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ANALYSIS OF THE PROCESS OF SMALL-SCALE PUBLIC PROCUREMENT IN THE EDUCATION SECTOR IN THE CZECH REPUBLIC

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Abstract:

This paper explores the challenges associated with public procurement processes in the Czech Republic, as well as globally. In particular, it focuses on small-scale construction projects in the education sector and the problems associated with them, including policy making, pricing, efficiency, and the length of the procurement process. The paper also examines the risks associated with public procurement in the construction industry and how these risks can be managed through risk management. Moreover, it analyses the specific problems in the education sector, including imbalanced contractual conditions and unfair arrangements, which often shift the responsibility for risk aftermath to contractors. To gain insight into these issues, a research questionnaire was conducted among construction companies participating in the public procurement process. Based on the questionnaire results and a comparison between public and private procurement processes in the Czech Republic and Germany, the paper identifies flaws in the system and proposes potential solutions. The paper concludes by emphasizing the need for small changes to be implemented to improve the system, even though corruption remains a major issue that needs to be addressed. Overall, this paper provides valuable insights for policymakers and stakeholders on how to address the issues surrounding public procurement in the education sector in the Czech Republic and beyond.

Keywords:

Public procurement, Construction, Contractual Conditions, Risk Management, Small-scale, Education, School, Corruption

JEL Classification: L74, D73, H57

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1 Introduction

Public procurement is a critical process that ensures the efficient use of public funds, and is a subject of worldwide interest. In the European Union, public procurement accounts for a significant portion of public spending, and the process is governed by EU directives that are implemented in each member state. Despite the importance of public procurement, the system is not without flaws. Small-scale public procurement in the education sector is a particularly important topic that requires closer examination.

The purpose of this paper is to analyse the process of small-scale public procurement in the education sector in the Czech Republic, with a focus on construction projects. This includes various changes due to the economic crisis, pandemic etc. [1, 2]. We aim to compare the public procurement system in Czech Republic with that of other countries in the EU, and with procurement in the private sector. By doing so, we aim to identify the flaws in the current system and suggest potential solutions for improvement.

The paper will introduce the basics of public procurement, including the types of projects, procurement procedures, and potential contractors in the Czech Republic. We will also discuss the German procurement system to facilitate the comparison. The paper will then compare the advantages and disadvantages of both public procurement systems.

The next section of the paper will examine the education sector in the Czech Republic and the specific steps involved in small-scale construction projects within this sector. It will also discuss issues that are applicable to publicly procured construction projects in general. The two main problems within the system are identified as unfair contractual conditions and corruption. The section on contractual conditions will focus on the distribution of risk among the participants and the inability to change the contract conditions to account for risk reserves. Risk reserves are an important part of the contract, since the construction industry is very dangerous and risky [3]. This often leads to an increase in the original price and a disadvantage for small construction companies in competing for the project.

The paper will present the research methodology used in this study. We will describe the questionnaire that was distributed to construction companies that participate in the public procurement process, and discuss the analysis of the results obtained. This section will also present a comparison of the results with the previous section, in order to identify the flaws in the system and suggest potential solutions for improvement.

Finally, the paper will conclude by summarizing the issues associated with small-scale public procurement in the education sector in the Czech Republic and comparing the public procurement process with that in Germany and the private sector. The main problems of unfair contractual conditions and corruption will be identified, and potential solutions for improvement will be suggested. Overall, this paper aims to contribute to the discussion on the improvement of the public procurement process in the Czech Republic and in the education sector specifically.

2 Literature review

Furthermore, the issue of corruption in public procurement in the Czech Republic is not limited to the awarding of contracts but also extends to the implementation and monitoring of contracts. The lack of transparency and accountability in the monitoring process allows for corrupt practices, such

as overpricing, change orders, and low-quality work, to go undetected. These corrupt practices not only result in financial losses for the government but also pose a significant risk to public safety.

Moreover, the lack of competition in public procurement is a significant issue that contributes to the inefficiency and ineffectiveness of the process. The limited number of bidders and the lack of clear and objective criteria for the evaluation of bids often lead to inflated prices, low-quality work, and delays in project completion. This lack of competition also limits the opportunities for small and medium-sized enterprises, which are essential for the growth and development of the economy.

To address these issues, the government must take bold and decisive action. This includes implementing transparent and accountable monitoring mechanisms, increasing competition in public procurement, and establishing clear and objective criteria for the evaluation of bids. Furthermore, it is essential to involve civil society organizations and independent experts in the monitoring and evaluation process to ensure the integrity and effectiveness of public procurement. Only by taking these steps can the government restore public trust in the public procurement process and promote economic growth and development.

The lack of specific analyses in the current debate on public contracts can be attributed to the complexity of the procurement process, which involves various stakeholders and factors that affect its efficiency. The legal formalism in awarding public contracts, which emphasizes compliance with rules and regulations, can sometimes overshadow the economic considerations that should be the primary focus of the procurement process. This results in prolonged awarding processes, delays in project implementation, and reduced economic benefits.

Moreover, the simplistic judgments and quick solutions often proposed in the debate on public contracts fail to consider the diverse and changing needs of the public sector. The government and its agencies require goods and services that are of high quality, timely, and cost-effective. However, achieving these goals requires a nuanced understanding of the market, the needs of the public sector, and the capabilities of potential suppliers.

One solution to this problem is to adopt a more data-driven and evidence-based approach to public procurement. This involves conducting detailed analyses of market trends, supplier capabilities, and the needs of the public sector, which can inform the procurement process and enable the government to make better decisions. Additionally, more emphasis should be placed on the economic efficiency of the procurement process, with a focus on achieving the best value for money rather than simply complying with legal requirements.

Overall, the current debate on public contracts requires a more nuanced and evidence-based approach that takes into account the complex nature of the procurement process and the changing needs of the public sector. By adopting a more data-driven and economic approach, the government can ensure that public contracts are awarded in a timely, cost-effective, and efficient manner, ultimately benefiting both the government and the wider public.

Furthermore, the lack of transparency and accountability in the public procurement process in the Czech Republic only exacerbates these issues. This often leads to contracts being awarded to companies with close ties to government officials, rather than to those who can provide the best value for money. This not only harms the overall economy but also erodes public trust in government institutions. There is a need for certain policies to be enacted to prevent this from happening [4].

To address these challenges, there is a need for a more comprehensive and evidence-based approach to public procurement. This should involve a thorough analysis of the needs of the public institution in question, as well as an assessment of the potential suppliers' capabilities, track

records, and financial stability, so that orders in the construction supply chain can be perfectly fulfilled [5].

Moreover, there is a growing recognition of the role that technology can play in improving public procurement processes. The use of e-procurement platforms and other digital tools can enhance transparency, reduce corruption, and improve the overall efficiency of public procurement. However, to fully realize the benefits of technology, it is essential to ensure that the necessary infrastructure and resources are in place and that public officials are adequately trained to use these tools effectively.

It is also important to take into account the risk management process, which can decrease or even eliminate risk of implemented effectively [6]. Implementation of risk management systems is very low in Czech Republic, especially in small and medium companies. This situation could be improved upon, which would lead to decrease of needed risk reserves.

In summary, improving public procurement in the Czech Republic will require a multi-faceted approach that takes into account the legal, economic, and technological aspects of the process. This will not only lead to better outcomes for the economy but also enhance public trust in government institutions and promote a more democratic and accountable society.

3 Materials and Methods

The research for this paper is based on both primary and secondary sources of information. The secondary sources include publications from various authors, ranging from books to various papers published both digitally or in paper, either as a part of some journal or standalone. Additionally, the statistics published by the Organisation for Economic Co-operation and Development (OECD) were utilized.

The primary information was collected through an electronically distributed questionnaire. The questionnaire was designed to gain insights into the public procurement process in the education sector in the Czech Republic, with a particular focus on small-scale construction projects. The questionnaire contained eight closed-type questions, and it was distributed among construction companies that have participated in the public procurement process. The final question of the questionnaire was about public procurement in Germany, and it was not mandatory, leading to a lower number of respondents.

The collected data from the questionnaire was analysed to identify the challenges associated with the public procurement process in the Czech Republic. Additionally, a comparison was made between the public and private procurement processes in the Czech Republic and Germany to identify the flaws in the system and propose potential solutions.

Overall, this paper provides policymakers and stakeholders with valuable insights on the issues surrounding public procurement in the education sector, the risks associated with it, and how these risks can be managed through risk management strategies.

The secondary sources of information used in this paper were selected based on their relevance to the topic, and included publications from various authors, ranging from books to various papers published both digitally or in paper, either as a part of some journal or standalone. These secondary sources provided a comprehensive overview of the challenges and issues associated with public procurement processes in the Czech Republic and globally, as well as the best practices and potential solutions for these issues.

In addition to the secondary sources, statistics published by the OECD were also utilized to provide insights into the public procurement process in the education sector in the Czech Republic and other countries. The analysis of Czech and German law, specifically the part about public procurement, also played a significant role in identifying the flaws in the current system and suggesting potential solutions.

To collect primary information, an electronically distributed questionnaire was created and made available online. The questionnaire contained 8 questions about the public procurement process in Czech Republic, the contractual conditions and the distribution of risk amongst the participants of small-scale construction projects in the education sector that were procured publicly. All the questions were closed type, where respondents had to pick one of the answers. The final question about public procurement in Germany was not mandatory, therefore it had fewer respondents.

4 Analysis of public contracts and their procurement

4.1 Analysis public procurement in Czech Republic

In order to talk about public contracts in the construction industry, we must first at least briefly define what a public contract is. Public contracts are divided into services, supplies, and construction works. Public contracts are also divided according to the expected price range: small-scale commissions, sub-limit and over-limit commissions. There is also a fourth category, significant commissions (over CZK 300 million).

A public contract is a contract implemented on the basis of a contract between the contracting authority and one or more suppliers, the subject of which is the gratuitous provision of supplies or service, must be implemented on the basis of a written contract.

Public contracts are divided into public contracts for supplies, public contracts for services and public contracts for construction works.

As for the procurement of those public contracts, public procurement means the conclusion of a payment contract between the contracting authority and the supplier, which results in the obligation of the supplier to provide supplies, services or construction work.

The contracting authority is obliged to award a public contracting in the tendering procedure, unless otherwise stipulated. This obligation is considered fulfilled if the public contract is awarded on the basis of a framework agreement [7].

The public procurement process follows several principles:

- The contracting authority must observe the principles of transparency and proportionality.
- In relation to suppliers, the contracting authority must observe the principle of equal treatment and prohibition of discrimination.
- The contracting authority may not limit participation in the procurement procedure to those suppliers who have registered office in:
 - a) a member state of the European Union, the European Economic Area or the Swiss Confederation
 - b) another state that has concluded an international agreement with the Czech Republic or European Union guaranteeing the access of suppliers from these states to the awarded public contract.

The procurement of public contracts differs amongst countries, so it would be a good idea to make a comparison. Public procurement is also affected by the EU rules, if certain conditions are met. Those conditions are in the form of 2 limits – 140 000 EUR in the case of products and services, and 5 382 000 EUR in the case of construction projects. Projects lower than those limits are only affected by the local laws for public procurement [8].

Ways to approach public procurement of contracts in Czech Republic:

- Simplified, below-the-threshold procedure allows the contracting authority to only invite few specific potential contractors to submit the tender (but it has to be at least 5).
- Simplified procedure, which is a special procedure only intended for social and other specific services. Examples of those services are hotel and restaurant services, postal services etc.
- Open procedure, during which all contractors interested in the contract may submit a bid
- Restricted procedure, which consists of 2 steps – first, a call for competition is published, and second, the contracting authority selects a limited number of potential contractors, who may then submit their bids.
- Negotiated procedure, which consists of 3 steps – like with the restricted procedure, it starts with a call for competition, followed by the contracting authority selecting a limited number of potential contractors. After those contractors submit their bids, conditions are negotiated. After the negotiations, final bids are placed. This may or may not be public.
- Competitive procedure, in which a contract notice is published and the contracting authority conducts a dialogue with the candidates admitted to that procedure with the aim of developing one or more suitable alternatives capable of meeting its requirements and on the basis of which the chosen candidates are invited to bid.
- Innovation procedure, in which the procedure is split into a sequence of several phases (manufacturing of products, provision of services, completion of works etc.).
- Direct procedure, during which no call for competition is published, but instead the contract is directly awarded to a contractor.

The most common ones are the open and the restricted procedure, as they do not have any extra restrictions on who can participate in them.

There are some grounds on which a potential contractor may be excluded from the process. In some cases, the exclusion of a potential contractor is optional, and it is up to the contracting authority to decide. In other cases, the exclusion is obligatory. Grounds on which the bidder may be excluded include not meeting criteria, the provided information is false, the tender has an abnormally low bid price, unlawful actions of the bidder, conflict of interest, professional misconduct etc.

The public contracts in Czech Republic are procured via the Public procurement information system, which can be found at: <https://isvz.nipez.cz/uvod>, and also at: <https://www.vestnikverejnýchzakazek.cz/>.

The whole procedure is done via 3 methods:

- Dynamic purchasing systems – completely electronic, open to anyone who meets the criteria, commonly used
- Electronic auctions – electronic, used after initial evaluation of the bids to rank them by the criteria set by contracting authorities

- Electronic catalogues – electronic, usually more detailed (price, product description etc.), allows some flexibility, potential contractors submit bids, the contracting authority may request this to be the only method used

Czech Republic does not have any alternative methods to those listed above.

4.2 Analysis public procurement in Germany

Ways to approach public procurement of contracts in Germany:

- Open procedure, during which all contractors interested in the contract may submit a bid
- Restricted procedure, which consists of 2 steps – first, a call for competition is published, and second, the contracting authority selects a limited number of potential contractors, who may then submit their bids.
- Negotiated procedure, which consists of 3 steps – like with the restricted procedure, it starts with a call for competition, followed by the contracting authority selecting a limited number of potential contractors. After those contractors submit their bids, conditions are negotiated. After the negotiations, final bids are placed.
- Competitive procedure, in which a contract notice is published and the contracting authority conducts a dialogue with the candidates admitted to that procedure with the aim of developing one or more suitable alternatives capable of meeting its requirements and on the basis of which the chosen candidates are invited to bid.
- Innovation procedure, in which the procedure is split into a sequence of several phases (manufacturing of products, provision of services, completion of works etc.).
- Direct procedure, during which no call for competition is published, but instead the contract is directly awarded to a contractor.

The open and restricted procedures are the most common, as they do not have any special rules and are always permissible. The other types of procedures have additional rules, meaning they cannot be used in every case. Even though anyone should be able to participate in those, certain potential contractors can be excluded from the conditions in specific cases. Those cases include situations, where the bidder has been convicted of some offences, such as forming criminal organizations, money laundering, fraud and bribery, anticompetitive behaviour, bankruptcy or insolvency, negative contracting track-record, professional misconduct, conflict of interest etc.

Now that we know how they can be procured, the question is where. The procurement procedures can be viewed at www.evergabe-online.de and www.bund.de.

The whole procedure is done via 3 methods:

- Dynamic purchasing systems – completely electronic, open to anyone who meets the criteria, commonly used
- Electronic auctions – electronic, used after initial evaluation of the bids to rank them by the criteria set by contracting authorities
- Electronic catalogues – electronic, usually more detailed, allows some flexibility, potential contractors submit bids

There are also other methods, but those are only used after passing a certain threshold [9].

4.3 Comparison of public procurement procedure in Czech Republic and Germany

When we look at the procedures used in the procurement of a public contract, we can see that not only do some details differ, but Czech Republic offers 2 extra procedures compared to Germany: the regular simplified procedure, and the below-the-threshold simplified procedure. Czech Republic also allows the negotiated procedure to be with or without publication.

The methods used for the procedures on the other hand do not differ that much. The main difference is that the contracting authority in Czech Republic may choose to make the electronic catalogues the only eligible method. While Czech Republic has only 3 methods, Germany offers some additional ones, which may be used in special cases.

In the case of both countries, open and restricted procedures are the most common. While in Germany, potential contractors must be excluded when certain conditions are met, Czech Republic sorts the offenses in 2 categories – one where the contracting authority may exclude the bidder, and one where they must. A lot of those conditions overlap, but some are exclusive to Czech Republic. In the case of both countries, all the methods of public procurement are electronic since 2018. Both countries have their respective internet portals for public procurement of contracts. Small-scale public contracts in the education sector

Public procurement in Czech Republic is quite common, ranking among the top countries of OECD [10]. Even though public procurement is common, it has many flaws [11, 12]. Those problems are also present when it comes to policy making, prices and efficiency [13], but they are also present in the length of the public procurement procedure, even though authorities should be faster due to the experience and qualifications [14]. The competitive pressures and factors that operate and influence the entire construction industry segment are significant. Public contracts bring in another layer of specific risks that can influence the completion of the construction project [15]. Even though there are many risks, we can take a look at the common ones in our segment and prepare accordingly, even eliminate unwanted consequences [16]. This is the main focus of risk management [17, 18]. Risks in this context means “possible negative development, during which threats of undesirable phenomena or events may manifest, not leading up to a positive consequence” [19]. Risk management is an important part of every successful organization [20].

4.4 Planning and implementation

Clear temporal and objective definition of each construction project means a certain degree of closure of the whole process. For the purpose of this paper, closure represents primarily a reduction in quantity of risks that normally affect “open” construction projects.

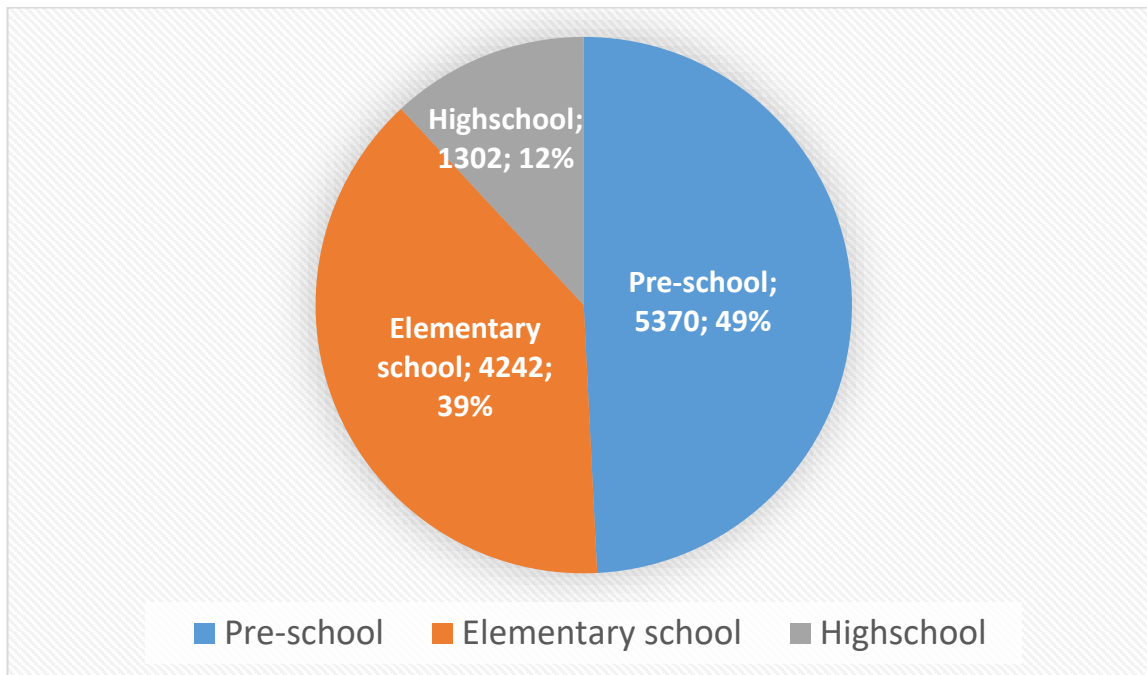


Diagram 1: Construction projects in education sector in Czech Republic, 2020. Source: author.

4.5 Phasing and social-political-economical aspects

Phasing (staging) is one of the characteristic features of procurement of small-scale construction projects in the education sector. While the final figures may differ, contracting authorities in public procurement competition almost always focus on preliminary pricing, rather than the final one [21]. This approach may vary depending on the type of contracting authority [22]. The caveat lies in too many variables that are impossible to comfortably predict, leading to subjective estimates [23]. The final cost is not known until way later, at which point it is too late to change the contract [24]. School buildings are separated into sub-sections, “stages”, which are the most suitable way of modernizing objects.

- 1) **Economical aspects.** Modernization, repairs and complete reconstructions are more effective than gradually implementing change. However, due to the sheer amount of objects under the administration of the Ministry of Education and Culture, it would be almost impossible to cover such massive investments on a wider scale. Due to that, the only way to keep high amount of applicants satisfied, the transformation has to be divided into smaller sub-sections and small-scale orders.
- 2) **Social and political aspects.** The main characteristic of socio-political aspects is taking into account the demands of the population on the ongoing maintenance and modernization of education facilities. Therefore, favouring one object at the expense of others would be unsustainable long-term. Dividing the projects into smaller segments and creating some limit is therefore the most suitable solution.

The usual stages into which construction projects in this sector are divided into are:

- roofs, windows
- kitchen, dining room
- restrooms

- modernization of classrooms
- boiler room and heating distribution
- halls
- sports fields and outdoor areas

There are roughly 11 000 objects under the administration of Ministry of Education and Culture, which translated to 87 000 potential small-scale construction projects.

It is important to plan accordingly – because of that, there is a suggested rule of 3-year investment period per construction project. This way the investment can be done in parts, and there can be breaks if needed. Another suggested rule is the limit of 24 years until another reconstruction.

4.6 Conditions of a contract

For each construction project, contractors are forced to undertake actions with high degree of risk. In most cases, those risks can be identified beforehand, in the preparatory-bidding phase. We are also able to predict the degree of the aftermath of those risks. When it comes to risks that we cannot accurately predict, or not predict at all, contractors usually reflect that in the increased price of work in the contract in the form of reserves for risks [25]. Sometimes, contracts may contain specific risks and their conditions.

In the private sector, this can easily be prevented, but that is not the case for public contracts – especially in the case of small-scale contracts, changing the conditions of a contract is almost impossible.

The contracts are put together in a way that makes the contractor responsible for most risks (even those risks that cannot be prevented. Because of that, the whole situation is just “take it or leave it” [26]. Contractors are therefore the weaker link of the contract, which can have devastating consequences and legal problems. Civil law provides an option to prevent this in the contract, but it is mostly hypothetical and is not commonly used. That leaves the contractor with only 2 options – either not enter the contest and end up without work, or try to get a fair arrangement in the court and end up without any work too [26].

Part of the work is the analysis of the supply contracts submitted by the investor, which are part of the tender conditions. Analysis of contractual terms concluded between the investor and contractor has the potential to transfer some of the responsibility between the participants. This process consists of 5 steps:

- 1) careful study of the model contract terms
- 2) custom commenting
- 3) consultation with a construction law specialist
- 4) creating notes in the model terms and conditions, along with conclusions
- 5) review of conclusions and notes by a lawyer

Work contract for processing and the delivery of the project documentation contains several points in addition to the standard arrangements, which allow the client to exert pressure on the contractor by delaying payments as needed, or the application of considerable sanctions. Part of the provisions which the contractor undertakes are not completely within his power, and in the event of delay or breach for reasons beyond his control, contracting authority can apply sanctions.

The amount of daily sanctions is also completely beyond the ordinary level of “balanced” contractual relations. The contract also contains some conditions related to the responsibility, which set the amount of responsibility of the contractor, but also the supplier.

Conditions in the contract for the work are much stricter and unilaterally oriented to the benefit the contracting authority. One of the conditions of the contract is that the contractor is responsible for the risks, which might not be stated yet at that point. Those risks might be added later. The sanctions are 25% of the price, and 0.5% extra for every day that goes by.

Unusual wording of the conditions for handing over a work based on a so-called obvious defect – i.e. not defects preventing use, defects of technical nature, or technological discipline. The concept of obvious defects is not clearly specified and shows a considerable amount of ambiguity.

The contracting authority may request a replacement of the subcontractor without giving a reason. In the case of construction projects shorter than 2 months, this condition is completely unacceptable and unsolvable for the contractor. Although the contracting authority will pay for the difference between the original subcontractor and the new one, it usually is not an option to move the date when the construction has to be finished, which is difficult for the contractor, as he may end up facing contractual fines.

According to the wording of the contract for work, the contracting authority may request changes – requirements, that the contractor can refuse only on the assumption that he would face administrative or criminal penalties. Requirements and changes at odds with technical or technological regulations “must” be met.

The contractor is also responsible for the processing (correctness and completeness) of the project documentation, as well the probes and surveys carried out by the designer, the location of utility networks etc. According to the contract, the contractor assumes responsibility for all known and unknown documents required to carry out and complete the work, in terms of time, as well as financial, contractual and qualitative security [27]. This is a common contractual wording, but when we take into the account the short amount of time the contractor has available, it is almost impossible to get to know those conditions well, and unfair to take responsibility for all of them.

As we can see, the distribution of responsibility between direct participants is not ideal. While the ideal distribution would be the investor, contractor and designer having the same amount of responsibility, the reality is that most of the responsibility falls onto the contractor.

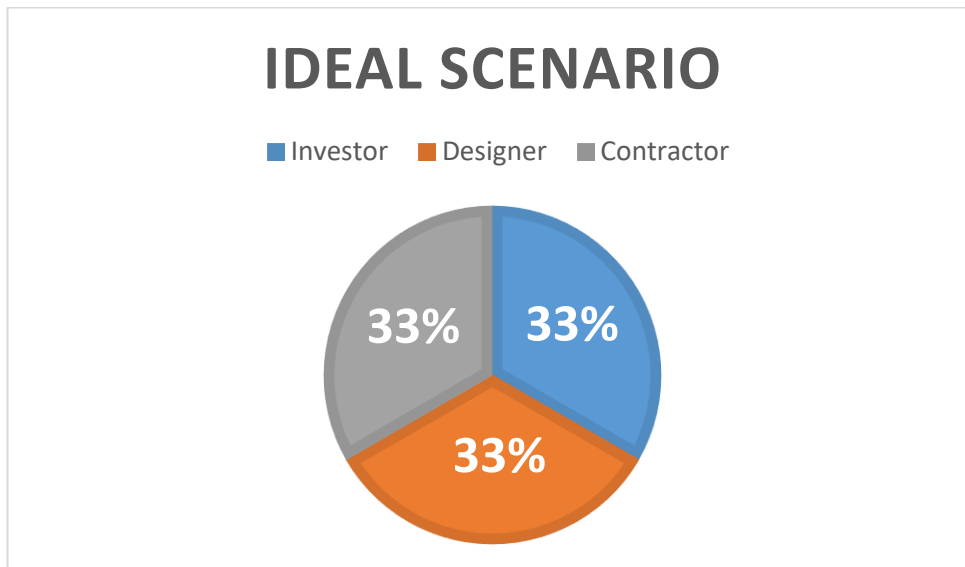


Diagram 2: Ideal distribution of responsibility between direct participants Source: author.

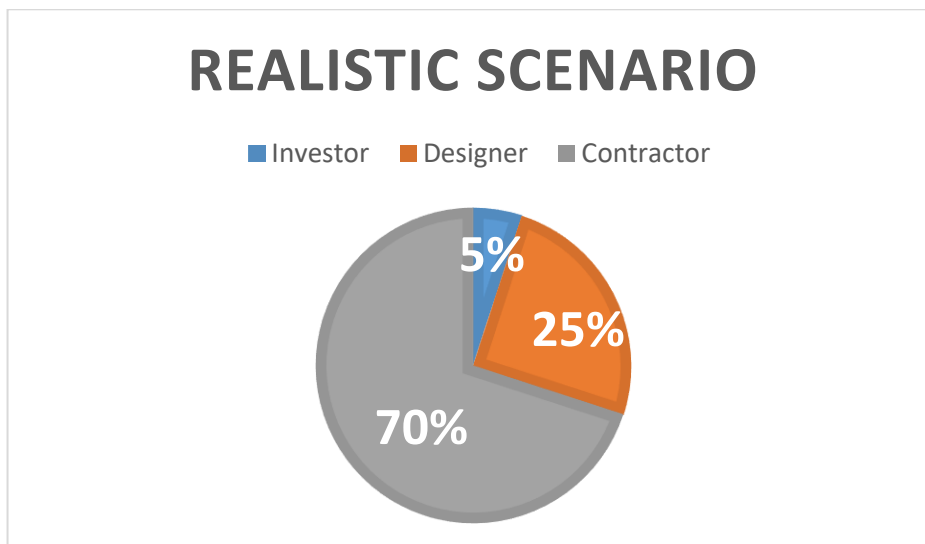


Diagram 3: Realistic distribution of responsibility between direct participants. Source: author.

As we can see, contractors take on the responsibility for majority of the risks by signing the contract. Since contract for work is a part of the tender conditions and is entered adhesively, without the possibility of modifications, contractors are forced to create reserves to cover the potential negative consequences of those risks. If it is not possible to eliminate those risks via the contract, this reverse comes in the form of increased price of the work at the stage of submitting the price offer.

4.7 Corruption within the public procurement process

The public procurement process highlights the trade-off between avoiding corruption and giving officials the flexibility to make decisions in the light of their own knowledge [28, 29]. Despite this, corruption is a common phenomenon when it comes to public procurement. The procurement process is exposed to volatility and ambiguity [30].

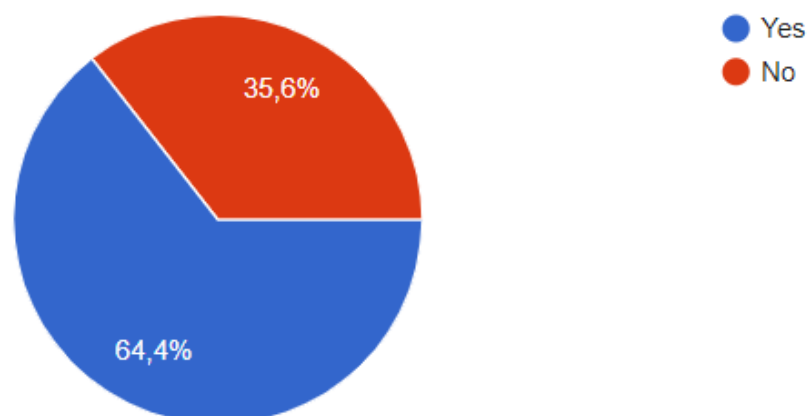
Corruption is a problem everywhere, so it is not surprising it affects the public procurement in Czech Republic too. When compared to other countries, Czech Republic stands at 57th place out of 183 countries when it comes to corruption within the public procurement process, and this standing seems to be getting progressively worse each year. It is important to control this corruption so that the public funds are properly managed [31]. If not managed properly, the public funds end up being wasted instead of being invested in public infrastructure [32].

The main problem in Czech Republic is the strong prevalence of clientelism, which is manifested by a narrow and opaque connection between politics and business. What makes this situation worse is that sometimes, the positions in the civil service are not obtained completely legitimately (promises of certain advantages, or promises of potential public construction projects etc. To potential contractors). That leads to bonds between parties and various companies and lobby groups that are not fair for the competition, and are difficult to investigate. Conflict of interests is also very common, even though it should not be – public officials should always act in the interests of general public, rather than for their own benefit. While this problem is covered by the law, it is not being upheld. Such conflicts of interest happen not only in the case of awarding public contracts, but in general when it comes to management of public finances. It is not just a conflict of interests in the strict sense, where an individual is performing a public function, while also using that position of power for their own benefit, but also the conflict of interests after they already left the position. In the 90s, this phenomenon was fairly common (for example the privatization of state property).

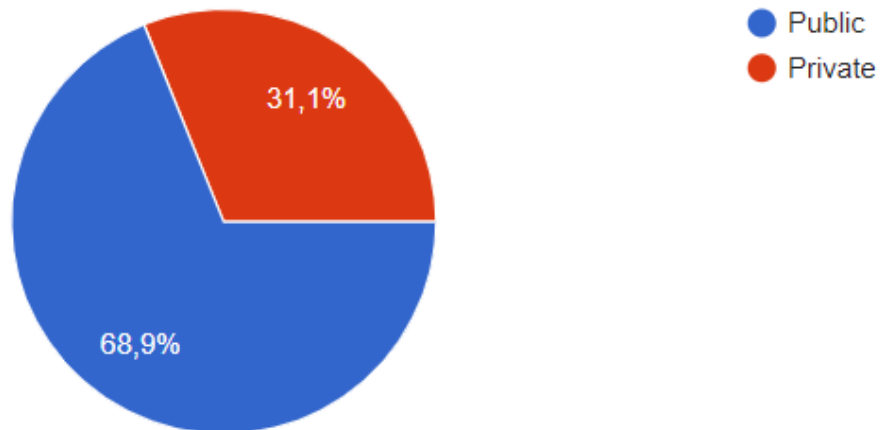
4.8 Results of the research questionnaire

The total amount of respondents to the questionnaire was 45, but since the 8th question was optional, it only received 24 responses.

1) Are you satisfied with the process of public procurement of small-scale construction projects in the education sector?



2) Do you prefer construction projects in the public or private sector?



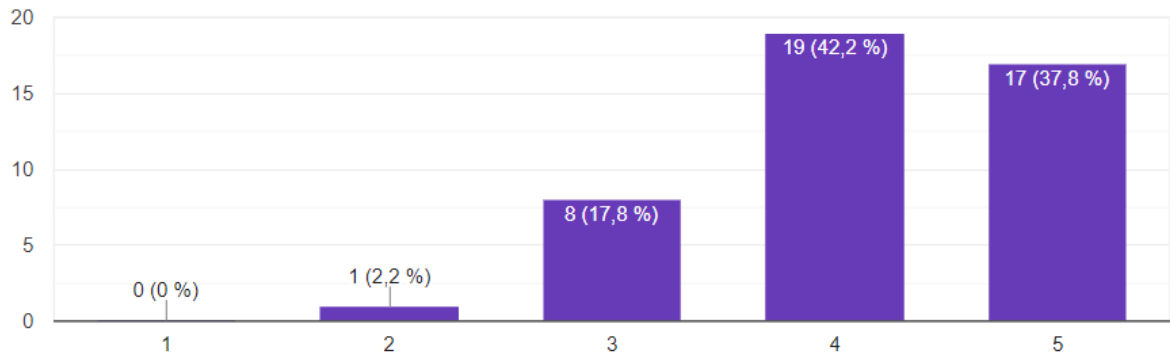
Diagrams 4 and 5: Questions about the satisfaction and preference of procurement. Source: author.

As we can see from the results of the first 2 questions, even though the conditions of the public procurement process are rough, small contractors are relatively satisfied and prefer it over private procurement. This can be attributed to the fact that public procurement is more profitable, but also because the contractors do not have much of a choice due to the conditions, which means that they either have to be satisfied with what is available to them, or end up with nothing.

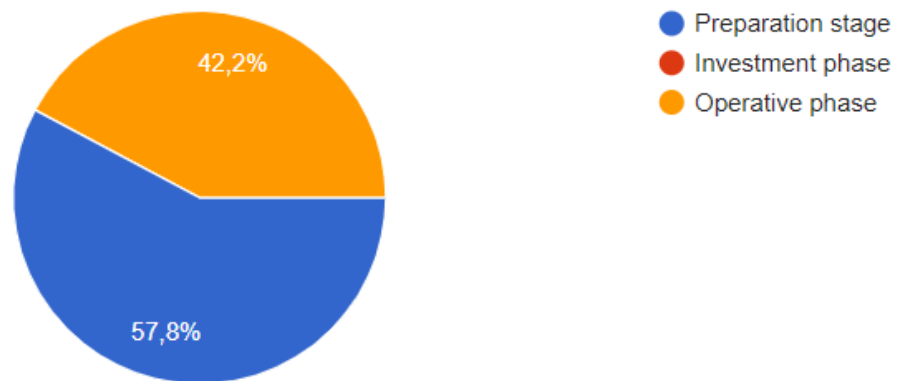
The next 2 questions focus on risk, specifically the distribution of risk amongst the construction project participants, and which construction phase carries the most risk. We can see that the brutal majority of respondents think that the contractor carries way more risk responsibility compared to the contracting authority. This aligns with what we established earlier, about how once the contract has been signed, most of the responsibility shifts towards the contractor.

Respondents seem to agree that the stages carrying the most risk are the preparation and operative stages, with investment stage carrying almost no risk. Preparation stage seems to carry the most risk.

3) According to your judgement, what is the distribution of risk responsibility amongst the participants?



4) According to your judgement, which part of the construction project carries the most risk?



Diagrams 5 and 6: Questions about the risk distribution amongst participants and phases.
Source: author.

5) Do you think there is a problem with corruption within the public procurement in Czechia?

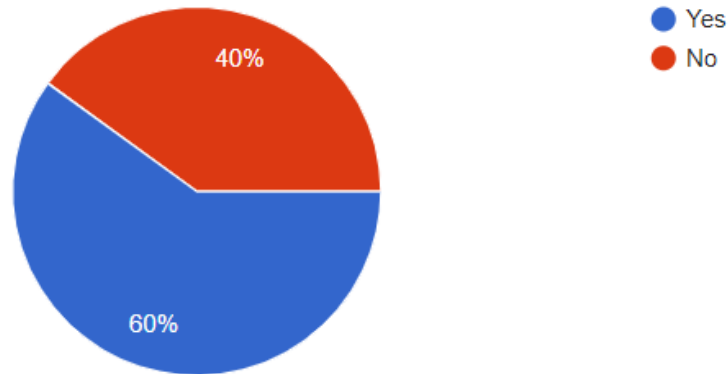


Diagram 7: Question about the corruption within the public procurement system in Czech Republic. Source: author.

Majority seems to agree that there is corruption within the process. This aligns with what we talked about earlier, and what other authors confirm too. Although there is a higher concentration of corruption in Czech Republic, it is present everywhere in the world [33].

6) Based on your past construction projects that were procured via public procurement, were you able to discuss the conditions of the contract?

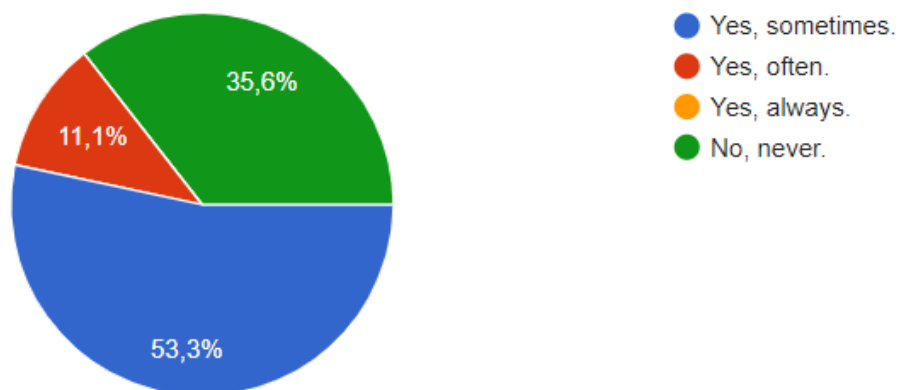


Diagram 8: Question about the ability to change contractual conditions within a contract. Source: author.

We can see that sometimes it is possible to talk about the contractual conditions and change them to account for the risk reserves, but usually that is not the case.

7) Based on your past construction projects that were procured via public procurement, was risk reserve ever a part of the contract?

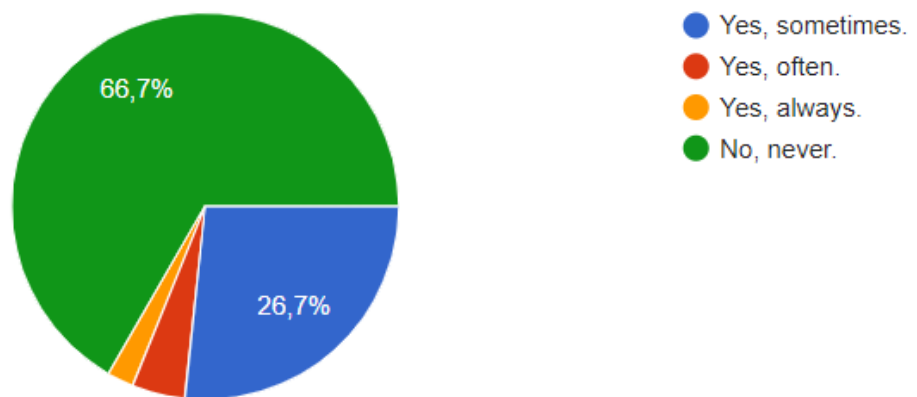


Diagram 9: Question about the risk reserve as a part of the contract. Source: author.

2/3 of the respondents answered that the risk reserve is never part of the contractual conditions, with overwhelming rest of the respondents saying that it is only in there sometimes.

8) Are you familiar with the public procurement process in other countries of the European union, such as Germany? If yes, do you feel like they have better or worse conditions?

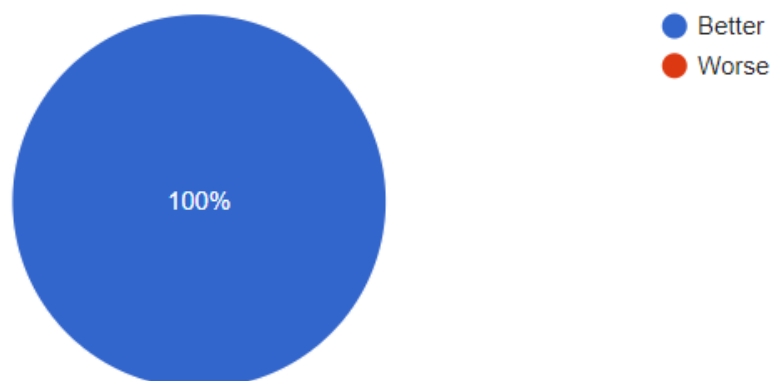


Diagram 10: Question about the German public procurement system. Source: author.

The final question was optional, but out of the 24 respondents, all of them prefer the German public procurement system to the Czech one due to lower corruption levels [34].

5 Discussion

The paper reveals that the challenges associated with public procurement processes in the education sector in the Czech Republic are not unique to the country but are also common globally. These challenges include policy-making, pricing, efficiency, and the length of the procurement process. Moreover, the study identifies the risks associated with public procurement in the construction industry, including imbalanced contractual conditions and unfair arrangements that often shift the responsibility for risk aftermath to contractors.

To gain insight into these issues, the paper uses a research questionnaire that was conducted among construction companies participating in the public procurement process. The results of the questionnaire were analysed, and a comparison was made between public and private procurement processes in the Czech Republic and Germany to identify flaws in the system and propose potential solutions.

The paper concludes by emphasizing the need for small changes to be implemented to improve the system, even though corruption remains a major issue that needs to be addressed. The proposed solutions include measures to improve transparency, accountability, and fairness in the procurement process, such as simplifying the procurement process, standardizing the contractual terms, and enhancing the qualifications and training of procurement officials.

Overall, the paper provides valuable insights for policymakers and stakeholders on how to address the issues surrounding public procurement in the education sector in the Czech Republic and beyond. The study presents a useful framework for policymakers to improve public procurement processes, reduce risks, and enhance efficiency in the construction industry, which can lead to a positive impact on the economy and the education sector. Further research is necessary to evaluate the effectiveness of the proposed solutions and to explore additional measures to improve the procurement process.

6 Conclusions

The process of small-scale public procurement in the education sector in the Czech Republic is facing various challenges. One of the major issues is the preference for lower prices during the procurement process, which puts contractors in a difficult position as they need to consider reserves for risks that cannot be fully predicted or prevented. As a result, contractors end up being responsible for a disproportionate amount of the risks, leading to an imbalance of contractual conditions. The prevalence of corruption in the system also adds to the complexity of the situation, making it harder for contractors to compete and leading to underestimation of the issues both within and outside of the system. While new processes could be implemented, contracting authorities are hesitant to do so for fear of disrupting the balance of supply and demand. Therefore, small changes within the system, such as better implementation of risk management, are necessary to improve the situation. However, many of the necessary changes are embedded in the law and not easily modifiable. It is clear that more attention needs to be paid to the issues surrounding public procurement in the education sector in the Czech Republic, and stakeholders must work together to address the challenges and find solutions for a more efficient and fair procurement process.

According to the results of the questionnaire, we can see that even though most respondents feel like the process is unfair, they still compete and prefer it over the private sector. This is because of what we talked about earlier – “take it or leave it”. The construction company will either accept the

conditions as they are, or be left without any work. This leads us to the next point, where respondents said that in majority of the cases, there is no way to change the conditions of the contract. Demanding for the conditions to be changed in those situation would lead them to having ever lower chances at competing compared to larger construction companies, as those can simply just adapt. What makes the situation worse is the fact that not only are the conditions often times unfair and the contractors are unable to change them, but also the fact that brutal majority of contracts do not have anything stated about risk reserves. This furthers the gap between the large and small construction companies, where the large ones have risk reserves of their own and can easily adapt, but small ones are forced to raise the initial cost to account for those reserves. This once again leads to lower ability to compete. The big companies are also often times in contact with the contracting authorities, where the contracting authorities may award some of the construction projects directly to them in exchange for money or other benefits. Last point of the questionnaire was an optional question asking respondents who are familiar with the German public procurement system whether they prefer it over the Czech one. Every single respondent answered that they prefer the German one, even though both systems are quite similar. This ties to the previous point about corruption, where the corruption levels in Germany are much lower, which may have led the respondents to answer this way.

Based on those findings, contracting authorities should pay more attention to other details of the construction work rather than just price, which would allow smaller companies to compete better. There should also be systems in place that would check the public procurement process and make sure that it is fair and everyone has a chance to be awarded.

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