EU START-UP & SCALE-UP STRATEGY - RECOMMENDATIONS

POSITION PAPER

As Corvers Procurement Services B.V. specialised in the field of Innovation Procurement and having an active role in long-lasting initiatives like the European Assistance For Innovation Procurement (EAFIP) and the SPIN4EIC program, through this position paper we underline the rationale and present the main recommendations for European Commission's consultation on the EU Start-up and Scale-up Strategy and for the European Innovation Act.

A. The rationale

The recent reports by Enrico Letta on the future of the EU single market[1] and by Mario Draghi on European competitiveness[2] both underlined the crucial importance of innovation for Europe's competitiveness and economic growth. They call for various public and private initiatives to be aligned and defragmented to support the growth of startups and scaleups.

Startups and scaleups are the backbone of innovative ecosystems in every advanced society, as they bring to the market new – sometimes disruptive – products and solutions capable of tackling societal challenges and contributing to the green and digital transition. The European innovation landscape presents both lights and shadows in this respect: over the past decade, the European startup and scaleup ecosystem has experienced remarkable growth, establishing Europe as a significant player in the global tech arena. Since 2015, European tech companies have attracted approximately $426 billion in venture capital, marking a tenfold increase from the preceding decade[3].

Despite progress, Europe continues to face significant challenges in scaling startups, with later-stage venture capital investments in 2021 reaching only $20 billion compared to $103 billion in the U.S. This funding gap, driven by lower private sector investment in R&I and higher U.S. tech sector spending, has contributed to North America hosting 60% of global scale-ups, while the EU accounts for just 8%. Regulatory fragmentation and limited access to large-scale capital further hinder Europe's ability to nurture its next generation of tech leaders, making it essential to address these barriers to close the innovation gap[4].

[1] Enrico Letta, Much More than a Market, April 2024, Enrico Letta - Much more than a market (April 2024)
[2] Mario Draghi, The future of European competitiveness, September 2024, The Draghi report on EU competitiveness
[3] Extract from the discussion note for the first workshop of the European Startup and Scaleup Forum, Inforegio - Startups and Scaleups in Europe
[4] State of European Tech 2024, https://www.stateofeuropeantech.com

The EU's Start-up and Scale-up Strategy aims to address these challenges through policy, financial, and legislative measures that improve framework conditions, simplify administrative procedures, and increase funding opportunities[5]. Aligning innovation procurement with this strategy is essential to fostering competition, reducing market concentration, and strengthening Europe's technological sovereignty, particularly in strategic sectors like AI, cybersecurity, and clean tech. Therefore, by making public procurement more accessible to startups and scaleups, the EU can accelerate digital transformation, advance the European Green Deal objectives, align its actions supporting broader EU Policy Goals and enhance its global competitiveness.

B. Recommendations

1. EU target for innovation procurement

Innovative companies can only bring innovations to the market if they find sufficient first customers. To ensure that there is enough public sector demand for the development and deployment of innovative solutions, innovation procurement expenditure should gradually over time to reach 20% of total public procurement expenditure at an EU level. Evidence from EU wide benchmarking on national investments in innovation procurement clearly demonstrates that this level of spending is needed to close the gap between what Europe and other parts of the world are spending on innovation procurement. It is also shows that of this 20%, minimum 3% should be spent on R&D procurements that trigger the development and testing of new solutions and 17% on public procurements that deploy innovative solutions.

The EU should therefore **set a clear and strategic goal of allocating 20% of total public procurement expenditure across Europe to innovation procurement**. This 20% goal would be for innovation procurements that are open to companies of any size. Evidence shows that if those innovation procurements are then also implemented in an SME friendly way (removing barriers for small companies to participate without specifically favoring them), those innovation procurements will automatically direct a large number of contracts to startups and scaleups.

The question if Europe should **set a target to direct a specific percentage of public procurement to startups** is much more complex and, **at this stage this would not make sense**.

- The first challenge is that there is no single, EU-wide definition of what constitutes a "startup." Different EU countries apply a series of diverse criteria based on various factors ranging from the age of a company, its revenue and turnover to its employee count and its innovation potential. Nonetheless, without a

[5] European Commission, CALL FOR EVIDENCE FOR AN INITIATIVE (without an impact assessment), Ref. Ares(2025)1232781 - 17/02/2025

uniform definition, it is impossible to systematically track or compare how much public procurement spending already flows to startups across the EU.

- Furthermore, there is no reliable, harmonised data on the current share of public procurement going to startups. Therefore, there is no factual basis to determine whether their participation is disproportionately low compared to their weight in the EU economy. Without this baseline, any target for startup procurement would be arbitrary since there would be no evidence to justify whether it should be set higher or lower.
- Instead of focusing on an artificial percentage, efforts should prioritise removing barriers that prevent startups from participating in public procurement and ensuring that innovation-friendly criteria are integrated into tender processes. Fostering a more accessible and competitive environment, startups can naturally benefit without the need for rigid targets that lack a solid evidence base.
- Moreover, setting such a target would also not be enforceable because public buyers cannot guarantee to direct a specific percentage (%) of procurement to startups, since favouring any economic operator in public procurement, in principle, goes against the TFEU non-discrimination principle and EU competition/State aid rules.
- Member States can use below-threshold procurements to directly award contracts to startups without a competitive bidding process, provided these awards abide by the national public procurement thresholds. Such direct awards are considered allowable State aid as long as the total amount of aid granted to a startup/scaleup/SME stays below the De Minimis threshold (currently set at €300,000 over three years for most sectors)[6]. However, this threshold is often already largely consumed by other forms of aid, limiting the impact of direct procurement awards. Additionally, from 2026 onwards, all De Minimis aid must be reported in the central EU register, increasing transparency and monitoring.
- Currently, EU countries set different national thresholds for below-threshold procurements that can provide direct contract awards to startups, scaleups and SMEs, creating unequal competition across Member States. In some countries, economic operators of this size and capacity benefit from higher direct award limits, while in others, strict rules make it harder for them to secure public contracts. To address this fragmentation, the European Commission could establish a harmonised EU-wide framework for direct awards in below-threshold procurements. One possible approach could include:
  1) setting a common EU-wide maximum threshold (e.g., €50.000) below which direct awards to a single bidder are allowed without competition,

[6] De minimis rule – exemption of small amounts of State aid from notification (from 2024), [De minimis rule – exemption of small amounts of State aid from notification (from 2024) | EUR-Lex]

2) requiring at least three bidders to be invited for direct awards above this threshold but below €100.000, and

3) mandating that public procurements exceeding €100.000 must be published on national portals and remain open to businesses of all sizes.

A common EU-wide approach would create a level playing field for startups, enhance transparency, and ensure fair access to public contracts across all Member States.

- In principle, using **State aid** to bypass open competition through **direct contract awards** is not a panacea. It may benefit one startup in the short term, yet it simultaneously **eliminates opportunities** for other startups and larger SMEs, distorting fair competition. Therefore, such measures should only be used as a **last resort**, once all **less intrusive, competition-friendly solutions** have been fully implemented. Many fundamental steps to open the **EU public procurement market** to small businesses, without distorting competition, have not yet been developed or implemented. The EU should first **prioritise implementing these measures (see points No. 7 and No. 8)** to ensure a level playing field. Only after that, and once the **EU Innovation Act** establishes a common **EU definition for startups**, should the EU assess whether startups are truly underrepresented in public procurement. If data shows that startups are still not securing sufficient contracts, only then should the EU consider whether **setting a procurement target** for startups is necessary, acknowledging that this approach relies on **State aid mechanisms that can distort competition, even among startups themselves**.

2. Action plans for innovation procurement

As mentioned by Draghi and plenty of other sources, there is a lack of strategic planning of policy actions and investments for innovation procurement in Europe. Thus,

a) Member States need to develop **national action plans** and anchor innovation procurement in their R&I policies and programs (removing legal barriers for programs to support not only suppliers but also buyers is important).

b) The EC should commit to develop an **EU level action plan**, with yearly tracking of progress (based on a common legal definition of innovation procurement across Europe).

3. Joint procurement by transnational buyer groups

Startups can only grow into scaleups in Europe if they can find a sufficiently large European home market to grow their business on. For small companies that target the public sector market, they need large enough orders to make this happen. As public procurement is very fragmented in Europe, public buyers can only create sufficient critical mass of demand for this to happen if they can buy jointly with public buyers from different EU countries can. However, due to transposition of the EU public procurement directives into 27 different national public procurement legislations, it is today too cumbersome for public buyers from different EU countries to implement joint cross-border public procurements to buy innovative solutions together.

To tackle this issue, the EU should provide **one legal regime for joint procurements done jointly by public buyers from different EU countries**, to simplify buying innovative solutions together and enabling companies to grow across the EU (e.g. allow them to procure under the EU's Financial Regulation for such transnational procurements).

4. Bayh-Dole type IPR regime for all forms of public funding

Startups and scaleups in Europe face today often unsurmountable difficulties to bring their innovations to the market because several public funding mechanisms that they use along their route to the market are handling IPR allocation in different incompatible ways or in ways that even block commercialisation of the innovation altogether. There is a clear need to **align the incentives for everyone along the R&I value chain** (public funding agencies, academia, industry, buyers etc) **to commercialise innovations**, to really get innovations out of the lab into the market. This is also essential to enable innovators to move from one form of public funding to the next and combine different forms of funding.

The EU should therefore ensure that a Bayh-Dole type IPR regime is adopted across Europe, that **leaves IPR ownership by default with the funding recipient/innovator in all forms of public funding** (in grants, procurements done with public money, public loans, public R&D scholarships/stipends etc).

5. Increase incentives for universities to transfer/license academic IPRs

Nowadays too much knowledge remains locked up in universities. Universities often lack or operate under a startup-unfriendly IPR transfer/licensing framework, which is rather slow-paced or encompasses impractical financial conditions, thus hindering startups from commercialising academic-based innovations through procurements.

There is a concrete need to **set incentives right for universities to adopt a commercialisation-minded** and **startup-friendly IPR transfer/licensing approach** as well as **share IPR/commercialisation rewards with researchers** to incentivise them.

6. Ensuring Safeguard Measures for Business Confidential Information

Protecting business confidential information is crucial in the context of innovation procurement, particularly when engaging with startups, scaleups, and research-driven companies that rely on proprietary knowledge and trade secrets for their competitive edge. At the same time, while the IPR legal framework (e.g. for patents, trademarks, copyrights) offers a basic level of foundational protection, additional safeguards in procurement processes are necessary to prevent unintentional disclosure or misuse of sensitive and/or confidential business information.

Indicative examples where the EU should take action to:

- **Prohibit the publication of offers and sensitive bid information** (use confidentiality clauses in procurement contracts and processes, restricted access protocols and ensure that submitted offers will never be published or disclosed to third parties beyond the evaluation committee).
- **Ensure transparency without compromising confidentiality** (consider publishing, if need be, aggregated data or anonymised benchmarks rather than company-specific details to maintain fair competition while allowing public oversight).
- **Set clear and strict rules for information sharing during Market Consultations** - Preliminary market consultations are essential for public buyers to understand technological trends and supplier capabilities, but they should not lead to inadvertent leaks of competitive intelligence. Establishing neutral discussion frameworks where multiple companies can participate without disclosing company-specific confidential business information is of the essence.

7. Basic principles for all publicly funded procurements (also those not subject to EU public procurement directives)

The EU should ensure that all procurements that are financed by public money follow some basic principles that ensure that the innovation potential of those public procurements is optimally used (to ensure effective implementation of the innovation principle), that a fair level playing field is created against non-EU competitors on the market and that innovative companies get fair chances to compete against companies with already well-established solutions on the market.

Therefore, the EU should ensure that all procurements financed by public money:

a) Utilise lowest price awards only for standard products (no quality variation among suppliers). Establish the use of **value for money awards (with a maximum 50% weight allocated to the price criterion)** always for strategic technologies and strategic sectors.

b) Give preference to using **functional specifications** (instead of solution prescriptive specifications) and use them to the maximum extent possible.

c) Anchor the possibility for buyers to accept **value engineering** proposals in large and smaller strategic procurement contracts.

d) Allow and make available a **simplified approach to implement multiple sourcing**.

e) Establish clear conditions to reinforce **EU strategic autonomy** (ensuring reciprocity with US/Asia).

- R&D services procurements: possibility to require suppliers to perform a specific % of R&D and commercial production to happen in the EU.
- Procurements of innovative solutions on strategic technologies/sectors:
    - encourage use of multiple sourcing using the possibility to reserve a contract for EU suppliers, and
    - introduce the possibility to give an 20% pricing advantage (equivalent as in US/Asia) to EU suppliers (i.e. suppliers that produce at least 50% of the procured products, including key components in the EU, which can go for security products/components even up to producing 100% in the EU) for all non-WTO GPA covered procurements.
- For both: require suppliers to reinvest part of the profits they generate from keeping IPR ownership into further R&I/production in the EU.

f) Incorporate **innovation-friendly award criteria**

It is already possible today for buyers to award contracts based on several award criteria, including award criteria that reward the innovative character of the offer. However, these award criteria are underused or not used optimally today.

The EU should thus promote the adoption of innovation-friendly award criteria (like the EU green procurement award criteria) in all procurements that are financed by public funding. Making available such EU wide innovation-friendly award criteria will reward innovative companies, including startups and scaleups, that contribute to broader strategic innovation objectives of public procurement, as well as overall economic and technological progress.

Indicative examples of elements that could be included in such criteria:

- **Innovation Impact on the Ecosystem** (assess the bidder's potential to stimulate innovation in the sector, including spillover effects on SMEs, research institutions, and cross-industry collaboration).
- **Enhance Open Standards,** by encouraging bidders to deliver services and solutions that not only comply with existing standardisation frameworks but also go above and beyond their requirements, taking into consideration aspects such as interoperability, data portability, market accessibility, etc.)
- **IP and Knowledge Creation** (evaluate the extent to which extent the offer commits to make sure that the awarded contracts result in intellectual property generation and commercialisation, through e.g. patents, trademarks, design rights, copyright on software, utility models, or, through open innovation contributions, thereby strengthening the EU's technological sovereignty.

8. Facilitate participation of startups/SMEs

a) Stop unfair disqualification from procurement procedures

- Allow bidders to prove their financial capacity via any means (not only via turnover).
- Create a black/grey list of unlawful financial contract conditions for B2G market, similar as what is used today for B2C & B2B markets.
- Do not disqualify bidders solely based on lack of performance history, unless unusual professional experience or specialised facilities are needed for the contract.
- Allow bidders to correct administrative errors/omissions and modify bids 'whenever legally allowed'.
- Create an EU wide Pre-Qualification Platform: Companies should only have to upload supporting documents to prove their compliance with exclusion and selection criteria 'once' for all procurements across the EU. All such docs that are already somewhere in public databases in MS should be automatically retrieved by/synchronised with the platform.

b) *Reduce red tape and accelerate the procurement process*

- Define a clear timeline for deliverables/procurement steps in tender specifications (something that often is missing).
- Publish, whenever possible, the preliminary ranking of offers after the opening of tenders.
- Set a maximum time limit for procurers to evaluate offers (decision time is too long).
- Require tender documents to be published in machine processable format (so automatic translation can be used).

c) Protect basic rights of small companies

- Create an accelerated payment regime for SMEs (within max 15 days alike in US).
- Generalise the use of pre-financing for startups and for SMEs who are in financial difficulties but who are essential for the contract.
- Require contractors to respect a minimum set of basic rights for subcontractors/consortium members (including requiring a written contract between these parties that sets clear deliverables and timeline, respects IPR and the right to correct/swift payment).

d) Remove the administrative and financial barriers to access (regional and/or national) e-procurement portals

- Onerous registration and documentation processes[7] – startups and SMEs encounter intricate registration procedures on e-procurement platforms and burdensome documentation processes when attempting to participate in public procurement, a situation that can be both time-consuming and resource-intensive.
  - ➔ Simplify the aforementioned processes can reduce entry barriers for smaller businesses.
- Lack of technical expertise and support - many startups and SMEs lack the necessary technical expertise to navigate e-procurement systems[8] efficiently or in general due to their complexity and divergence.
  - ➔ Create training step-by-step guides videos, helpdesk services and regional/national workshops to support these businesses or align the e-procurement systems through interoperability and common functionalities.
- Cybersecurity and data protection considerations[9] – startups and SMEs may be apprehensive about the security of e-procurement platforms, fearing data breaches and unauthorised processing or access to sensitive or confidential information.
  - ➔ Address these concerns through robust and contemporary cybersecurity measures in combination with transparent and fair data policies that allow businesses to understand how their data are processed, used, and stored.
- High upfront and technical compliance costs – startups and SMEs face high upfront costs, including but not limited to subscription fees, staff training for the proper utilisation of the e-procurement systems, compliance expenses (e.g. due to the way of bid submission, internal protocols, IT systems requirements, etc.), that can be prohibitive, limiting their participation in public procurement due to limited resources.
  - ➔ Lower or eliminate these costs by implementing measures that make e-procurement portals more accessible to small businesses.

9. Use synergies with the revision of the EU public procurement directives

The EU should keep in mind also the recommendations in our specific position paper for the ongoing revision of the EU public procurement directives[10], as those focus on what the EU could improve to foster innovation procurement in the EU public

[7] SMEs in Public Procurement Practices and Strategies for Shared Benefits, OECD Public Governance Reviews, 26 October 2018, SMEs in Public Procurement | OECD

[8] Inusah, Yusif, Aynur Kazaz, and Serdar Ulubeyli. 2025. "Barriers to E-Tendering Implementation in the Construction Industry: A Comprehensive Review and Analysis of a Decade and Beyond" *Sustainability* 17, no. 5: 2052. https://doi.org/10.3390/su17052052

[9] Ibid., No.3

[10] Feedback from: CORVERS PROCUREMENT SERVICES B.V

procurement directives for those public procurements that are covered by the EU public procurement directives.