



# PRE-COMMERCIAL AND INNOVATION PROCUREMENT IN LITHUANIA

4 DECEMBER 2015, BRUSSELS  
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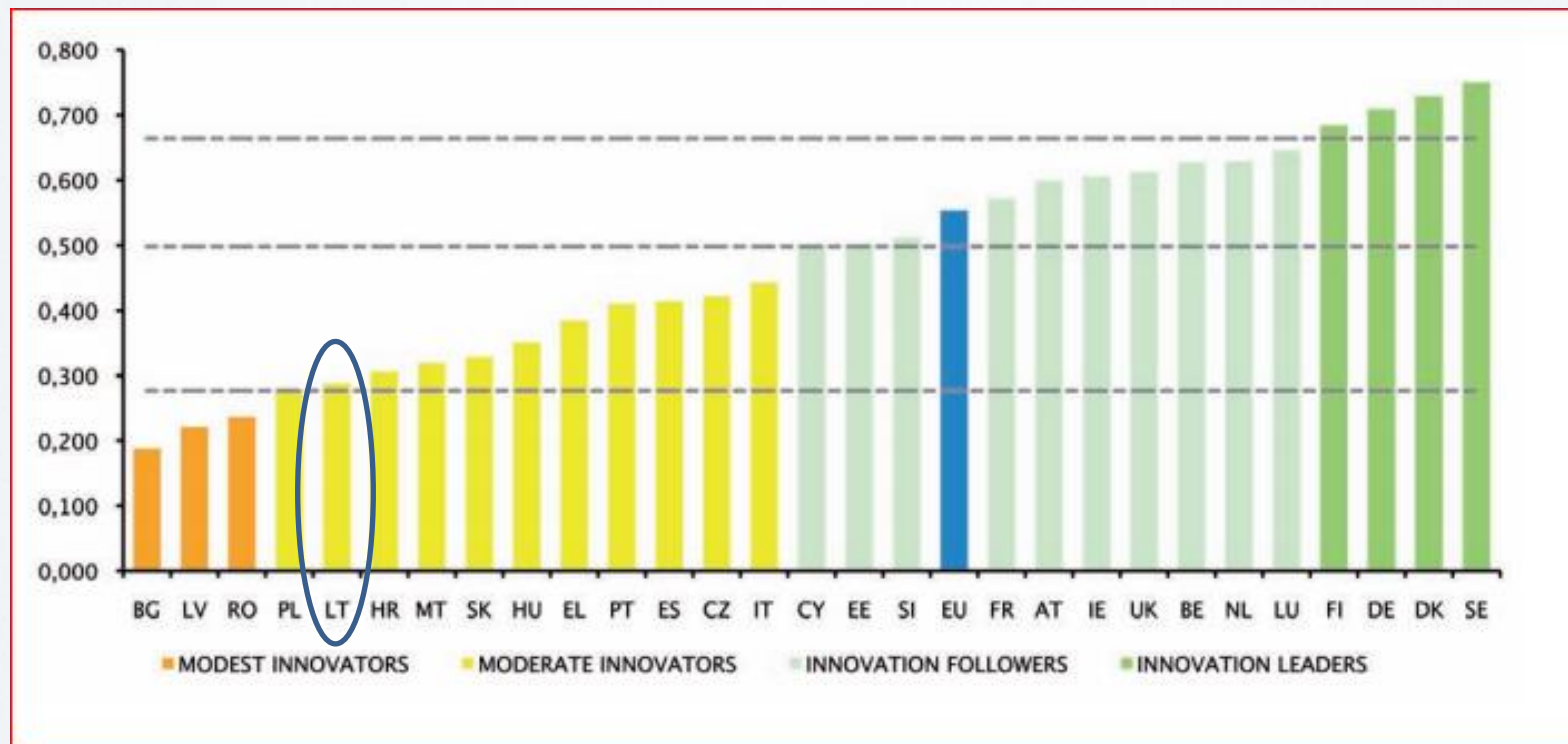
# STATISTICS IN LITHUANIA

With reference to the Public Procurement Office of Lithuania:

- In 2014 - 10 innovation procurements;
- In 2013 - 4 innovation procurements;
- In 2012 - 13 innovation procurements.

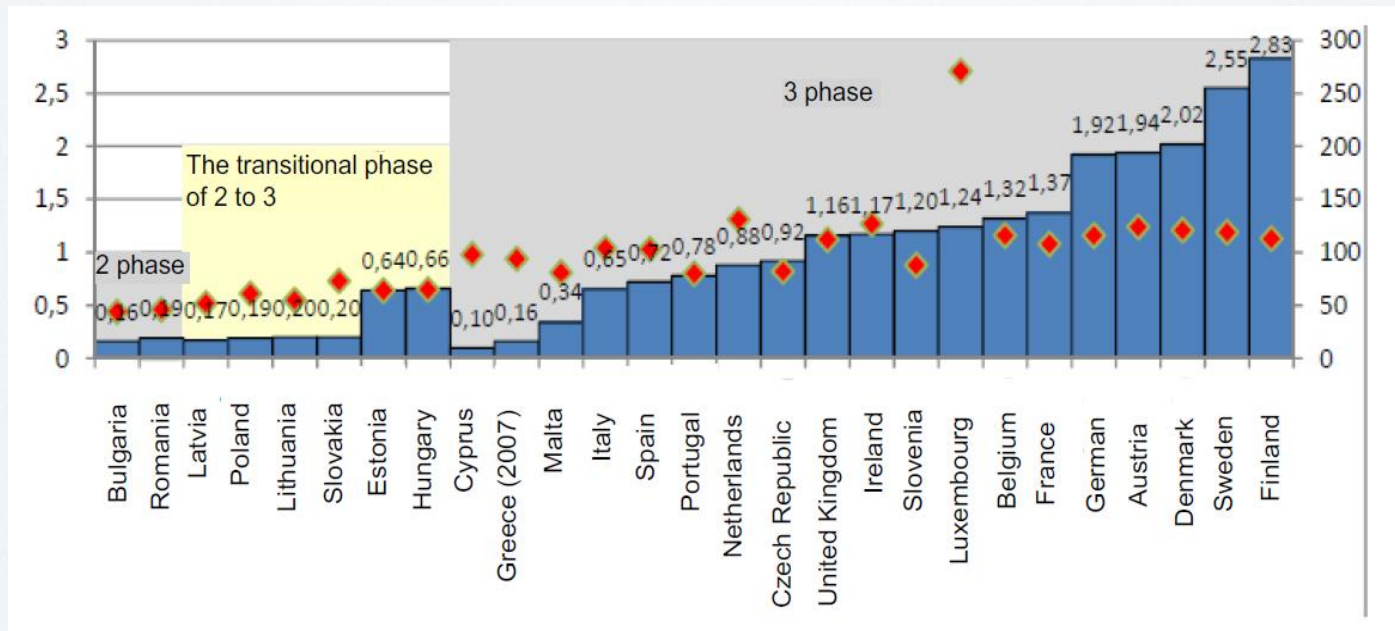
It appears that the contracting authorities could hold more innovative public procurement procedures if they described desirable result in technical specifications applying criteria not of the lowest price however the one of the economic value.

# WHERE IS LITHUANIA?



Source: Chart of innovations union 2014

# IN WHICH PHASE IS IT?



According to EUROSTAT and the World Economic Forum, which marks three phases of development, Lithuania is attributed to the transitional phase, which is between the 2<sup>nd</sup>, based on efficiency, and the 3<sup>rd</sup>, based on innovations.

## WHAT HAMPERS IMPLEMENTATION OF PCP?

- There is no practice to invest in products which are still being developed
- Lack of staff skills in organizing the procurement of R&D and development of relations with the business
- Excessive risk to private entities investing in R&D
- R&D result - theoretical progress, but no practical solutions to the market (commercialisation of products)
- Lack of activity in providing intellectual property objects to the market
- Gaps in legislation

HENCE THE ANSWER IS - UNDUE CONDITIONS TO BUSINESS AND SCIENCE PARTNERSHIP AND LOW INCITATIVE OF PUBLIC SECTOR

# GOALS OF LITHUANIAN GOVERNMENT

Program of the Government of Lithuania for 2012 - 2016:

- To allow to create new innovative technologies;
- To promote cooperation of science and business;
- To frame and implement demand remedies of innovation (innovative public procurements, pre-commercial procurements)

National Progress Programme of Lithuania for 2014 - 2020:

- To enhance international cooperation of R&D
- To promote intersectional and interinstitutional cooperation of R&D
- To encourage public and private partnership in researches

## PRESENT LEGAL ENVIRONMENT

Main legal acts regulating issues on procurements of R&D services are:

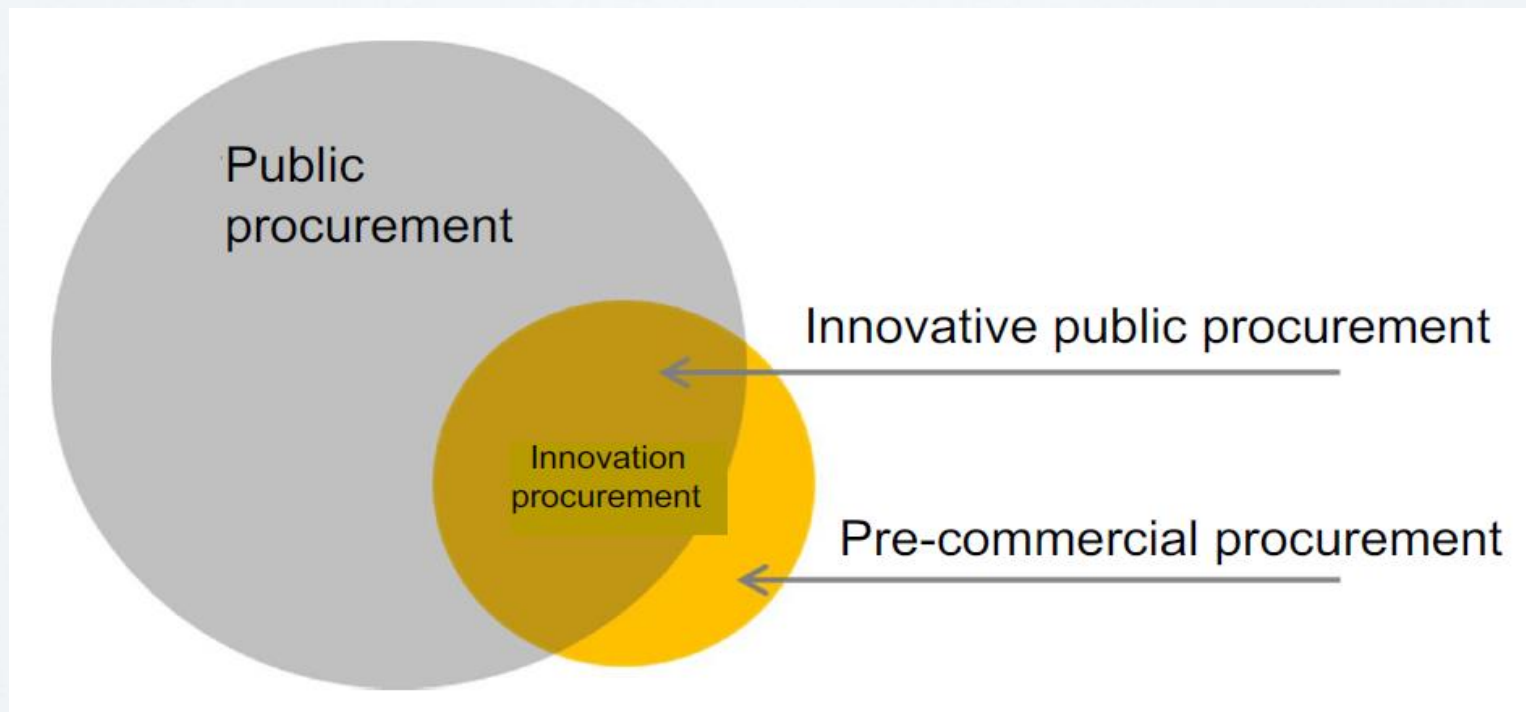
- Decree No 709 of the Government of the Republic of Lithuania of 1 July 2015 on the Approval of the Procedures for Pre-commercial Procurement (*hereinafter - the Approval of the Procedures for Pre-commercial Procurement*).
- Resolution No VII-85 of the Research Council of Lithuania of 21 November 2011 on the Approval of the Procedures for the Evaluation of the Technical Part of the R&D Supplies, and the Selection of the R&D Services and the Suppliers of such Services.
- Decree No 772 of the Government of the Republic of Lithuania of 22 April 2011 on the Approval of the Procedures for Procurement of R&D Services other than those where the Benefits Accrue Exclusively to the Contracting Authority for its Use in the Conduct of its own Affairs, on Condition that the Services Provided are Wholly Remunerated by the Contracting Authority.



## STATUS OF TRANSPOSITION AND INFLUENCE OF NEW EU PROCUREMENT DIRECTIVES

- The Ministry of Economy has prepared and submitted to the Government for consideration the draft laws reforming public procurement rules: they simplify and enhance flexibility of procurement, reduce the administrative burden, improve the conditions of the small and medium-sized enterprises' participation in public procurement.
- New EU Procurement directives and consequently the Draft of the Law on Public Procurement of Lithuania establishes a new Innovation Partnership procurement procedure to help contracting authorities to use public procurement for new product development and its subsequent acquisition.
- All this will contribute to one of the most important engines of economic progress - innovation.
- After approval by the Government, the Draft will be submitted to the Parliament for consideration. The new Law on Public Procurement of Lithuania should come into force in spring of 2016.

Under the legislation valid in Lithuania, pre-commercial procurement might be treated as innovation procurement, however, not as the public procurement as it is understood under the Law on Public Procurement of Lithuania.



## SUBJECTS INVOLVED IN PRE-COMMERCIAL PROCUREMENT

- Coordinating authority:

(in Lithuania - Agency for Science, Innovation and Technology)

- Provides expert, methodical and other assistance to contracting authority and participants
- Collects, systematises and analyses data on accomplished and ongoing procurement
- Carries out monitoring of pre-commercial procurement
- Assesses object of procurement to defined requirements
- Co-finances implementation of procurement and supervises use of funds

- Contracting authority:

- Organises and implements pre-commercial procurement
- Consults coordinating authority and the Government if pre-commercial procurement is of a large extent

- Participants

(Section II of the Approval of the Procedures for Pre-commercial Procurement)

## PRE-COMMERCIAL PROCUREMENT SHALL BE ORGANISED WHEN:

- There is no innovative product on the market which the contracting authority needs or there is no evidence that market players in the nearest future (in less than a year) will produce such a product, or the contracting authority cannot acquire the product and R&D services are essential to create such an innovative product
- Product on the market does not meet the need of the contracting authority, therefore they need significantly improve functional properties of the product and there is no evidence that market players in the nearest future (in less than a year) will produce such a product, and R&D services are required to improve the functional properties of the product

(Part 5 of the Approval of the Procedures for Pre-commercial Procurement)

## Pre-commercial procurement shall adhere to the following principles:

- Open, transparent and non-discriminating procedure
- Innovation
- Competition among participants
- Risk and benefit sharing
- Value for money

(Part 4 of the Approval of the Procedures for Pre-commercial Procurement)

## Tender evaluation criteria:

- Professional ability to solve the problem indicated in the documents of pre-commercial procurement
- Technological quality and innovation of the tender
- Added value to society and / or economy
- Other objective criteria

(Part 28 of the Approval of the Procedures for Pre-commercial Procurement)

# STAGES OF PRE-COMMERCIAL PROCUREMENT

- I stage - concept creation and approval of innovative product
- II stage - prototype creation of innovative product
- III stage - small-scale test product creation

Pre-commercial procurement might involve all three stages, the second and the third stages or only the third one.

(Parts 6 and 7 of the Approval of the Procedures for Pre-commercial Procurement)

## POSSIBLE METHODS OF IMPLEMENTATION

Proposed model allows several possible methods to organise pre-commercial procurement:

- 1<sup>st</sup> method - pre-commercial procurement at contracting authorities' expense and possible co-financing from coordinating authority - approval of Lithuanian Government is not needed
- 2<sup>nd</sup> method - pre-commercial procurement to a large extent (over EUR 1 000 000 including VAT) - approval of Lithuanian Government is required, additional budget and co-financing from coordinating authority possible

(Sections VIII and IX of the Approval of the Procedures for Pre-commercial Procurement)

## PROCEDURE OF PRE-COMMERCIAL PROCUREMENT

- Contracting authority prepares a description of the object of pre-commercial procurement and the project of technical specification
- Contracting authority submits the above mentioned documents to coordinating authority
- Coordinating authority assesses the documents for compliance with requirements and decides on the recognition of services as R&D
- If the object complies with requirements, contracting authority sets up a commission for pre-commercial procurement
- Contracting authority publishes the documents and defines a deadline to submit a tender
- Participant submits a tender
- Committee evaluates all the tenders and awards the contract to the winning participants
- Contracting authority signs the contract of pre-commercial procurement with the winning participant





## EXAMPLES OF POTENTIAL PRE-COMMERCIAL PROCUREMENT AND DOMAINS OF INTERESTS

- Development and production of drones
- Health care
- Agricultural sector
- National defence
- Waste management
- Energy consumption
- Others

**THANK YOU FOR YOUR ATTENTION!**

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