

WHAT KIND OF SUPPORT DO WE NEED WHEN FAVOURING SMES IN PUBLIC PROCUREMENT – HUNGARIAN CASE

by *Tünde Tátrai*

1. Methodology

The article contains a summary of the situation of the Hungarian SMEs and a presentation of the results of the main Hungarian public-procurement researches on SMEs, making it explicit that an SME-friendly public procurement policy is becoming more important in Hungary. Afterwards, the article extends the Hungarian case by presenting the European approach. Finally, the study presents a comparative analysis of the answers given by two Member States to the challenges of SME-friendly public procurement. The basis of the comparison is a case study published recently by Mitran (2013) about the Romanian situation of improving access to public procurement for SMEs. This provides an opportunity to match Hungarian answers and solutions with the Romanian description and enables the drawing of conclusions. The research question reflects the title of our article, namely: What kind of support do Member States need for creating their own SME-friendly public procurement policy?

2. Role of SMEs in Hungary

In Hungary, 99.9 per cent of enterprises are SMEs accounting for 53.8 per cent of the total value added of the economy and employing 72.7 per cent of the employees in the private sector, excluding the financial sector. Before analysing their role in public procurement, it is worthwhile first to look at the general situation of SMEs.

Micro-enterprises make up 36 per cent of the business sector. Typically, the average Hungarian SME has a lower number of employees but - owing to their large number - their impact on employment is substantial. In contrast to the EU average of 4.2 employees, the average Hungarian SME em-

ploys 3.1 persons. Looking at their gross value added, the performance of the sector of micro, small and medium-sized enterprises, which is incidentally overrepresented in view of their number and role in employment, lags behind the EU average. Based on comparative data from 2011, the SME sector in Hungary produces roughly 5 per cent less in value added than the comparable average in the European Union. The official proposal of the Strategy of Small and Medium Sized Enterprises based on a survey by questionnaire carried out in 2013 revealed that SMEs planned hardly any export market activities. According to research data, about 77.5 per cent of the questioned enterprises do not export, nor plan to do so. The exporting SMEs mostly target the countries of the European Union with their products or services (79%).¹ This latter figure is all the more interesting as SMEs are more exposed to the domestic market and public procurement is a part of it.

Tab. 1 - Share of enterprises, share of employees an gross value added contributed by categories of size, 2011

	Share of enterprises (%)		Employees (%)		Value added (%)	
	EU	Hungary	EU	Hungary	EU	Hungary
Micro	92,2	94,8	29,6	36,5	21,2	18,2
Small	6,5	4,4	20,6	19,3	18,5	15,9
Medium	1,1	0,7	17,2	16,9	18,4	19,5
Large	0,2	0,1	32,6	27,1	41,9	46,2

In terms of economic sectors, the vast majority of SMEs are active in trade, vehicle repair and professional, scientific and technical activities in every part of the country; in addition, construction and industry play a rather outstanding role. With the growth in the headcount of the organisations, the weight of this latter sector has been substantially increasing; in some regions it already reaches or exceeds 50% among medium-sized undertakings; in contrast, the share of professional, scientific and technical activities is substantial particularly among micro businesses. All this comes to prove that they have genuine opportunities in public procurement both with regard to the predominant orders in construction, technical and scientific activities. Yet, we only have restricted availability of instruments

¹ Strategy of Small and Medium Sized Enterprises –2014-2020 Official Proposal http://www.google.hu/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=7&ved=0CF8QFjAG&url=http%3A%2F%2Fwww.kormany.hu%2Fdownload%2F1%2Fc2%2Fe0000%2FKKVstrat_t%25C3%25A1rsadalami_egyeztet%25C3%25A9sre.pdf&ei=4egsUrunI4nNsgaen4HQAg&usq=AFOjCNEbGzyCq4zjlbkYs3NJc2_xOjY5sw&sig2=cRVPgW9Ra6Ujic2nPjIO_oQ
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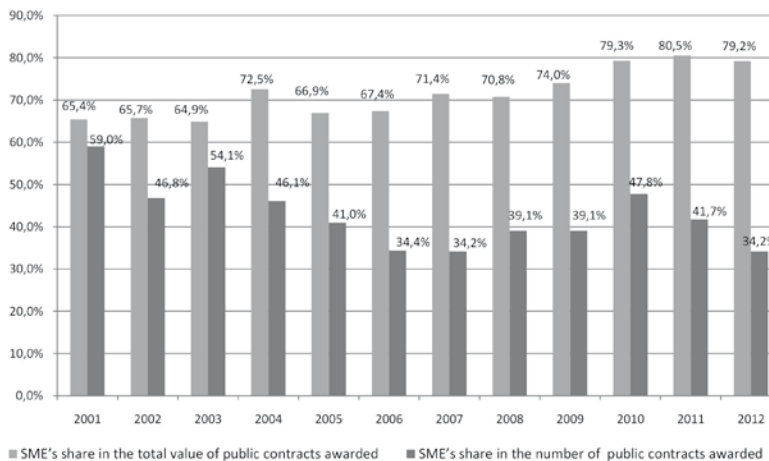
to map out their role. The reason behind this is that the uniform European definition of SMEs is not ideal for every Member State, because business organisations employing less than 250 staff are not regarded the same way in the smaller Member States (Slovakia, Hungary) as in the larger Member States (France, Germany). The rules favouring SMEs legally qualifying as support for SMEs do not in all cases serve the interests of the truly small enterprises. Below, we would like to shed light on this by presenting and analysing data on public procurement available in connection with SMEs.

3. The Hungarian Public Procurement Market and Its Characteristics related to SMEs²

Over the past three years, public procurement has amounted to over 5% of GDP, which is a drop from almost 7% in 2009.

According to the most recent 2012 data, micro, small and medium-sized undertakings submitted winning bids in 6,694 cases, that is, 79.2% of the total number of procedures in contrast to 80.5% in the preceding year. Their value-based share was at around 34.5% constituting a decline of 7.2% relative to their share in 2011.³

Fig. 1 - SMEs' share in the number of public contracts awarded and in the total value of public contracts awarded in Hungary (2001-2012)



In relation to the decline in the performance of SMEs in the public procurement market calculated on a value basis, it should be noted that on

² Based on the Parliamentary Report on Public Procurement – Public Procurement Authority 2012. www.parlament.hu Downloaded: 01.09.2013

³ Parliamentary Report on Public Procurement – Public Procurement Authority 2012. www.parlament.hu Downloaded: 01.09.2013

account of changes in the regulatory environment, full information concerning the company classification of the winners of public procurement procedures has not been available since the end of 2010, in contrast to earlier years. This problem highlights the fact that, when analysing the share of SMEs, Member States need not only to interpret SMEs based on the same definition but they need to take into account also whether issuers fail to send them data or if the winner is a consortium with SME members. Below, we discuss practical problems substantiating the difficulties related to the Hungarian data.

Prior to the amendment of Act CXXIX of 2003 on public procurement of 15 September 2010 (old Public Procurement Act), issuers had to publish the information concerning the results of the procedure in the case of procedures of a value exceeding the EU limits according to both the national and the EU announcement formats. After the amendment, however – in the case of procurements exceeding the EU limit – issuers had to publish the information on the results of the procedures basically according to the EU announcement format only, which is slightly different from the national one in terms of the range of data to be given and its structure. Thus, the classification of the winning bidder in accordance with the Act on small and medium-sized enterprises and supporting their development (that is, they qualify as SMEs) had to be given under a specially dedicated point, while this was to be entered under the point dealing with additional information together with any other data not covered by the announcement format in accordance with the provisions of the relevant legal regulation which, unfortunately, resulted in issuers frequently not indicating the company classification of the winning bidder.

In the case of these announcements, the public procurement authority in charge of data collection made up for the missing data with additional research into the data available in relation to the procedures. In spite of all this, the number of procedures in the case of which the company classification of the winning bidder is unknown increased further: this bit of data is missing in 5.3% of the total number of procedures representing 9.4% of the total value. Another genuine problem is the classification of procedures in the case of which the SME data of the winner(s) are indicated, nevertheless, the procedure cannot be categorised according to company classification. This includes public procurement procedures which were won by consortia whose members belong to different company categories. The share of these procedures is not decisive in terms of their number (1.7%), but they account for 19.1% of the total value because these tend to be large value, individual contracts.

With regard to the EU procedures, in 2012 the winning bid was submitted by SMEs in 42.2% of the procedures in contrast to 61% in the preceding year. Their share in the total value evolved around 20%, which comes 8.5

percentage points short of the figure for 2011.

Under the national regime – where information concerning the classification of a company is essentially fully available – a few percentage point improvement can be observed in the public procurement performance of SMEs: with 5,923 successful bids they won 89.4% of the procedures (in contrast to 85.4% in 2011), constituting 83% of the total value (79.5% in 2011).

Based on the above it can be established that the ratio of 79.2% to 34.2% in terms of the number of procedures involving Hungarian SMEs shows that - with regard to the value of the contracts concluded as a result of the procedures - they win at a substantially lower value, hence an improvement in their share is an understandable requirement. As according to EU directives, it is not directly possible to give preference to domestic enterprises, the legislators of the Member States generally endeavour to provide opportunities for “national companies”, i.e. local enterprises, by giving some preference to SMEs. The importance of this is unambiguous based on the studies drafted as a result of research into the origin of products purchased under centralised public procurement⁴, according to which the share of domestic products has declined gradually in this field.

Although absolutely fresh comparative data are not available, yet seeing the role of Hungarian SMEs in public procurement and in the economy based on earlier data, the conclusion may be drawn that their role in public procurement reflects their position realistically in the economy. At the same time, the comparative data below call attention to the fact that there are Member States where these data deviate to a disproportionate extent.

The reason for this could be the national value limit which is relatively high as, for instance, in the case of the Czech Republic^{5,1}, but a difference of 30 to 40% is rather difficult to justify. All in all, it can therefore be established that the basic data of European notions related to the role of SMEs in public procurement are rather difficult to compare and, accordingly, the basic figures of the forced SME-friendly policy based on this have also been proven untenable.⁵ Therefore, the comparison below⁶ is indicative only from the point of view that the data available are roughly appropriate and presumably reflect proportionately the activities of SMEs in the Hungarian public procurement market.⁷

⁴Tátrai T. (2010)

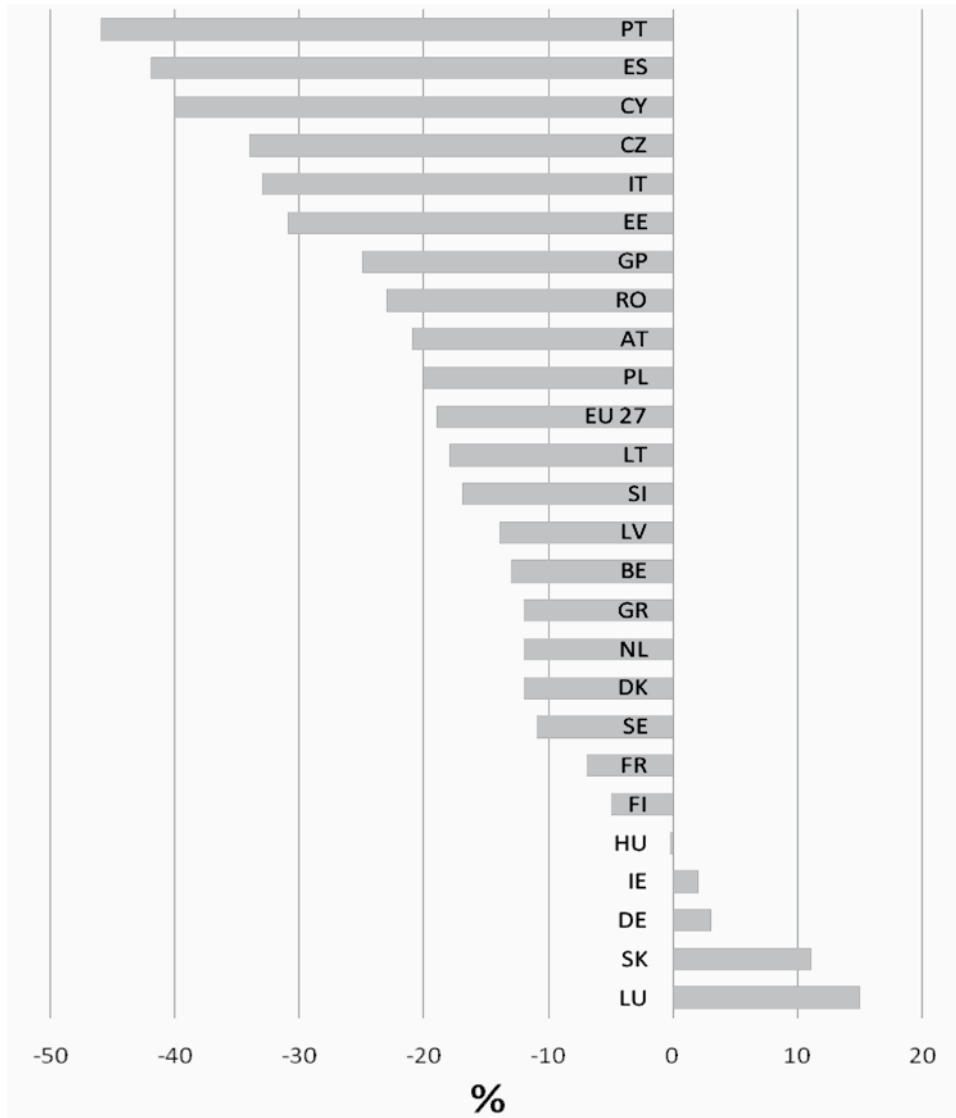
⁵Tátrai T. (2013)

^{5,1}The regulation has already changed in Czech Republic

⁶Evaluation of SMEs' access to public procurement markets in the EU Final Report 2010 http://ec.europa.eu/enterprise/policies/sme/business-environment/files/smes_access_to_public_procurement_final_report_2010_en.pdf P. 27. Downloaded: 07.11.2013.

⁷Parliamentary Report on Public Procurement – Public Procurement Authority 2012. www.parlament.hu Downloaded: 01.09.2013

Fig. 2 - Difference between the share of SMEs in public procurement and their role in the economy by country (average 2006-2008)



Below, additional fresh data available will be presented in relation to Hungarian SME-friendly public procurement and conclusions will be drawn.

On 1 January 2012, a new public procurement act – Act CVIII of 2011 (new Public Procurement Act) – entered into force in Hungary, which transformed the system of public procurement below the community value limit, by revising the structure of the law and shortening it. One of the most important objectives in the enactment of the new law was to reinforce its SME-friendly nature.

As already mentioned, procedures launched pursuant to the former Public Procurement Act but closed in the given year were present in substantial numbers in the statistics of the reporting period. If the public procurement role of SMEs is analysed exclusively in the procedures launched pursuant to the new Public Procurement Act, it can be seen clearly that the new regulatory environment assists the successful performance of domestic SMEs in public procurement procedures. The range of undertakings under study was able to increase its performance in terms of both the number and the value of the procedures in the public procurement market.

The table below⁸ presents the share of procedures won by SMEs within public procurement procedures launched in 2011 and 2012 pursuant to the new Public Procurement Act:

Tab. 2 - Number and value of procedures won by SMEs within public procurement

Regime	2011		2012 based on the new PP Act	
	No. of procedures	Value of procedures	No. of procedures	Value of procedures
National	85,39%	79,45%	90,17%	85,56%
EU	60,97%	28,53%	48,29%	29,53%
Total	80,40%	41,68%	84,16%	49,95%

The good news is that in terms of the value of public procurement, SMEs were more successful in the procedures conducted in the new legal environment in comparison to their performance in earlier years.

With regard to the types of procedure under the national regime, SMEs were the most successful in negotiated procedures without prior publication of contract notice thanks to the “3-bidder procedures” where in the case of lower-value procurements issuers have an opportunity to turn directly to potential bidders without having to publish an announcement. In the majority of these cases, issuers tend to turn to SMEs. The table below presents the share of procedures won by SMEs under the EU regime within the main types of procedure:

Tab. 3 - Types of procedures won by SMEs within public procurement

Type of procedure	No. of procedures	Amount
Open	42,90%	18,45%
Negotiated	40,43%	22,40%
SME average	42,20%	20,02%

⁸Parliamentary Report on Public Procurement – Public Procurement Authority 2012. www.parlament.hu Downloaded: 01.09.2013

Similarly to 2011, SMEs were more successful in open procedures in terms of the number of procedures, while they did better in the negotiated procedures when value is considered. The share of the number and the value of procedures won by SMEs within the public procurements involved in individual contracting authorities' groups are presented as follows⁹:

Tab. 4 - Share and value of procedures won by SMEs concerning different types of contracting authorities

Contracting authorities	Share of the No. of procedures		Share of the value of procedures	
	2011	2012	2011	2012
Central budget organisations	80,12%	76,44%	42,91%	32,10%
Municipalities	81,67%	83,48%	54,33%	48,92%
Public law bodies	76,76%	71,37%	25,52%	24,98%
Public service providers	62,39%	55,56%	30,23%	27,91%
Other contracting authorities	87,48%	93,37%	81,04%	34,64%

As far as the number of procedures is concerned, the share of public procurement procedures won by SMEs declined in the case of public service providers (-6.8%), public law bodies (-5.4%) and the agencies of the central budget (-3.67), while it increased in the case of other issuers (5.9%) and municipalities (1.8%). Micro, small and medium-sized enterprises achieved a lower share in the total value of procurements in the cases of each of the issuer groups; the largest decline (-46.4%) was observed in the case of the procurements of other issuers, it should, however, be noted that the total value of procedures is the lowest in the case of this group of issuers.

The above point to the fact that it is worthwhile to obtain as much information as possible taking into account the motivation of the bidders and the criteria of the issuers for both statistical reasons and for giving direct preference to SMEs. Below, we present the views of Hungarian market agents, inter alia, in relation to the importance of giving preference to SMEs.

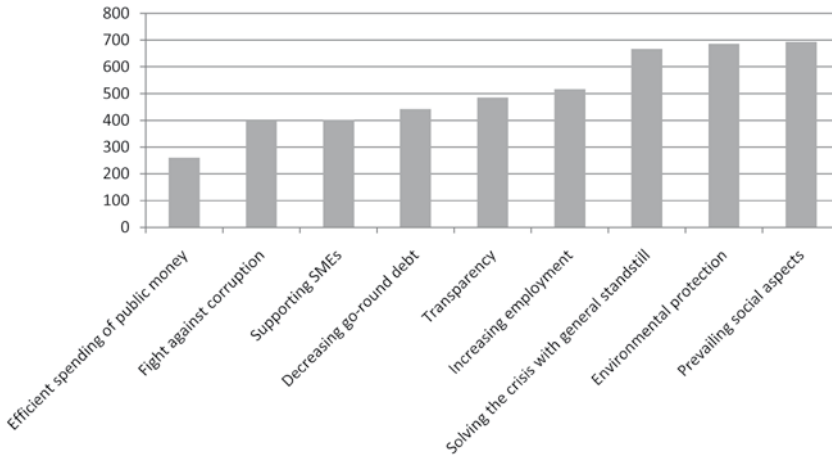
4. Research findings about the role of SMEs in public procurement

With a view to evaluating the current situation, research projects "Sustainable Public Procurement in Hungary, 2011" and "Development and Public Procurement in Hungary, 2013"¹⁰ run by the Corvinus University of

⁹ Parliamentary Report on Public Procurement – Public Procurement Authority 2012. www.parlament.hu Downloaded: 01.09.2013

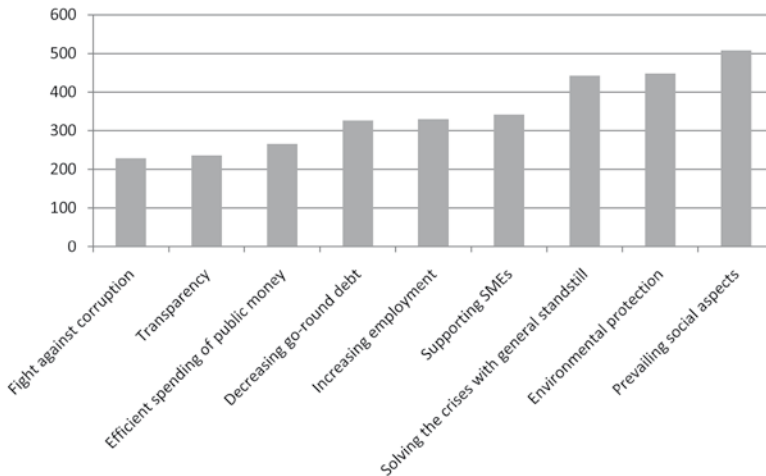
Budapest asked public procurement officers, experts, regulators and tenderers about the main objectives of public procurement. When asked to rank objectives listed and named or identified in the preamble of Act CVIII of 2011 on Public Procurement, the respondents showed the following preferences.¹¹

Fig. 3 - The Main Objectives of Public Procurement in Hungary, 2011



Note: The lowest point shows the stronger priority.

Fig. 4 - The Main Objectives of Public Procurement in Hungary 2013



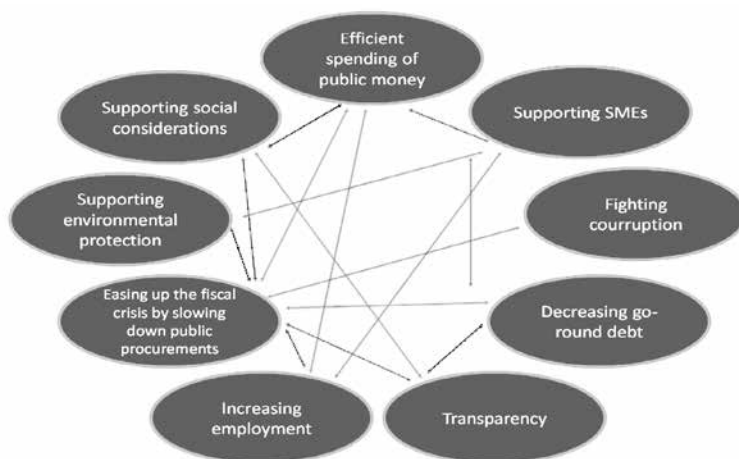
Note: The lowest point shows the stronger priority.

¹⁰ www.kozbeszkut.hu or www.publicprocurement.hu

¹¹ These researches were carried out using electronic questionnaire surveys to which more than one hundred respondents gave full answers in 2011 and 2013.

Based on the 2011 data (Figure 3), respondents ranked the efficient spending of public money, the fight against corruption and supporting small and medium-sized enterprises to the top three places. It is interesting that preferences have changed somewhat in 2013 (Figure 4) and, in addition to the fight against corruption and efficiency, transparency were ranked among the top three, while supporting SMEs fell back to the 6th place, out of nine. The result shows unambiguously that market agents no longer see a preference for SME-friendly solutions particularly in view of the fact that several rules were introduced in 2012 which, by giving direct preference to SMEs, evoked strong resistance on the part of the non-SME actors. The lack of transparency prescribed by legislation also had an impact on the restructuring of the opinions of the market agents. That is to say, SME-friendly public procurement did not lose its importance yet, according to the Hungarian respondents, it lost some of its significance in the perspective of the past few years. Good news related to this matter is that the increase in employment, that is, the objective which has a direct and tangible result, gained on strength and put the role of SMEs in a different light. The employment-oriented approach of SMEs - as reflected by the answers of the respondents - substantiates that instead of general support objectives, specific and credible objectives are needed that would directly facilitate overcoming the crisis. Employment-friendly public procurement is like that, in spite of the fact that research has confirmed the highly controversial nature of the target system which evolved in public procurement. Based on the figure below, the authors identified the objectives specified by the legislator and presented examples demonstrating that the individual objectives are able to cancel each other out.

Fig. 5 - The Contrasts of the Main Objectives of Public Procurement



Based on the examples of Tátrai-Nyikos (2012) it is difficult to simultaneously defend SMEs, while stopping public procurement in order to balance the budget and increase employment, which could be solved by supporting SMEs. Objectives expressly stated are sometimes bound to lead to distortions. For example, if social considerations come to include employing the jobless while prisons manage to have regulations passed whereby the police and public hospitals are to buy goods and services provided by prisons, local enterprises will be ruined, though the employment of prisoners will have in fact increased.¹²

5. Difficulties and optional solutions

The most comprehensive reports on SMEs were prepared in 2004, 2007 and 2010¹³ by the European Union. These reports intended to emphasize the opportunities of SMEs in public procurement procedures. In order to increase the role of SMEs, these reports and the Small Business Act¹⁴ focused on the basic opportunities provided by information technology (e-mail, Internet), emphasized the importance of easy access to documentations and to general information.¹⁵ There are still many barriers which discourage SMEs from responding to tenders or even lead them to avoid such opportunities altogether based on the SME Report 2010. These include¹⁶ possible barriers to participation in public procurement:

- “Insufficient information about tendering opportunities
- Information about the tender is received too late to prepare a tender
- Information on the requirements is not clear, difficult to interpret
- Insufficient opportunity to ask questions about unclarities prior to tendering
- The contract value is too large relative to the size of the company
- The administrative requirements involved are onerous
- Technical qualification levels and certification criteria demanded are too high
- Financial requirements such as bank guarantees are too onerous
- Joint fulfillment of the requirements by members of the consortium is not allowed

¹² Tátrai T., Nyikos Gy. (2012) p. 6.

¹³ Evaluation of SMEs’ access to public procurement markets in the EU. DG Enterprise and Industry. Final report. 2010. http://ec.europa.eu/enterprise/policies/sme/business-environment/files/smes_access_to_public_procurement_final_report_2010_en.pdf upload: 25.10.2013.

¹⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008DC0394:EN:NOT> upload: 03.11.2013.

¹⁵ Tátrai & Vörösmarty, 2010

¹⁶ <http://ec.europa.eu/enterprise/policies/sme/business-environment/public-procurement/> upload: 27.10.2013.

- Over-emphasis on bid price in selection of contractors, rather than quality and flexibility
- No information why your tender was not chosen
- The deadline for payments from the public authority as set in the contract is too long
- The payments made by the public authority arrive significantly later than set in the contract
- Tenders are not evaluated fairly and objectively.”

The abovementioned list of barriers is complemented by SME Report 2010, where mainly practical advice can be read especially for the Contracting Authorities, for example:

- i. Information and communication activities: Informing potential bidders directly (through e-mail, but even via phone) when a tender is published. The group which is contacted can be existing business partners or registered bidders
- ii. Training activities: Organising training courses or workshops on subject like successful bid writing, prequalification
- iii. Support tools: Making forms, templates and checklists available that ensure that bids will be in accordance with formal eligibility requirements
- iv. Reducing administrative burden: Requesting only documents that are an integral part of the evaluation of tenders, and clearly indicating these in the terms of reference
- v. Reducing financial burden: Paying suppliers earlier than the usual contractual terms (the voluntary UK Prompt Payment Code envisages to reduce the time from the regulatory 30 days to 10 days)
- vi. Quasi-quotas and tender design: More emphasis on framework agreements where several suppliers are selected, rather than one-supplier contracts. This allows small companies who otherwise would not have sufficient capacities to cover the whole contract to be included and receive orders from the public sector”

The abovementioned ideas are results of an organic development. The Small Business Act and the previous SME Report on public procurement contain recommendations for the Contracting Authorities of Member States. Most of the recommendations should be feasible for creative and experienced Contracting Authorities but they do not add value to designing the Member States’ own strategy or even specific rules. The reports and the act do not give direct support and real help to the decision-makers of Member States.

6. Comparison of Romanian and Hungarian solutions

Previously the main data described the status of SMEs in the Hungarian public procurement market. We have the opportunity – in conformity with the results of Hungarian public procurement researches – to specify the main difficulties of SMEs based on an article about the Romanian public procurement market. When thinking about the needs of supporting SMEs via public procurement, it is important to identify the barriers of SMEs before entering the discussion on the public procurement market and before seeking for solutions.

Mitran (2013) writes about the main problems of the Romanian SMEs, and identifies their typical barriers that coincide with the Hungarian research findings. The formulation of the typical problems are partly different from the ones that are included in the list of barriers of the EU 2010 SME Report on public procurement, since the former is more practice-oriented. For this reason the Romanian and Hungarian solutions are introduced according to Mitran's system of barriers.

According to Mitran's opinion the main difficulties are the followings:

- lack of stability of the public procurement legislation
- lack of knowledge and skills for bidding
- high costs associated with participation in public procurement
- lack of transparency
- lack of trust in the public procurement process
- qualification and selection criteria difficult to accomplish
- long payment periods in public procurement contracts and late payment
- use of the "lowest price" as the main award criterion.

In the following we sum up how the Hungarian and Romanian regulators adopted the SBA and the recommendations of EU SME Report on public procurement and how they formulated their answers based on Mitran's identified solutions:

Solution ¹	Hungary	Romania ²
improve transparency and discipline in public procurement	<p>yes examples: all the contracts and performance details are published definition of business secret is narrowed down: disclosure of the information would give rise to disproportionate damage from the viewpoint of carrying out business activities</p>	<p>yes</p>
improve internal control within the organisation of the contracting authority	<p>yes example: Ministry of National Development is responsible for controlling all the procurement procedures of central governmental bodies</p>	<p>yes</p>
further development of eproc. system	<p>yes example: the Public Procurement Authority, which is the only independent authority responsible for controlling publications and responsible for the remedy system, has been reviewing its public procurement system</p>	<p>yes example: Electronic Public Procurement System (SEAP) needs an urgent and in-depth assessment and major further improvements in terms of new data fields, IT basic system functionalities, performance, availability and support to end-users</p>
increase the level of administrative assistance / guidance	<p>yes example: the Public Procurement Authority publishes guidelines concerning the new elements of Public Procurement Act to help SMEs to complete tenders.</p>	<p>yes examples: The elaboration by ANRMAP of standardized tender documents and providing the CAs with specific training and guidance for: use of better and more standardized tender documentation templates and practical examples. Furthermore, clarity and increased disclosure of guidelines and documentation can decrease time needed to submit bids - particularly prohibitive for SMEs - thus saving them valuable time and money.</p>
reduce administrative burden	<p>yes examples: Obligation for contracting authorities to use electronic database if information on bidders, subcontractors or organisations providing capacities is available in Hungarian from official electronic registries free of charge, the so-called principle of statements is enforced, i.e. the issuer has to check the information contracting authority shall ask for references prescribed as suitability criteria from the preceding six years in the case of goods and services and eight years in the case of construction works. Cut the price of the documentation: mandatorily reduced the price of the documentation to zero. There is one possible exception whereby the contracting authority may make the winning bidder pay.</p>	<p>yes example: Obligation for contracting authorities to accept self-declarations as a first step; only the winning bidder must then supply the documentary evidence for the selection criteria; documents which have already been submitted to the same contracting authority within the past four years and which are still valid shall not have to be re-submitted.</p>

checking subcontractors, direct payment of subcontractors, advance payment	<p style="text-align: center;">yes examples:</p> <p>in the case of construction works, the contracting authority first pays the subcontractors and, once the bidder has furnished proof of having transferred the amount due to the subcontractors, the issuer then pays the bidder also.</p> <p>The regulation contains mandatory requirements concerning partial billing, which is not in line with performance, but aims to help those bidders to participate who would otherwise be unable to finance performance in full.</p> <p>Mandatory due date for payment: the Civil Code regulates the due date for payments which, as a main rule, is 30 days, but which can be increased to 60 days at most</p>	<p style="text-align: center;">yes example:</p> <p>Ensuring equal terms to subcontractors by including in the standard tender documents a provision requesting the contracting authority to pay directly the subcontractor, subcontractors which are often SMEs in case of a payment delay by the main contractor.</p>
encourage collaboration and association with other SMEs or large companies in order to submit joint bids	<p style="text-align: center;">yes example:</p> <p>ban on multiple appearances: smaller subcontractors may be named in the bids of several bidders which enhances competition and is expressly advantageous for smaller companies having special expertise for whom not being committed to a single bidder is a vital issue if there are more opportunities for them in the public procurement market</p>	<p style="text-align: center;">yes</p>
divide larger contracts into lots	<p style="text-align: center;">yes example:</p> <p>Contracting authorities can make contracts more accessible by dividing them into smaller 'lots' and by simplifying the financial and technical requirements, at least at the start of a tendering process.</p>	<p style="text-align: center;">yes example:</p> <p>Contracting authorities can make contracts more accessible by dividing them into smaller 'lots' and by simplifying the financial and technical requirements, at least at the start of a tendering process.</p>

The solutions listed contain a mixture of SME-friendly elements; what is, however, common in them is that their application has consequences which the legislator should consider just as much as the direct impact of the given rule.

The Romanian and Hungarian SME-friendly solutions respect the need that the regulators should orient the Contracting Authorities when changing the regulatory environment with widening opportunities, giving advantages or even controlling the public procurement system. The Contracting Authority based direct stimulating approach at EU level by giving practical advice and ideas, however, does not work well in Member States like Hungary or Romania. The Contracting Authorities even in these two Member States consider SMEs as playing an important role in the public procurement market, still regulators, decision makers ought to orient Contracting Authorities by forming the regulatory environment, creating more

explicit advantages or consequences instead of meting out useful suggestions and general recommendations.

The above examples wish to shed light on the fact that legislative changes have continuously affected the SME sector, while the results of Hungarian research projects underline that there are many indirect rules which could even be advantageous for smaller enterprises, yet in fact they help the larger ones. As a mode of supporting the SME sector, it would be much more worthwhile to use expressly employment aspects as evaluation criteria or as contractual obligation instead of defining partial billing or the issues related to abnormally low prices as SME-friendly elements.

6. Conclusion

It is clear that the answers of Member States aiming at abolishing the barriers of SME participation do not solve all the problems, stemming for example from the uniformity of SME-definition within the EU.

In spite of the declining tendency of many Contracting Authorities and centralised procurement bodies, the SME-friendly nature was retained and even reinforced by a large number of new rules in Member States like Hungary or Romania, which could even promote the role of the SMEs directly. The policy, however, did not extend to the real strength of SMEs, the reinforcement of their employment potential and to supporting them accordingly. Part of the current support is the preference of electronic databases and cutting red tape. There is still scope in terms of the costs of administration, but the real demand would be to rise above the general SME-friendly nature. The time has come to rethink the SME-friendly policy and to revamp it without attempting to support smaller enterprises with additional legal regulations which frequently contradict one another and cannot be verified with data.

Most of the Member States tried to develop their own optimal SME-friendly public procurement strategy. If such strategies cannot be unified, it would be easier to identify the main problems and barriers on a regional basis. It should not be pretended that all Contracting Authorities and SMEs would face the same problems and solve them in the same way. It would be good if attention was paid to Preuss's remarks: "the focus on public sector procurement furthermore leads to a more systematic theoretical elaboration of entrepreneurship policy as being based on legal authority or the market or network effects from geographic proximity."

For this there is a need even at EU level to understand the problems deeper and not to handle them in general. As Loader (2005) explained concerning SMEs: "it is required to provide a greater understanding of the nature of the barriers faced, and in particular to consider whether these

barriers are real or perceived, as this will have a bearing upon actions to be taken.”

Member States have no need of practical advice, but relevant, tangible decision-making support with respect to their regional characteristics, culture and experiences.

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Abstract

The aim of this article is to point out that it is not enough to create a general and unified SME-friendly public procurement policy at European level and to highlight the importance of taking the regional and national characteristics of public procurement markets into consideration.

The European SME-friendly public procurement policy is not viable in the sense that it is not about genuinely small enterprises. National legislation, however, frequently mistakes SME-friendly rules for supporting local enterprises, which distorts the original set of objectives. Going beyond giving preference to SMEs and increasing the employment rate through public procurement within the set of objectives of an SME-friendly system may mean progress.

The SMEs' role in job creation and their contribution to innovation need to be better characterized. The lack of a deep understanding of the connections between SMEs and the consequences of their increasingly important role call for remedy. For the time being, Member States provide no more than symptomatic treatment and superficial solutions at European level. Member States, especially the new ones are in need of real decision making support, not merely practical advice for their Contracting Authorities. The Hungarian and the Romanian examples provide evidence that it is necessary to rethink the policy in spite of the achievements related to the role of SMEs in public procurement.

Riassunto

L'obiettivo del presente articolo è quello di analizzare la necessità di definire politiche di sostegno alle PMI in Europa che tengano conto delle differenze all'interno del segmento delle piccole e medie imprese. Inoltre, si vuole mettere in evidenza la rilevanza dei fattori nazionali e regionali nella gestione degli acquisti pubblici.

Da un lato, le politiche Europee sugli acquisti pubblici sembrano poco adatte alle imprese più piccole, dall'altro c'è la tendenza a supportare le aziende locali distorcendo gli obiettivi originari. Occorre quindi superare l'approccio orientato a dare semplicemente la preferenza alle PMI, sostituendolo con un approccio più avanzato orientato più in generale ad aumentare l'occupazione attraverso gli acquisti pubblici, in cui si innesti il supporto alle PMI. A questo fine, l'effettivo ruolo delle PMI nella creazione di occupazione e nell'innovazione richiede una migliore definizione, che ne approfondisca i meccanismi e le conseguenze.

Allo stato attuale, le soluzioni proposte a livello europeo sembrano insufficienti, mentre gli Stati, soprattutto quelli appena entrati nell'Unione Europea, richiederebbero un maggiore supporto alle decisioni. I casi dell'Ungheria e della Romania forniscono evidenza della necessità di ripensare le politiche europee, definendo a priori del ruolo che si vuole dare alle PMI negli acquisti pubblici ed i risultati che si intendono raggiungere.

JEL Classification: J23, H57, K12

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