

The 3rd International Conference on Economics and Social Sciences
Innovative models to revive the global economy
October 15-16, 2020
Bucharest University of Economic Studies, Romania

Public Procurement in Romania: Problems and Solutions

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DOI: 10.2478/9788395815072-068

Abstract

Both in Romania and worldwide, public procurement systems are an essential contact point between the economy and the public administration of each state. Through procurement systems, governments purchase products, services, make investments, stimulate and support the economy.

The very large amounts spent on public procurement have also attracted the attention of public opinion which has put national governments under pressure over the last 15-20 years to make national procurement systems more efficient.

Thus, the development of procurement systems has become of particular importance. The continuous process of analysing procurement systems aims to identify existing problems and solutions for improving public procurement systems and procedures.

This study seeks to identify a number of key issues in Romania's public procurement system and proposes a number of solutions.

The research also contains a survey conducted on the basis of a questionnaire to which Romanian purchasers responded. The survey analysed a number of issues such as: strategic function of public procurement, division into lots of the procurement, use of social/environmental criteria, participation of foreign economic operators, the risk of public procurement carried out at the end of the year, lack of human resources (purchasers), level of training of purchasers, the need for a system of professional degrees for purchasers, the utility of a system for the award of purchasers.

Keywords: public procurement, purchaser, training, strategic function, risk.

JEL classification: D73, H57, H83

1. Introduction

The public procurement system is the most important point of contact between the economy and public administration and financial resources allocated to public procurement are a possible source of corruption and conflict of interest (Kirn et al., 2019). Public procurement regulates how public funds are spent and

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is an indicator of good governance (ANAP – Romanian National Agency for Public Procurement, 2015).

With the adoption in 2014 of the European public procurement directives, the focus has been on electronic procurement (e-procurement), innovation, energy efficiency, social inclusion and environmental objectives. These key policies must be integrated by each Member State (including Romania) into their own procurement systems (ANAP, 2015). Unfortunately, only a few EU Member States have implemented social or environmental procurement policies (European Commission, 2017).

According to the annual report published by ANAP for 2018, 18,643 procurement procedures were carried out in Romania resulting in 29,069 contracts. The value of completed contracts totalled 42,484,208 thousand lei, which means approx. 8.9 billion euro (ANAP, 2019).

Taking into consideration the high annual value of the procurement conducted, it can be deduced that addressing the problems in the Romanian procurement system and identifying solutions adapted to the national context to ensure the efficiency, effectiveness and coherence of the system can result in significant savings to the state budget.

The measures used to improve the public procurement system can make them an important tool for implementing the policies and objectives of each government, which brings substantial economic benefits. At European level, actions to improve public procurement systems in the Member States include the following areas: professionalization of purchasers, widespread adoption of strategic procurement, increased transparency, data quality and integrity, cooperation for joint public procurement and adoption/development of electronic procurement (European Commission, 2017).

2. Literature review

Public procurement has been, is and will remain a very sensitive area, both in times of economic development and in times of recession. Constantly under public attention, the public procurement system must be an instrument for spending public funds in an efficient and transparent manner (Kirn et al., 2019).

Competitive, transparent and fair public procurement creates business opportunities, contributes to job creation and economic development. The efficiency of public procurement is in the interest of both the public sector and the private sector, as it results in increased competitiveness, savings in public funds and citizens' confidence in the state and its institutions (Otter & Weber, 2015).

Well-designed public procurement systems contribute to the achievement of political objectives such as innovation, job creation, environmental protection and support of small and medium-sized enterprises (OECD, 2015).

The most important shortcomings of the Romanian purchasing system were analysed by Lefter (2015). According to the author, these are: the small number of purchasers, the inadequate training of civil servants/purchasers (resulting in reduced administrative capacity of public institutions) and reduced competition.

Romania's public procurement system has also experienced frequent legislative changes, complex legislation difficult to interpret, numerous challenges and a lack of effectiveness of public investments (ANAP, 2015).

Lloyd & McClue (2004), also consider that the main problems of procurement systems are the difficulties in creating a trained workforce (well-trained and competent purchasers) and lack of professional recognition.

The professionalization of purchasers is an important issue at European level.

Governments spend large amounts of money each year through public procurement systems and unfortunately do not give enough importance to the profession of purchaser, which contributes to the economic performance of the country (O'Brien, 2011).

The failure to comply with the ethics criteria in public procurement was caused by lack of purchasers' professionalism, lack of education, inadequate motivation and low salaries of the purchasers (Magaya & Chidhawu, 2016). The employment of qualified purchasers (experts) will improve the effectiveness of the procurement and the services provided to citizens (Ageman, 2014).

The development of technical knowledge and skills of purchasers is essential to the achievement of a quality procurement process. UN (2008) considered that poor training of purchasers represents the most important barrier encountered in applying strategic public procurement in OECD Member countries. Islam & Siwar (2013) carried out a study on sustainable public procurement in Australia and Malaysia as a government instrument and found that purchasers' professional standards are low and stressed the importance of training. The ethical conduct of purchasers in the public procurement system contributes to economic progress and improvement of the quality of governance (OECD, 2015).

Purchasers need to be properly trained so that they carry out the procurement procedures efficiently and effectively in order to avoid inappropriate spending of public funds. Dzuke & Naude (2015) found that the main causes of poor performance in public procurement are the lack of qualified and experienced purchasers, most of the purchasers having qualifications in finance, accounting and human resources. Telgen et al. (2016) found that the absence of qualified civil servants and the poor understanding of legal provisions had a negative impact on the public procurement function.

Unfortunately, there are currently no regulations on purchasers' careers in Romania, there is no national record of purchasers (ANAP, 2017), the requirements they have to meet to be employed or promoted are not regulated, there is no system of professional degrees for purchasers and no central institution for the training of purchasers. The issue of the training of purchasers was also examined by Thai et al. (2009) who found that there had been no training programs (license or master) for purchasers in the United States and Canada by 2007. These purchasers were often trained in the workplace or, more rarely, in some law faculties.

Public procurement has also an important strategic function of implementing government policies (NASPO, 1997) and supporting sustainable economic development, but the strategic role of public procurement has often been ignored

(O'Brien, 2011). Also, Aldenius & Khan (2017) have found that there are no detailed studies on the strategic use of public procurement for the improvement of environmental objectives.

Harink (1999) considers that the procurement process must support the policies and strategies of each organization and Nyasulu (2019) considers that the most important advantages of strategic procurement are risk reduction, cost savings and improved public image of governments. It is now increasingly accepted that public procurement does not only have an administrative function, but is a strategic instrument that contributes to the achievement of political objectives (Quak et al., 2019).

Strategic use of public procurement can be achieved by coordinating strategic planning with the procurement process and by collaboration between public authorities and the market at an early stage for high-impact procurement (Deambrogio et al., 2016).

Although the European public procurement system has been improved recently, in many Member States the rate of publication of contract notices is still low. The most important consequence of this is the lack of opening up of markets to foreign economic operators, which means the loss of many cross-border business opportunities (European Commission, 2017).

3. Research methodology

The research aims to identify and analyse a number of shortcomings in the Romanian public procurement system and to propose solutions to remedy them.

This study contains a survey conducted among Romanian purchasers. The questionnaire addressed to the respondents contains 19 questions that tried to determine the opinion of the purchasers on a number of important issues in the field of public procurement. The questionnaire was sent to respondents by e-mail and the period during which they responded was October 2019 - November 2019.

The survey was carried out in the following stages: analysis of the literature in the field, identification of the target group of purchasers, transmission of questionnaires by e-mail, receipt and centralization of responses, interpretation of results and drafting of conclusions.

4. The target group

The questionnaire was addressed to 61 purchasers (29 from economic operators and 32 from public authorities).

The target group consisted of 34 women and 27 men. The breakdown by age groups is as follows: 20 to 30 years - 5 respondents, 30 to 40 years - 23 respondents, 40 to 50 years - 30 respondents and over 50 years - 3 respondents.

As regards the training of respondents, 5 purchasers have no training in the field, 49 purchasers have completed "public procurement expert" courses organized by the Romanian National Authority for Qualifications and 7 respondents have master studies in the field of public procurement.

The experience of purchasers is: 0 to 5 years - 11 respondents, 5 to 10 years - 20 respondents, 10 to 15 years - 20 respondents, 15 to 20 years - 7 respondents and over 20 years - 3 respondents.

5. Findings

An important function of public procurement is the strategic function. Through national procurement, any government can achieve a number of objectives such as: creating new jobs, developing infrastructure, supporting small and medium-sized enterprises, supporting research and innovation, purchasing green products, etc.

It is important to know if the questioned purchasers are aware of the strategic role of public procurement. In this regard, the question asked was: "Do public procurement have a strategic function?"

68.85% of the respondents answered that public procurement have a strategic function, 16.39% answered "no", and 14.75% replied that they do not know (Figure 1).

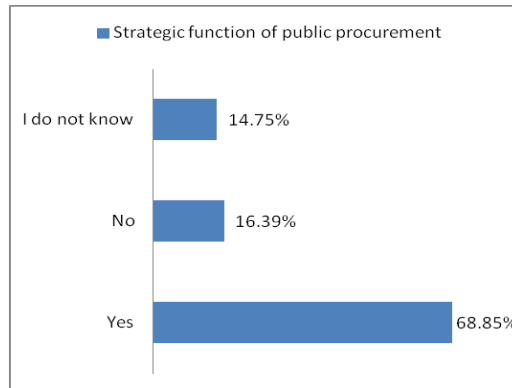


Figure 1. The strategic function of public procurement
Source: author's conception

It can be concluded from these results that the majority of the respondents are aware that public procurement fulfils a strategic function.

Currently, contracting authorities are required to determine the object of the procurement procedure in as many lots as possible in order to ensure that the contracts concluded favour as many economic operators as possible, especially small and medium companies. This measure was introduced in 2016, its usefulness being analysed by the question: "Is the division of public procurement by lots beneficial to economic operators?"

52.46% of the questioned purchasers (32 respondents) agree and 31.15% (19 respondents) expressed their total agreement (Figure 2). No respondent answered with complete disagreement or disagreement. It is clear from the responses received that 83.61% of the respondents consider that the division by lots

is beneficial to the economic operators because this measure increases the chances for more companies to win contracts.

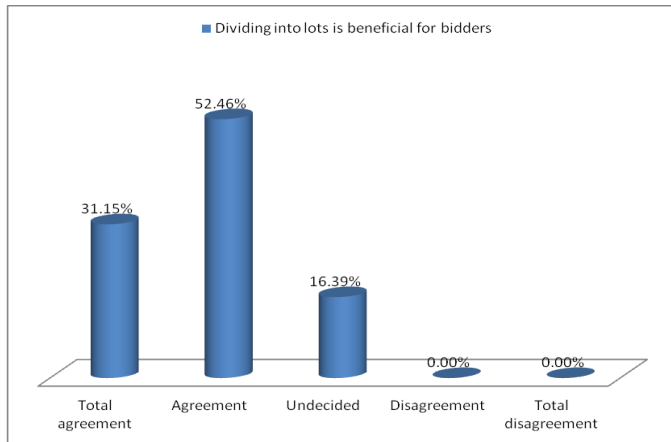


Figure 2. The division into lots is beneficial for tenderers

Source: author's conception

In the last period of time, there is an increasing emphasis on the promotion of environmental criteria / factors (energy consumption, energy certification) or social (creation of new jobs, jobs for underprivileged groups, the award of a certain number of contracts to small and medium-sized enterprises).

This topic was approached by the question: "On a scale from 1 to 10, how much do the specifications/award criteria/conditions used include social and/or environmental criteria (combating unemployment, energy consumption, labelling requirements, certificates etc.)?"

A scale from 1 to 10 was used, 1 being "at all" and 10 being "very much" (Figure 3). The most awarded scores were 3 (22.95% weight), 4 (19.67% weight), 2 and 5 (both with 18.03% weight).

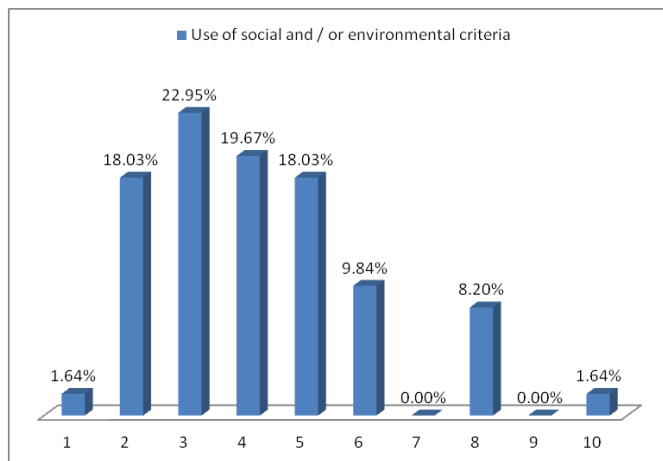


Figure 3. Use of social and/or environmental criteria

Source: author's conception

Given that the average score is 4.16, it follows that respondents rarely use social or environmental criteria in the procurement procedures.

These results should justify the measures used for implementing such criteria, in order to make government policies a reality through public procurement.

The opening of the Romanian market can also be analysed from the perspective of participating in the procurement procedures of the economic operators from abroad. The following question analyses the participation of foreign companies in the procedures: "In the last three years, has an economic operator from abroad participated in the procurement procedures that you have conducted or participated in?"

87% of the questioned purchasers replied that the economic operators from abroad did not participate in the procurement procedures and 13% replied that companies from abroad participated in the procurement procedures (Figure 4).

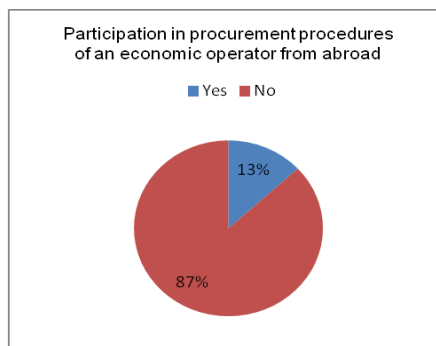


Figure 4. Participation in procurement procedures of an economic operator from abroad

Source: author's conception

In connection with the above question, it is important that companies from abroad win procurement procedures. The answers to the question "In the last three years, at the procurement procedures (that you conducted or participated in) was an economic operator from abroad declared a winner?" revealed that in 89% of the procedures organized by the respondents (or in which the respondents participated) economic operators from abroad were not declared winners (Figure 5).

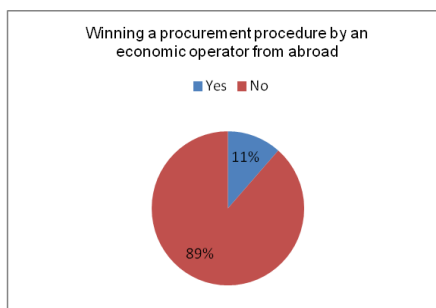


Figure 5. Winning of a procurement procedure by an economic operator from abroad

Source: author's conception

The analysis of the answers given by the purchasers to the last two questions reveals a reduced degree of openness of the procurement procedures (and of the Romanian market) to the tenders of companies from abroad.

The most important problem encountered by a foreign company that wants to participate in a procurement procedure in Romania is the language barrier because the tender must be drafted in Romanian language and all correspondence, communications related to the process of evaluating the tenders also take place in Romanian. It should be mentioned that only procurement procedures the estimated value of which exceeds the threshold of 648,288 lei, without VAT are published in the Official Journal of the European Union (JOUE). Only these procedures can be viewed in JOUE by the companies from abroad. The procurement procedures falling below the mentioned threshold are published only at national level in the Romanian Electronic Public Procurement System (SEAP).

The period at the end of the year is characterized by the fact that contracting authorities try to spend existing budgetary funds as quickly as possible because otherwise these funds are not carried over to the next year.

As this period can be a risky situation if the purchasers make mistakes or the funds are no longer spent efficiently, it is necessary to question the respondents on this issue. The question asked was the following: "Is the period at the end of the year when the contracting authorities spend the budget funds as quickly as possible a risk situation?"

81.97% of the respondents replied that the period at the end of the year represents a risk situation, while 14.75% replied that they do not know (Figure 6). It should be noted that only 3.28% of the respondents considered the end-of-year period as risk-free.

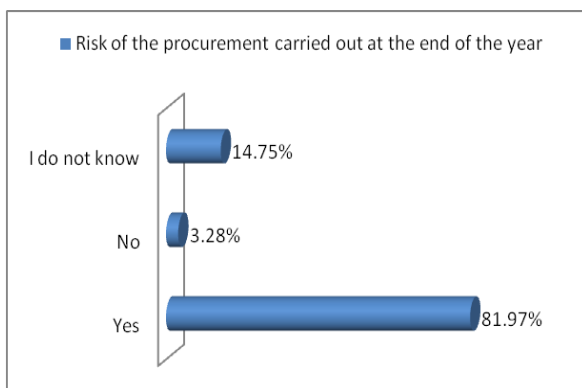


Figure 6. Risk of the public procurement carried out at the end of the year

Source: author's conception

Public procurement carried out at the end of the year presents a number of risks to contracting authorities because suppliers can ask authorities to pay higher prices, knowing that the authorities must spend the funds they have at their disposal as quickly as possible. Another possible problem may be that public authorities do not

have enough storage space in the warehouses for the bulky products to be purchased. It is also possible that at the end of the year contracting authorities may have to buy products which they already have in the warehouse or have made purchases with a total value approaching the maximum thresholds for higher procedures (for example, direct procurements approaching the threshold of 135.060 lei without VAT have been made, above this threshold is necessary a simplified procedure that lasts longer).

In some countries it is analysed whether the procurement compartments, in particular those at local level, are justified. In Romania there are many contracting authorities (at local level: municipalities, small cities) which have a reduced budget. According to S.2, (1) of the Government Decision no. 395/2016, these contracting authorities must establish an internal compartment dedicated to public procurement, even if the costs of the operation of the compartment (salaries, electricity, maintenance, etc.) are not justified by the size of the budget allocated to public procurement carried out at compartment level.

The question addressed to the respondents was: "Should the public procurement departments that carry out only direct procurement or a small number of procurement procedures be dissolved?"

From the analysis of the responses it turns out that 49% of the surveyed purchasers replied that the compartments should not be dissolved, even if they only carry out direct purchases, 30% replied that they should be dissolved and 21% replied that they do not know (Figure 7). The answers are not at all surprising, if we analyse how the interests of respondents are affected in case of closing small compartments.

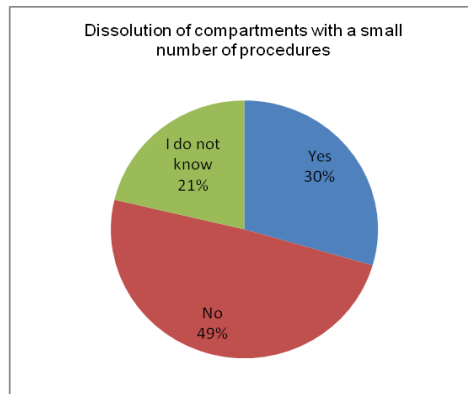


Figure 7. Dissolution of procurement compartments which carry out a small number of procedures

Source: author's conception

On the one hand, purchasers within the contracting authorities are afraid of losing their jobs, and those who remain in the large compartments (after the small ones are dissolved) should work more, carrying out more procurement procedures over the thresholds provided by law, which implies a higher level of training,

greater responsibility, risk taking, etc. Basically, in case of dissolving small compartments, we can talk about a "semi-centralization".

On the other hand, purchasers within the economic operators prefer contracting authorities with small budgets because they make more direct procurement and not (competitive) procurement procedures. Direct purchases involve the transmission of a request to a single tenderer and the acceptance of this request by the supplier, which implies simpler documentation but also the possibility of "agreements" between the contracting authority and the economic operator.

We mention that in some EU countries, the municipalities with a number of inhabitants below a certain threshold or with an allocated budget below a certain value threshold, cannot carry out public procurement. Therefore, in case of Romania, an analysis of the efficiency and justification of the existence of specialized compartments in carrying out public procurement is also required.

A problem in the field of public procurement is the lack of human resources. Even if hiring is done, the retention of qualified personnel remains a challenge, especially as young people are less attracted to the field of public procurement.

The following question addresses the problem of lack of human resources: "On a scale from 1 to 10, how big is the lack of human resources in the field of public procurement?"

The answers were given on a grading scale from 1 to 10, 1 being "not lacking human resources" and 10 being "lacking many human resources". Not surprisingly, the most awarded scores are 9 (29.51% weight), 8 and 10 (each with a weight of 24.59%) (Figure 8).

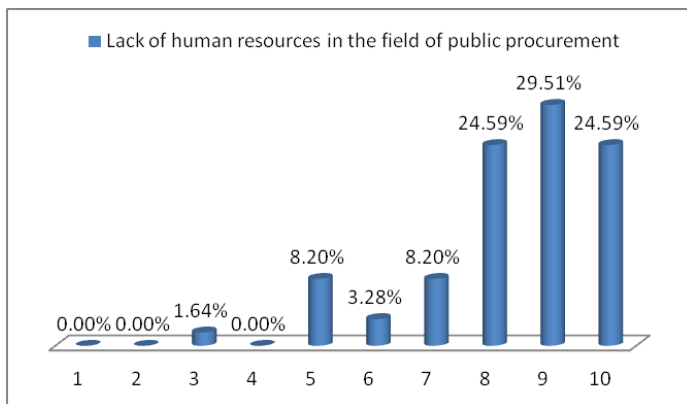


Figure 8. Lack of human resources in the field of public procurement
 Source: author's conception

86.89% of the questioned purchasers answered with scores above 6. Because the average score is 8.31, we can say that the respondents consider that the lack of human resources in the field of public procurement is high.

The level of training of the purchasers was questioned next: "On a scale from 1 to 10, how well prepared are the purchasers from a professional point of view?"

The answers were given on the basis of a rating scale from 1 to 10, 1 – "very poorly prepared" and 10 – "very well prepared" (Figure 9). The most awarded scores were 7 (31.15% weight, 19 respondents in absolute value), 6 (27.87% weight, 17 respondents), 5 and 8 (13.11% weights, 8 respondents).

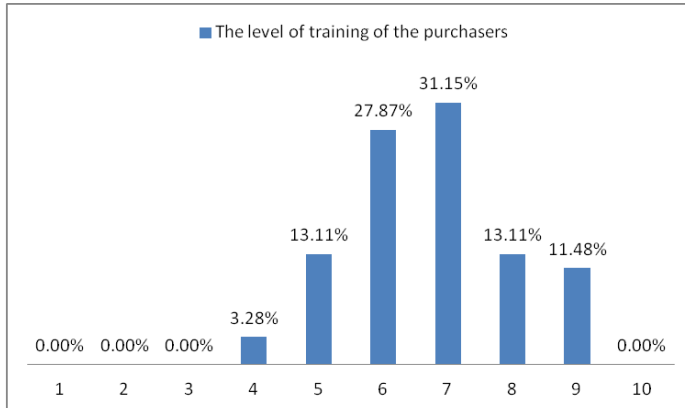


Figure 9. The level of training of the purchasers
 Source: author's conception

It can be seen that 83.61% of the respondents answered with scores higher than 5, the average being of 6.72. Thus, it can be concluded that the respondents consider that the purchasers are well trained.

The receipt of support/training by the Romanian purchasers was approached by the question: "Have you received any other type of support or have you been trained on how to implement the legislative changes in the field of public procurement?"

62% of the surveyed purchasers received support and 38% did not receive (Figure 10). So, most buyers have received specialized support or training.

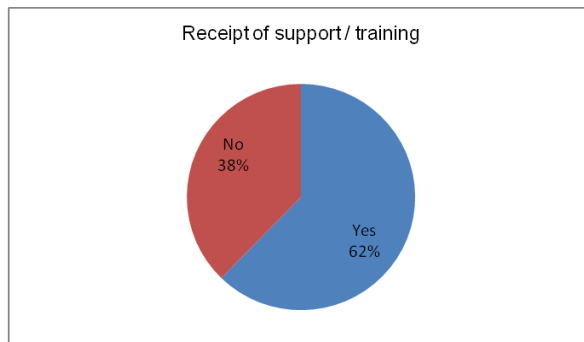


Figure 10. Receipt of support / training
 Source: author's conception

The type of training received by the purchasers was analysed by the following question: "What kind of support or training have you received?"

The highest weight of 39.34% (24 respondents) received support through instructions/guides and 31.15% (19 respondents) received support through training/courses (Figure 11). Also, the tips /advices obtained a weight of 21.31%.

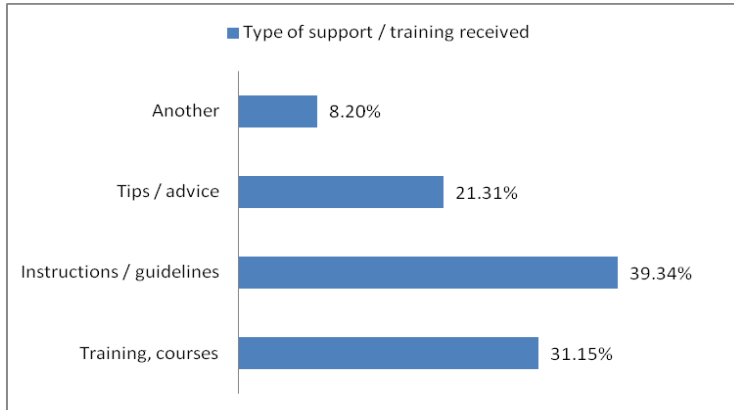


Figure 11. Type of support / training received

Source: author's conception

We can observe that the instructions/guides were the tools that contributed the most to the training of the purchasers.

The relevance of the training received by the purchasers was analysed by the question: "On a scale from 1 to 10, how relevant the training was?"

The answers were given on the basis of a rating scale from 1 to 10, 1 being "irrelevant" and 10 being "relevant" (Figure 12). The most awarded scores were 8 (26.23% weight, 16 respondents), 7 (19.67% weight, 12 respondents), respectively 5 and 9 (18.03% weight, 11 respondents).

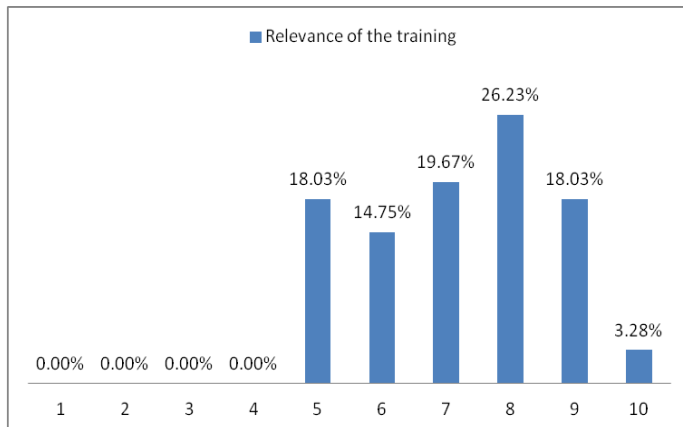


Figure 12. The relevance of the training received by the purchasers

Source: author's conception

67.21% of the questioned purchasers replied with grades over 6, the average score being of 7.21. Thus, it can be concluded that the respondents consider that the training was relevant.

Currently, there is no central institution in Romania to train the purchasers. The necessity and usefulness of setting up such an institution was the subject of the question: "On a scale from 1 to 10, how necessary and useful is the establishment of a central institution for the training of the purchasers?"

For the answers, a scale from 1 to 10 was used, 1 being "not necessary or useless" and 10 being "necessary, useful" (Figure 13). The most awarded scores were 9 (weight 32.79%, 20 respondents), 10 (26.23% weight, 16 respondents) and 8 (18.03% weight, 11 respondents).

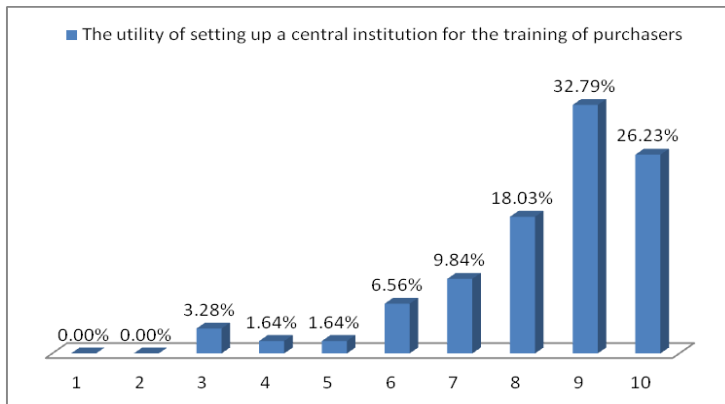


Figure 13. The utility of setting up a central institution for the training of purchasers

Source: author's conception

The importance given to such an institution is very high because 77.05% of the respondents answered with scores over 7, the average score being 8.34. Therefore, the respondents consider that a central institution that trains the purchasers in Romania is very necessary and useful.

Also, in Romania there is no system of professional degrees for purchasers, which separates the purchasers according to the knowledge in the field, their experience and competence, on the basis of which the promotions will be made. The following question addresses this topic: "On a scale from 1 to 10, how necessary and useful is the introduction of a system of professional degrees for purchasers?"

A scale of 1 to 10 was used, 1 being "not necessary or useless" and 10 being "necessary, useful" (Figure 14). The most awarded scores were 9 (31.15% weight, 19 respondents), 8 (24.59% weight, 15 respondents) and 10 respectively (19.67% weight, 12 respondents).

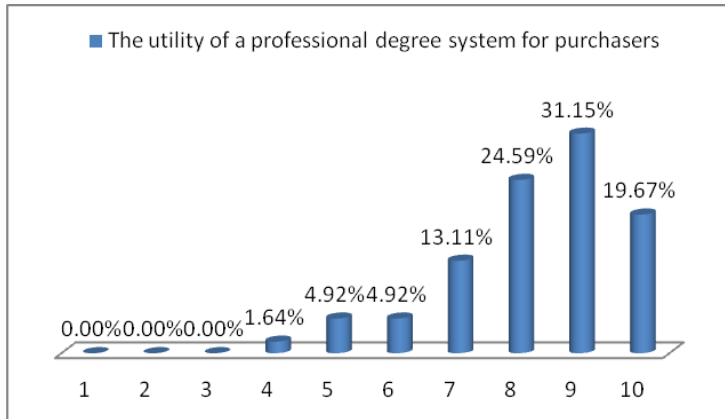


Figure 14. The utility of a professional degree system for purchasers
 Source: author's conception

The questioned purchasers consider that is very necessary to set up a system of professional degrees because 75.41% have given grades over 7, and the average of the grades is 8.26.

The next issue addressed is the utility of a reward system for purchasers: "On a scale from 1 to 10, how necessary and useful is the introduction of a system of rewarding the purchasers according to the results obtained by them?"

A scale from 1 to 10 was used, 1 being "not necessary or useless" and 10 being "necessary, useful" (Figure 15). The most awarded scores were 8 (29.51% weight, 18 respondents), 9 (21.31% weight, 13 respondents) and 8 (14.75% weight, 9 respondents).

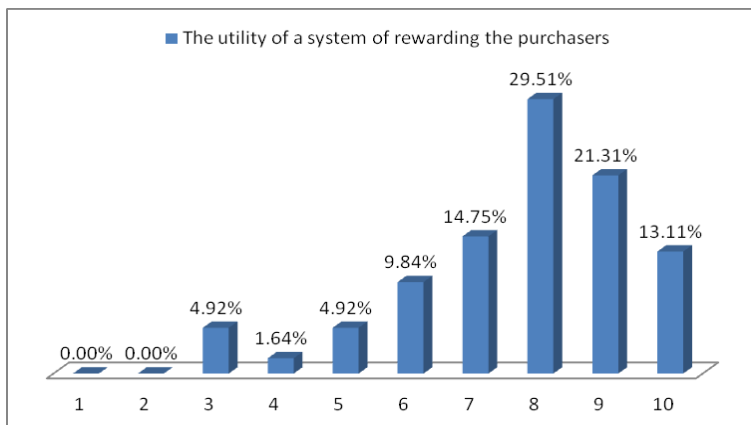


Figure 15. The utility of a system of rewarding the purchasers
 Source: author's conception

Given the fact that 78.68% of the respondents scored above 6 and that the average score is 7.67, we can conclude that the respondents consider that it is

useful to set up such a system, which could also be an important factor of motivation of the purchasers.

6. Conclusions

The present study includes the results of a survey among Romanian public purchasers. The survey addresses the most important problems in the public procurement system and identifies a number of measures to improve it.

After examining the answers received, it was concluded that most of the purchasers are aware that public procurement fulfils a strategic function, consider that the division into lots is beneficial to economic operators, rarely use social or environmental criteria in procurement procedures, consider that the period at the end of the year represents a risk situation and that procurement compartments should not be dissolved, even if they only make direct purchases.

The respondents also consider that the lack of human resources in public procurement is high, the current level of training of the purchasers is good, the instructions and guides are the tools that contributed most to the training of purchasers and that there is a reduced degree of openness of public procurement procedures to tenders from foreign companies.

It is also necessary and useful to set up a central institution for the training of Romanian purchasers, to introduce a system of professional degrees and a reward system for purchasers.

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