 (the last year for which the data used for the data analysis is complete for the whole year) was 1,99 % (16 public procurement procedures from 801 public procurement procedures in total). This finding supports the general assumption that the JPP is not regularly used by the municipalities in the Slovak Republic and it is far behind the leaders in this area (particularly the Scandinavian states).

B) Subject matter of the JPP by municipalities/municipal unions

The data analysis shows that more than 90 % of the JPP organised by municipalities/municipal unions in the Relevant time Period were organised for purchase of goods – energy (electric energy and gas). Remaining 10 % of the JPP consists of various types of public procurements for services (mainly insurance of vehicles/assets for municipalities or joint waste collection and disposal) and purchase of other goods than energies (e. g. cars, works etc.).

The current trends and also implications of energy crises and current geopolitical factors (in particular war conflict in Ukraine) can be considered main driving factors for engagement of municipalities in the JPP also enhanced and promoted by activities of commercial companies specialising in the JPP for purchase of energy

spreading knowledge of this type of public procurement procedure available to municipalities to secure cost efficiency (both in administrative phase of public procurement as well as general price efficiency).

C) Form of the JPP

The most of the JPP organised at local government level in the Relevant Time Period were facilitated by municipal unions like Association of Towns and Municipalities of Slovakia (in Slovak *Združenie miest a obcí Slovenska*; hereinafter as "ZMOS")²⁰ or other regional municipal unions. Rarely the JPP are organised *ad hoc* without involvement of any type of municipal unions.

It can be concluded, that mainly ZMOS together with local regional municipal unions are helping to promote the JPP among the municipalities and naturally hence enhance and facilitate forming of bigger or smaller functional microregions among its members based on their geographical proximity and inter-connectivity since these municipalities use the JPP not just occasionally but regularly as a standardised form of public purchase in the certain areas (predominantly energy purchases).

Conclusions and future considerations

The paper is focusing on the analysis of the use of the JPP in a form of occasional public procurement organised by local government/municipalities to promote forming functional microregions in the legal and economic conditions of the Slovak Republic.

The data analysis demonstrates that even though the municipalities are aware of potential benefits of usage of the JPP mainly in a form of cost efficiency, the usage of the JPP in the Relevant Time Period was marginal and therefore also potential of the JPP to help create and form functional microregions in the conditions of the Slovak Republic is limited (but present and existing).

The legal comparative analysis shows that the reasons for non-usage of the JPP by municipalities in the Slovak Republic does not lie in any from the perspective of the Slovak Republic unique legislative obstacle or limit, since the Slovak Public Procurement Act contains standard legal regulation of the institute of the JPP. The Slovak implementation of Article 38 of Directive No 24/2024/EU is fully compliant with the EU standard set by Selected Member States.

²⁰ ZMOS is the largest non-governmental organization associating, representing and representing towns, municipalities and city districts in the Slovak Republic as legal entities. Since its establishment in 1990, it has been actively involved in public administration reform processes and develops its activities both in relation to its members and in relation to national authorities and at the European and international level. ZMOS unites 2787 municipalities out of a total of 2929 municipalities. Available at: <https://www.zmos.sk/zmos-o-nas.html> [accessed on 27.09.2025].

The potential answers for non-usage of the JPP by municipalities in the Slovak Republic can be identified in: 1) current set up of public procurement rules in general (financial limits, exceptions from the public procurement procedures); and more generally in 2) the tendency of local governments make decisions about public spending independently, regardless of their effectivity (i.e. irrational decision making of stakeholders); or 3) not having knowledge about the JPP and potential of its use. The further research in this research area can be focused on the analysis of potential reasons of municipalities that do not use the JPP to formulate further considerations *de lege ferenda* also from legal point of view.

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