

Procurement Monitoring Report Template
In view of the Member States' reporting process
under the Directives 2014/23/EU, 2014/24/EU and 2014/25/EU

Purpose and key features of the template

- This template aims at facilitating Member States' (MS) reporting in the context of the new procurement directives. The template sets out the scope of the reporting requirements and recommends MS a methodology to gather and systematise the collection of relevant information. Furthermore, it strives to propose a harmonised structure of the reports so as to allow easier comparison of the information provided by the MS.
- The questions in this template are non-binding specifications of the directives' legal obligations on monitoring reports. The template should be followed only as far as possible by the Member State, especially as concerns the availability of quantitative information. When information is not available, this may be noted in the report, possibly together with an explanation of whether there are plans to start collecting such information and including it in the future edition of the report.
- MS' reports will be published on the European Commission website. The information will feed the new Report on the implementation and best practices of national procurement policies in the internal market to be issued by the European Commission. The information provided by the MS will support the policy analysis work of the Commission.
- The template covers all domains for which reporting requirements are defined under the 2014 procurement directives.
- The template contains the following types of questions:
 - i) qualitative descriptions and assessment,
 - ii) supporting documents which provide the evidence for the descriptions and assessment made above,

iii) quantitative indicators.

- In the tables below, the left side contains the name of the information to be submitted, while the right side contains further specifications of what this means. The report should be submitted as a text (.doc) and PDF document based on this template.
- To avoid duplication of reporting obligations and reduce administrative burden, MS are invited to indicate any information/data requested in this template that has been already provided to the Commission via another channel (e.g. procurement irregularities falling within the scope of ESIF funds). When it is the case, please specify these channels, the context of the reporting and the nature of the information already provided.

General information

Scope of reporting
The report should cover the period between 1 st January 2017 and 31 st December 2017. For quantitative data based on procurement notices, this means that the contract award notice should have been awarded in this period. If an MS has transposed later than on 1 st January 2017, the reporting period should still start on the 1 st January 2017.
If the scope of your report is broader than that indicated in the directives (e.g. because of lower thresholds, broader definition of contracting authorities, contracting entities, or subsidised contracts), please indicate this here. In such a case, for every indicator, information about procurement according to the EU directives and any other information should be presented separately, so that the same information can be compared between EU MS.
The scope of the report is not broader than indicated in the directives.
General information
Number of procurement procedures (i.e. the number of notices announcing a call for competition) Number of awarded contracts
According to the TED-database there have been 2.669 published tenders in 2017. According to the TED-database there have been 2.688 awarded contracts in 2017.
Information on monitoring and reporting bodies
This section should include a list of the body/bodies performing the public procurement monitoring activities required by the public procurement directives and the entities in charge with the drafting of the report to be provided to the European Commission on the results of the monitoring activities.

I. Estimation of the aggregated total value of procurement which would have been covered by the directives if its value had exceeded the relevant thresholds

<p>Estimation of the aggregated total value of procurement which would have been covered by the directives if its value had exceeded the relevant thresholds</p>	<p>This stands for the value of procurement informally referred to as "below the EU threshold".</p> <p>This section should include information on the estimated value of procurement as well as the methodology used. The methodology used for the estimation should be explained in Annex I.</p> <p>"Value of procurement" should be understood as the value of the awarded contracts, so as to be comparable with estimates from contract award notices for above-threshold procurement. (Not as, for example, the value of procurement which could have taken place if a contractor was found, i.e. business opportunities, nor on the level of actual spending, i.e. paid invoices.)</p>
<p>Answer</p>	<p>An estimation of total value is not possible to access on account of uncertainty in estimation. It is not required to publish a tender below the EU threshold if said tender does not have cross-border interest. Data for these tenders are therefore not accessible. Without these data the total value of procurement under the EU threshold would be misleading.</p> <p>607 tenders under the EU threshold with cross-border interest were published in 2017.</p> <p>Source:</p> <ul style="list-style-type: none"> - Tenders under the EU threshold must be published on <i>Udbud.dk</i>, which is hosted and maintained by The Competition and Consumer Authority

II. Most frequent sources of wrong application or of legal uncertainty, including possible structural or recurring problems in the application of the rules

II.1. Qualitative reporting on application of public procurement rules	
Main sources of wrong application or of legal uncertainty	<p>The information should focus on:</p> <ul style="list-style-type: none"> - the most frequent cases of wrong application of the rules and of legal uncertainty - the key causes for the wrong application of the rules and the legal uncertainty, including their relative importance, as well as the circumstances that explain their occurrence. <p><i>Possible relevant (non-exhaustive) elements for consideration may be:</i></p> <ul style="list-style-type: none"> • <i>types of contracting authorities particularly affected by public procurement errors</i> • <i>types of procedures or contracts particularly affected by public procurement errors</i> • <i>recurrent patterns pointing at specific difficulties at a particular stage of the procedure</i>
Answer	<p>There is not any knowledge of a main source of wrong application, recurrent patterns pointing at specific difficulties or of legal uncertainty.</p> <p>The Danish Public Procurement Act will be evaluated in 2019 with final reporting in 2020. If any wrong application or legal uncertainty is present it will be investigated in the evaluation.</p> <p>Source:</p> <ul style="list-style-type: none"> - The Ministry of Industry, Business and Financial Affairs has decided to evaluate The Danish Public Procurement Act with reporting in 2020, as witnessed in the following decree (Danish)- https://www.retsinformation.dk/Forms/R0710.aspx?id=175293
Specific legal provisions (from EU or national law) which appear to raise significant problems of application	<p>The information should focus on:</p> <ul style="list-style-type: none"> - the specific legal provisions in question - a description of the type of difficulties identified, if any <p><i>Possible relevant (non-exhaustive) elements for consideration may be:</i></p> <ul style="list-style-type: none"> • <i>lack of consistent application of a given provision by the contracting authorities</i> • <i>high frequency of requests for guidance as to how to understand or interpret a given provision</i> • <i>recurrence of the incorrect application of a given provision</i> • <i>need to issue (additional) interpretative guidance on a given provision</i>
Answer	<p>The Competition and Consumer Authority has no systematic knowledge of specific legal provisions which raise significant problems. This will be part of the evaluation in 2019</p>

	<p>The Competition and Consumer Authority answers general questions on public procurement. The received questions have a broad span regarding content. There are not any specific legal provisions which raise significant problems.</p> <p>Moreover the authority seeks to meet possible questions to application of the Danish Public Procurement Act by drawing up guidance-reports about the act in general, dialogue in the tender process, models of evaluations, ESPD – documentation and e-certis etc.</p> <p>Additionally, the authority carries out dialogue meetings about these different subjects for tendering entities and bidders in different places in the country to further understanding of the possibilities in the Public Procurement Act.</p>
<p>An assessment on whether a wrong application of rules might exist, by observing patterns of application of the rules which do not by themselves constitute cases of wrong application of the rules, but nonetheless point at structural or recurring problems yielding a sub-optimal outcome.</p>	<p>The information should focus on:</p> <ul style="list-style-type: none"> - the specific type of problems identified, if any - any possible assessment of the impact of these difficulties on the efficiency of the public procurement process <p><i>Possible relevant (non-exhaustive) elements for consideration may be</i></p> <ul style="list-style-type: none"> • <i>bias towards the systematic use of certain award criteria irrespective of the context (e.g. systematic use of lowest price as award criterion)</i> • <i>overly frequent use of derogatory procedures or shortest possible deadlines</i> • <i>recurrent, particularly low number of bidders or of non-domestic bidders</i>
<p>Answer</p>	<p>The Competition and Consumer Authority has not identified a pattern of wrong application of the rules.</p>
<p>II.2 Supporting documents</p>	

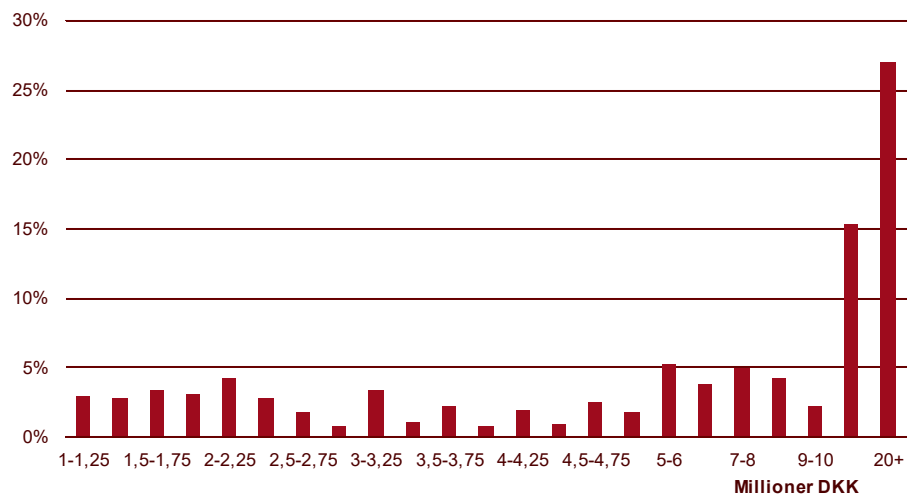
<p>Please provide any available evidence of the issues identified under section II.1.</p>	<p><i>Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):</i></p> <ul style="list-style-type: none"> • <i>Audit reports on identified irregularities related to public procurement, including auditors specialising in ESIF irregularities</i> • <i>Existing typologies of the most frequent errors in public procurement</i> • <i>Reports on the most frequent requests for guidance</i> • <i>Additional interpretative guidance documents published in order to clarify legal issues</i> • <i>Policy or other administrative documents discussing issues in relation to the implementation of the rules</i>
<p>Answer</p>	<p>The Competition and Consumer Authority has not identified a pattern of wrong application of the rules.</p> <p>Nonetheless the authority seeks to meet possible wrong application and further understanding by guiding tendering authorities in elements of tendering such as ESPD, procuring counselling, using different evaluation models, consortiums etc. Guidance is mostly available through rapports, but the authority has also released videos to further understanding.</p> <p>Source:</p> <ul style="list-style-type: none"> - All reports on guidance are found on The Competition and Consumer Authority's website - <i>KFST.dk</i>. - The Danish Complaints Board for Public Procurement gives a yearly statement of their legal cases and the wrong application of the procurement use: https://erhvervsstyrelsen.dk/sites/default/files/media/aarsberetning_2016_0.pdf (Danish)
<p>II.3. Quantitative indicators</p>	<p><i>This section contains quantitative indicators related to section II.1. Other indicators can also be included in the report.</i></p>
<p>Indicators about the national review system</p>	<p>A list of proposed specific indicators will be drafted in the course of 2017, linked to a future remedies scoreboard, a part of the European Commission's Single Market Strategy. The indicators will be defined on the basis of the findings of a study to be commissioned by DG GROW in 2017 and further discussions with Member States, including in the context of the network of first instance administrative review bodies.</p> <p>A first study commissioned by the Commission services on the subject of procurement remedies is</p>

	<p>already available at http://bookshop.europa.eu/en/economic-efficiency-and-legal-effectiveness-of-review-and-remedies-procedures-for-public-contracts-pbKM0414023/.</p> <p>This study, together with other materials (including public and ad-hoc consultations), are the basis for the Commission's report and evaluation on the operation of the Remedies Directives.</p> <p>Based on all this, indicators such as the numbers of complaints, the number of appealed procurement procedures, the number of resolved complaints, the number of complaints resolved in favor of the complainant, or the average length of the review procedure could be considered.</p>
<p>Answer</p>	<p>A study by The Competition and Consumer Authority shows a total of 353 complaints set to the Board in a period of three years (from June 1 2013 to June 30 2016) which amounts to 4,3 percent of total published tenders.</p> <p>165 of the complaints where resolved by the Danish Complaints Board for Public Procurement. The remaining complaints where initially rejected or retracted by the complainant.</p> <p>In 20 percent of complaints the claim was sustained, and in 25 percent of complaints the claim was partially sustained.</p> <p>The average length of the review procedure of complaints is 195 days.</p> <p>The claim the Board most often judges in favour of the complainant is <i>unclear tender documents</i>. 33 percent of these complaints are voted in favour of the complainant.</p> <p>When comparing, the type of tender that most often receives complaints are in works with 2,9 percent receiving complaints followed by services with 2,3 percent and supplies with 1,7 percent.</p> <p>43 percent of complaints are filed in the stand-still period. The procedure in which complaints are most often filed is the <i>open procedure</i> with 34,5 percent, but is also the most used procedure with about half of all procurement.</p> <p>Source:</p> <ul style="list-style-type: none"> - The publication “<i>Danske klagesager om udbud - Fra 1. juni 2013 til 30. juni 2016</i>” from February

	2018 by the Competition and Consumer Authority (danish)
Histogram of values of procedures, covering also procedures below the thresholds	<p>Please include histograms of values of procedures (i.e. calls for competition). These should be split at least to one for works and one for supplies and services, ideally also further by types of EU threshold.</p> <p>The aim is to find "spikes" in the distribution of values, indicating a bunching of procedures below the EU threshold.</p> <p>To improve comparability, please use histogram bins with a breadth of EUR 10 000 (or the national currency equivalent).</p> <p>For more information on bunching analysis methodology, please see the Swedish Competition Authority's report http://www.konkurrensverket.se/globalassets/publikationer/uppdraagsforskning/forsk_rap_2015_3.pdf, in particular section 3.4.2., or the recent article from the American Economic Association available at https://www.aeaweb.org/articles?id=10.1257%2Fpol.20150511&&from=f.</p>
Answer	<p>The Competition and Consumer Authority does not have data below EU thresholds.</p> <p>The authority compiles its own data by plotting information from all tender notices from the database Tenders European Daily into our own database. By doing so it allows the authority to follow and analyse all Danish tenders above the EU thresholds.</p> <p>Because we do not have data below EU thresholds we cannot evaluate whether there are more tenders right below the EU thresholds.</p> <p>We can however see that there are not less tenders published just above the EU thresholds. If there were it could be an indicator of tenders with values close to the EU threshold being held below the EU threshold.</p> <p>The histograms below show the percentage of total amount of tenders that were published in 2017 spaced with a range of 80.000 DKK (approximately 10.000 EUR) and divided on type of contract.</p>

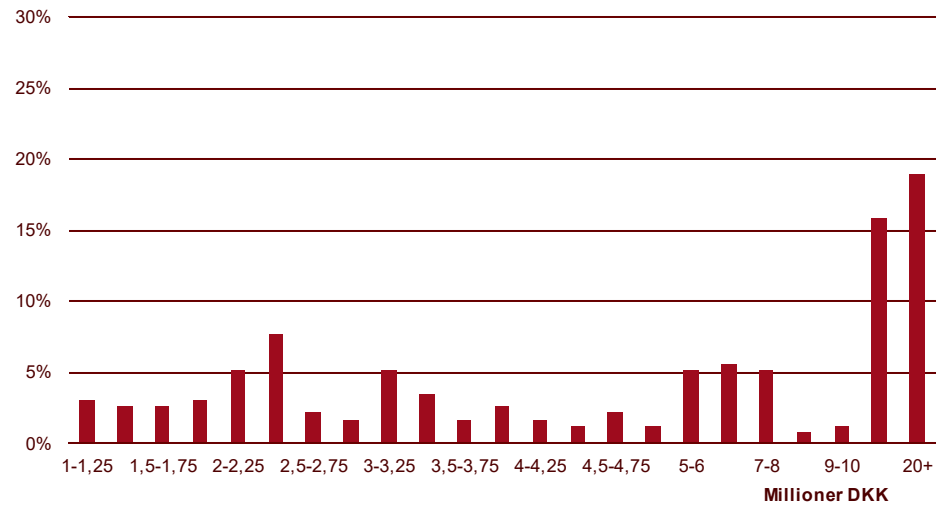
Services

Percent of total amount of tenders



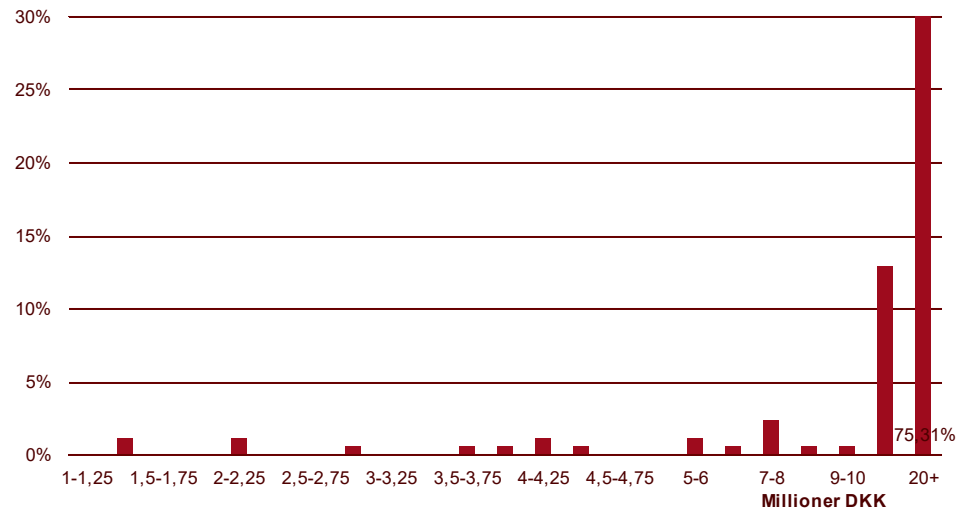
Supplies

Percent of total amount of tenders



Works

Percent of total amount of tenders



Source:

- Data from The Competition and Consumer Authority based on Tenders European Daily

III. Prevention, detection and adequate reporting of cases of procurement fraud, corruption, conflict of interests and other serious irregularities

<p>III.1. Qualitative reporting on fraud, corruption, conflict of interests etc.</p>	
<p>Describe the actions undertaken and/or mechanisms put in place to ensure compliance with the new provisions on the prevention, detection and adequate reporting of public procurement irregularities including fraud and corruption</p>	<p>The information should focus on:</p> <ul style="list-style-type: none"> - how these actions/mechanisms have been implemented - the key measures that have been put in place <p><i>Possible elements for consideration may be as follows:</i></p> <ul style="list-style-type: none"> • <i>The main assumptions and objectives of the underlying actions</i> • <i>Institutional arrangements made</i> • <i>Existing links between the prevention, detection and remedial actions aspect</i>
<p>Answer</p>	<p>There are a number of actions undertaken to ensure detection of fraud and corruption.</p> <p>1. Corruption is legally covered in The Executive Order of the Criminal Code.</p> <p>The two primary corruption paragraphs are §122, which relates to active bribery of persons in public service or employment, and §299 No. 2, concerning bribery in the private sector and covers both active and passive bribery. Offences lead to fines and/or imprisoning. Consequences of fraud and corruption can have a preventive effect.</p> <p>Additional legislation in the field of corruption in The Executive Order of the Criminal Code:</p> <p>§280: Mandate fraud §278: Investigation §279: Fraud §281: Extortion §289 a: EU fraud §290: Money laundering</p>

2. All personnel in public administration must follow the Executive Order of the Public Administration Act, in which it is dictated, how public administrators must conduct, including penalty when there can be doubt of an administrator's interests.
3. Denmark has a civil complaints system. The Competition and Consumer Authority is an authority in which civilians can call to report on competition irregularities. Moreover the authority investigates cartels and rigged bidding in public procurement and in markets in general.
4. Companies that have a legal interest in lodging a complaint may appeal to the Danish Complaints Board for Public Procurement. Furthermore The Competition and Consumer Authority and few other organisations and authorities may set forth a complaint to the Board.
5. With The Danish Public Procurement Act coming into force on 1 January 2016, the contracting authority must use the Common European Procurement Document (ESPD) as preliminary evidence that the companies meet the requirements for exclusion, suitability and selection.

The contracting authority is then obliged to obtain documentation from the winning bidder before the contract is concluded to determine whether the information in the ESPD is correct. Obligatory as well as voluntary grounds of exclusion will be detected through documentation.

With the purpose of not overburdening companies with claims of documentation, companies may obtain and submit a service certificate as evidence that the company fulfills exclusion requirements. A service certificate contains relevant information about pension, taxes and tax-assumption, documents that state that the company is not going through bankruptcy, liquidation, reconstruction or similar situation, and that the company (as well as executives and persons who have the power to represent, control or make decisions in the company's management) are not convicted of criminal offenses.

The purpose and consideration of the service certificate is that companies must only address one inquiry to the public to obtain information for public procurement. The Danish Business Agency then contacts the relevant authorities.

	<p>Source:</p> <ul style="list-style-type: none"> - The Executive Order of the Criminal Code - The Danish Public Procurement Act - Information for civilians on informing about possible cartels or other competition irregularities at The Competition and Consumer Authority (Danish) - https://www.kfst.dk/konkurrenceforhold/karteller/kontakt/ - Information on the service certificate on The Danish Business Authority's website - https://erhvervsstyrelsen.dk/anmodning-om-serviceattest (Danish)
<p>Describe the actions undertaken and/or mechanisms put in place to ensure compliance with the new provisions on the prevention, detection and adequate reporting of conflicts of interests</p>	<p>The information should focus on:</p> <ul style="list-style-type: none"> - how these actions/mechanisms have been implemented - the key measures that have been put in place - presenting the definition of Conflict of interest, if it differs from the definition in the Directives - explaining the reasons for choosing the elements that have been added to the definition of Conflict of interest set out in the Directives - how the Directive requirement of effectiveness of the measures is fulfilled in practice <p><i>Possible elements for consideration may be as follows:</i></p> <ul style="list-style-type: none"> • <i>The main assumptions and objectives of the underlying actions</i> • <i>Institutional arrangements made</i> • <i>Legislative framework</i> • <i>Existing links between the prevention, detection and remedial actions aspect</i>
<p>Answer</p>	<p>The Competition and Consumer Authority has not encountered a general tendency or detection of conflicts of interest.</p> <p>When cases arise with uncertainty of a business, persons or procuring entities intentions or interest in a winner of a tender, then there is an option to complain to the Danish Complaints Board for Public Procurement. Furthermore there are obligatory as well as seven optional reasons to exclude a business from bidding. This way some conflict of interest can be avoided.</p> <p>Source:</p> <ul style="list-style-type: none"> - The Danish Public Procurement Act § 195 - The Danish Public Procurement Act §§ 135-138.

III.2. Supporting documents	
Please provide any available evidence on the actions/mechanisms and measures described under section III.1. above demonstrating compliance with the new provisions on the prevention, detection and adequate reporting of public procurement irregularities and conflicts of interests	<p><i>Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):</i></p> <ul style="list-style-type: none"> • <i>Policy or other administrative documents discussing issues in relation to the implementation of the actions/mechanisms</i>
Answer	<p>Source:</p> <ul style="list-style-type: none"> - The Danish Public Procurement Act: https://www.kfst.dk/media/46419/the-public-procurement-act.pdf
III.3. Quantitative indicators	<p><i>This section contains examples of quantitative indicators related to section III.1. Other indicators can also be included in the report.</i></p>
Statistical distribution of buyers by frequency of actual competition	<p>For each contracting authority or entity:</p> <ol style="list-style-type: none"> 1) Calculate the total number of contract awards. 2) Calculate the number of contract awards which received only one bid. 3) Divide the second number by the first number. <p>In the report, in a table, please include the number of contracting authorities or entities whose result from 3) above falls within each of the following intervals: <0%, 10%>, (10%, 20%>, (20%, 30%>, ... , (90%,100%>¹.</p> <p>Please include only buyers with at least three contract awards over the reporting period and exclude all framework agreements as well as contracts based on framework agreements, as their number of bidders may be misleading (e.g. when multiple contract awards are based on the same framework agreement or for framework agreements with reopening of competition).</p> <p>For more information about this indicator please see the following article from the European Journal on Criminal Policy and Research: http://link.springer.com/article/10.1007%2Fs10610-016-9308-z.</p>

¹ The symbols "<" and "(" indicate whether the endpoint of the interval should be included. For example (40%,50%> approximately means that the interval should contain contracting authorities or entities whose score is larger than 40.001% and smaller than 50.000%. The rest of the intervals are analogous.

<p>Answer</p>	<p>The Competition and Consumer Authority continuously maps and plots information on all tenders above the EU-threshold. Therefore the authority has ongoing knowledge of frequency of competition.</p> <p>The authorities data show, that there are 2.913 contract awards above the EU threshold in 2017 when including partial agreements and not including voluntary ex ante transparency notices and framework agreements. Furthermore only completed and partially completed tenders have been included.</p> <p>We have information on number of bids in 2.258 tenders. 331 of the tenders only received one bid. The share of tenders that only received one bid is 14,6 percent.</p> <p>Tenders who only receive one bid are not necessarily affected by uncompetitive prices. The bidder does not have full information on whom and how many bidders there will be on a tender. Therefore the bidder should provide a competitive price on the tender.</p> <p>The estimation has not been compiled based on buyers with at least three contract awards, but on the basis of all contract awards in 2017. It has not been estimated whether the contracting authorities falls within the proposed intervals.</p> <p>Source: - Data from The Competition and Consumer Authority based on Tenders European Daily</p>
<p>Statistical distribution of buyers by frequency of using a negotiated procedure without the prior publication of a call of competition</p>	<p>For each contracting authority or entity:</p> <ol style="list-style-type: none"> 1) Calculate the total number of procedures. 2) Calculate the number of negotiated procedures without the prior publication of a call for competition. 3) Divide the second number by the first number. <p>In the report, in a table, please include the number of contracting authorities or entities whose result from 3) above falls within each of the following intervals: <0%,10%>, (10%, 20%>, (20%, 30%>, ... , (90%,100%>.</p> <p>Please include only procurement procedures which resulted in at least one contract award and include only buyers who ran at least three procurement procedures over the reporting period.</p>

	<p>For more information about this indicator please see the following article from the European Journal on Criminal Policy and Research: http://link.springer.com/article/10.1007%2Fs10610-016-9308-z.</p>
Answer	<p>There were 2.669 contract awards in 2017. Only completed and partially completed tenders have been included.</p> <p>413 of these tenders used a negotiating procedure without prior publication of a call of competition.</p> <p>The share of negotiating procedures without prior publication amount to 6,5 percent of the tender-procedures.</p> <p>It has not been estimated whether the contracting authorities falls within the proposed intervals.</p> <p>Source:</p> <ul style="list-style-type: none"> - Data from Tenders European Daily
Quantitative assessment of collusion risks	<p>This analysis should be based on a country-specific methodology reflecting the business environment, data available from e-procurement and other platforms, etc. National competition authorities may have information relevant for this analysis.</p> <p>For an example of a collusion analysis methodology, see the following toolkit from the Government Transparency Institute: http://www.govtransparency.eu/index.php/2015/11/13/toolkit-for-detecting-collusive-bidding-in-public-procurement/.</p>
Answer	<p>The Competition and Consumer Authority is working on getting data to monitor collusion risks.</p> <p>The Competition and Consumer Authority also has an investigation team whose purpose is to find cartels in the Danish market. Furthermore The Competition and Consumer Authority is an authority in which civilians can call to report on competition irregularities.</p>
Risk of undiscovered conflict of interest	<p>Percent of contracts awarded to companies with concealed ownership structure (i.e. whose ultimate beneficiary owner cannot be verified).</p> <p>Information for this indicator should be available in central registers of beneficial ownership, which are to be established by all Member States under the 4th Anti-Money Laundering Directive (2015/849 Art. 30) by June 2017.</p> <p>For more context for this indicator, please see the Commission's Anticorruption Report available at http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-</p>

	trafficking/corruption/anti-corruption-report/index_en.htm
Answer	The register of concealed ownership is situated at The Danish Business Authority. It has not been assessed how many registered companies have been awarded contracts.

IV. Level of SMEs' participation in public procurement

SMEs are defined in the Commission Recommendation (2003/361/EC) as having less than 250 persons employed and an annual turnover of up to EUR 50 million or a balance sheet total of no more than EUR 43 million. Further information is available at http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en.

IV.1. Qualitative reporting on SME participation	
Key challenges encountered	The information should focus on: <ul style="list-style-type: none"> - key challenges encountered in facilitating the participation of SMEs in public procurement, if any - measures taken to overcome them - difficulties still existing in the Member State
Answer	<p>To enhance SME's possibility to participate in tenders there has been added a principle in the Danish Public Procurement Act called <i>the divide or explain-principle</i>. The principle states that the contracting entity must state the reasons for not dividing a contract into subcontracts in the tender documents. The principle should secure smaller businesses to be able to bid on relevant tenders. The last evaluation of the principle showed an increase in dividing contracts into smaller contracts.</p> <p>It is prohibited to splitting a task into subcontracts in order to circumvent the thresholds of the Public Procurement Act. Contracts that are divided into smaller contracts are to be carried out under the rules to which the total contract is subject.</p> <p>A reason not to divide a contract may be the preservation of economic or market considerations. Such considerations may be relevant if the contracting entity considers that there will be no competition for the subcontracts if the task is divided. Financial considerations may be relevant if the contracting entity estimates that, for example, economies of scale can be achieved by offering the assignment together. In addition, there may be circumstances during the performance of the assignment or internal relationship</p>

	<p>with the contracting entity, which may justify a breakdown of the task, such as contract management costs.</p> <p>The Competition and Consumer Authority has released a guidance report on consortia and the competition rules in April 2018. The Authority also plans on releasing a new guide targeted to both businesses and tendering authorities on how to handle consortiums in public procurement in 2018.</p> <p>Source:</p> <ul style="list-style-type: none"> - The Danish Public Procurement Act § 49 - The evaluation of the divide or explain-principle is featured in the publication “Bedre adgang for små og mellemstore virksomheder” from 2017 by The Competition and Consumer Authority (Danish). A resume of the publication will soon be available on the authority’s website <i>KFST.dk</i> entitled “Better access for small and medium sized businesses”. - The publication regarding consortia is available on the Competition and Consumer Authority’s website <i>kfst.dk</i> entitled “Konsortiesamarbejde i forhold til konkurrenceloven” (Consortium Cooperation in relative to Competition) (Danish).
<p>IV.2. Supporting documents</p>	
<p>Please report any available evidence or supporting document for point IV.1, illustrating the measures, achievements or challenges faced, relating to the facilitation of the participation of SMEs in public procurement</p>	<p><i>Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):</i></p> <ul style="list-style-type: none"> • <i>List and provide a brief description of the policy and legislative initiatives launched to support SMEs participation in public procurement, including the results of their evaluations, where available</i> • <i>Specific measures targeting SME participation in different techniques for aggregated procurement (framework agreements, dynamic purchasing systems, and centralised procurement activities)</i> • <i>Specific measures targeting the participation of start-ups and scale-ups in public procurement</i> • <i>Specific measures ensuring that payment for public contracts are made on time, especially in the case of SMEs</i> • <i>Specific measures addressing the payments to subcontractors</i> • <i>Existing guidelines or instructions for contracting authorities on how to treat grouping (e.g. consortia) of SMEs</i> • <i>Existing guidelines for contracting authorities on the application of 'divide or explain' principle</i>

	<ul style="list-style-type: none"> Existing targets for SME participation in public procurement
Answer	<p>Source:</p> <ul style="list-style-type: none"> The Danish Public Procurement Act § 49 on The divide or explain-principle - https://www.kfst.dk/media/46419/the-public-procurement-act.pdf
IV.3. Quantitative indicators	<p><i>This section contains examples of quantitative indicators related to section IV.1. Other indicators can also be included in the report.</i></p>
Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section IV.1. above	<p><i>Possible relevant (non-exhaustive) documents for consideration may be as follows:</i></p> <ul style="list-style-type: none"> <i>Participation of SMEs in call for tenders above threshold</i> <i>Number of above-threshold contracts awarded to SMEs and</i> <i>Total value of contracts above threshold won by SMEs</i> <i>If additional data is collected in your MS, please report it in order to deepen our understanding about SME participation in public procurement. This might include the number and value of public procurement below threshold won by SMEs</i> <i>If applicable, current attainment rate of the target set for SMEs participation</i>
Answer	<p>The Competition and Consumer Authority has comprehensive data on tenders above the EU threshold.</p> <p>We have knowledge of SME participation in 922 tenders including partial agreements. 345 partial agreements were contracted with SME's. The total value of the contracts amount to 3.531.948.205 DKK (without tax).</p> <p>Tendering authorities estimate if a company is a SME. Therefore, there is an essential level of uncertainty in the estimation of participating SME's and the total value of tenders won by SME's.</p> <p>The Danish Statistical Center has analyzed the amount of Danish companies that are SME when using Eurostat's definition. The publication states that 99 percent of all Danish companies are SME's. Therefore most winning companies in public procurement should be SME's.</p> <p>SME's participate in the competition for two thirds of the tasks that the public sector contracts out. In the case, where the contracting authority could inform about the winner of the contract in the analysis, the SMEs have won about half of the public contracts. In comparison, the SMEs account for about one third of the turnover on the private market. This indicates that the number of SMEs partaking in the competition for publicly provided services is quite high both in terms of bidding and market share. It</p>

	<p>should be noted, that the figures are not directly comparable, as they are based on respectively number and value. The high SME participation rate shows that many public tasks are contracted out in ways that make them attractive for SMEs.</p> <p>Source:</p> <ul style="list-style-type: none"> - https://www.dst.dk/Site/Dst/Udgivelser/nyt/GetAnalyse.aspx?cid=27867 - Own data based on Tenders European Daily - https://www.kfst.dk/media/2884/20161216-status-for-offentlig-konkurrence-2016.pdf - Danish Competition and Consumer Authority (2013), SME - participation in public procurement: Market Study - https://www.en.kfst.dk/media/3304/smeparticipation-in-public-procurement.pdf
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V. Information on the practical implementation of national strategic procurement

V.1 Green procurement ('GPP')	Green Public Procurement ('GPP') is defined as "a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured." ² A voluntary target of 50 % GPP per Member State in number and value of relevant procedures was proposed by the Commission and welcomed by the Council in 2008.
V.1.1 Qualitative reporting	
Key challenges encountered	The information should focus on: <ul style="list-style-type: none"> - key challenges encountered in promoting green public procurement, if any - measures taken to overcome them - difficulties still existing in the Member State
Answer	The Competition and Consumer Authority does not have any knowledge of challenges with promoting green public procurement. <p>In October 2010 the Minister on environment established the Forum on Sustainable Procurement with</p>

² Commission Communication (COM (2008) 400) "Public procurement for a better environment"

	<p>the aim of promoting environmentally conscious and sustainable procurement by professional buyers of goods and services – both in public and private organizations.</p> <p>Partnership for Public Green Shopping is a community of municipalities, regions and public organizations that will promote sustainable solutions and buy green deposits. The partnership became formed in 2006 and currently counting 16 members. The partnership is also a forum for exchanging experiences.</p> <p>Ecolabelling Denmark has made a guide for tendering authorities on using eco-labels in procurement.</p> <p>Source:</p> <ul style="list-style-type: none"> - Website of Forum on Sustainable Procurement - http://eng.mst.dk/sustainability/sustainable-consumption-and-production/sustainable-procurement/forum-on-sustainable-procurement/ - Website of Partnership for Green Public Procurement - http://www.gronneindkob.dk/ - Ecolabelling Denmark's guide to using eco-labels in procurement - https://www.ecolabel.dk/da/virksomheder/indkoebere-privat-og-offentlig/vaerktoejskasse-til-offentlige-indkoebere
<p>V.1.2. Supporting documents</p>	
<p>Please report any available evidence or supporting document for point V.1, illustrating the measures, achievements or challenges faced, relating to the promotion of green public procurement.</p>	<p><i>Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):</i></p> <ul style="list-style-type: none"> • <i>National definition of 'green' and 'green public procurement'</i> • <i>Information about National action plans or similar documents on GPP in your Member State and the stage of their implementation. Target for the uptake of GPP and the way it is defined i.e. for overall procurement, for specific product groups, by value, by number of contracts</i> • <i>Any obligations to include green requirements in the tender documents and the authorities for which they apply</i> • <i>Any recommendations concerning the use of specific selection criteria, technical specifications/award criteria/performance clauses which public authorities or contracting entities wishing to procure green can include in their tender documentation. Categories of products for which these are relevant and the relevant website, if possible</i> • <i>Any information on environmental labels, environmental management systems or standards</i> • <i>Any recommendations to use the 'green procurement' criteria developed by the European</i>

	<p><i>Commission, respectively for which product groups. If different criteria are recommended, please specify whether they are similar to/inspired by the EU criteria</i></p> <ul style="list-style-type: none"> • <i>Activities in the area of capacity-building for procuring green (institutionalised or ad-hoc training, helpdesks, etc.)</i>
Answer	
V.1.3. Quantitative indicators	<i>This section contains examples of quantitative indicators related to section V.1. Other indicators can also be included in the report.</i>
Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section V.1.1 above. To the extent possible, these indicators should be further grouped by type of legal problem.	<p><i>Possible relevant (non-exhaustive) documents for consideration may be as follows:</i></p> <ul style="list-style-type: none"> • <i>Percentage of public procurement procedures incorporating green criteria out of the whole volume of procurement at national level and if available, for the GPP product groups (e.g. http://ec.europa.eu/environment/gpp/eu_gpp_criteria_en.htm) for which monitoring is being done, measured by number and value</i>
Answer	<p>The Danish Environmental Authority has conducted a study assessing the use of green requirements. 24 percent of tenders used all relevant green requirements based on monitored tenders in 2013. In addition to this, the study shows that at least one green requirement where used in 71 percent of the tenders. On this basis, it has been concluded that the majority of the Danish public procurers focuses on green procurement.</p> <p>The green requirements where based on the EU's green public procurement criteria and national guidelines. The guidelines are available for public procurers at the homepage "Den Ansvarlige Indkøber" (The Responsible Procurer).</p> <p>Source:</p> <ul style="list-style-type: none"> - The Danish Environmental Authority - https://www2.mst.dk/Udgiv/publikationer/2016/01/978-87-93435-20-9.pdf (Danish with English resume) - Website of The Responsible Procurer - http://csr-indkob.dk/
V.2 Socially responsible public procurement ('SRPP')	Socially Responsible Public Procurement ('SRPP') is defined as procurement that takes into account one or several social considerations for advancing social objectives. SRPP covers a wide spectrum of social considerations, such as for example employment opportunities, decent work conditions, compliance with social and labour rights, social inclusion, equal opportunities and accessibility.
V.2.1 Qualitative reporting	

Key challenges encountered	<p>The information should focus on:</p> <ul style="list-style-type: none"> - key challenges encountered in promoting socially responsible public procurement, if any - measures taken to overcome them - difficulties still existing in the Member State
Answer	<p>The Competition and Consumer Authority has not encountered challenges in promoting socially responsible public procurement.</p> <p>When relevant a procuring authority has to consider using social clauses. This principle is called <i>the follow or explain-principle</i>. With the principle procuring authorities have to use social clauses or explain why they have chosen not to use social clauses.</p> <p>The purpose of the principle is to increase the use of education and internships in public procurement. An evaluation of the principle from august 2017 shows that several government entities abide by the principle. In 2016 60,8 percent of relevant tenders used social clauses.</p> <p>The follow or explain-principle of social clauses have been applicable to government entities since 1 February 2013 for the provision of works contracts and service contracts in Denmark with a minimum duration of six months and a contract value of at least 10 million DKK and/or a salary of 10 million DKK.</p> <p>It is optional for the tendering authority to include requirements regarding ethical elements or to use work clauses.</p> <p>Guides for procuring authorities on social clauses, work clauses and ethical requirements can be found on the homepage “Den Ansvarlige Indkøber” (The Responsible Procurer) at csr-indkob.dk.</p> <p>Source:</p> <ul style="list-style-type: none"> - Evaluation on <i>the follow or explain-principle</i> by The Competition and Consumer Authority - https://www.kfst.dk/media/47249/evaluering-af-foelg-eller-forklar-princippet.pdf - http://csr-indkob.dk/
V.2.2. Supporting documents	
Please report any available evidence or supporting document for point V.2.1 illustrating the measures, achievements or challenges faced,	<i>Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):</i>

relating to the promotion of SRPP.	<ul style="list-style-type: none"> • <i>National SRPP definition</i> • <i>List and brief description of national policy initiatives launched in the area of SRPP</i> • <i>Any obligation to include socially responsible criteria or contract performance clauses in the tender documents imposed by your national system, and the contracting authorities or contracting entities which are required to comply</i> • <i>Any information on social labels in use</i>
V.2.3. Quantitative indicators	<i>This section contains examples of quantitative indicators related to section V.2. Other indicators can also be included in the report.</i>
Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section V.2.1 above.	<p><i>Possible relevant (non-exhaustive) documents for consideration may be as follows:</i></p> <ul style="list-style-type: none"> • <i>Number of public procurement procedures incorporating socially responsible award criteria. Please specify how many of those are regulated under the 'light regime' of Title III Chapter I (Articles 74-77 of Directive 2014/24/EU and Articles 91-94 of Directive 2014/25/EU)</i> • <i>Number of public procurement procedures reserved to sheltered workshops and economic operators in line with article 20 of the Directive</i> • <i>Number of public procurement procedures for the provision of health, social or cultural services as referred to in article 77.1 reserved to organisations fulfilling the conditions listed in article 77.2.</i> • <i>Number of public procurement procedures incorporating socially responsible contract performance clauses criteria. Please specify how many of those are regulated under the 'light regime' of Title III Chapter I (Articles 74-77 of Directive 2014/24/EU and Articles 91-94 of Directive 2014/25/EU)</i>
Answer	Tenders under the light-regime are plotted in the Competition and Consumer Authority's mapping of all tenders in Denmark since 2018. Information on tenders under the light-regime in 2017 is not available. The Authority is working on a guide for procuring authorities concerning procuring under the light-regime.
V.3 Public procurement of innovation	An innovative solution is defined in 2014/24/EU Art.2 (1.22) as "a new or significantly improved product, service or process". This includes not only those solutions resulting from R&D but also those solutions resulting from activities, "including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations." Please report both dimensions of innovation procurement: procurement of R&D and procurement of innovative solutions.
V.3.1 Qualitative reporting	
Key challenges encountered	The information should focus on:

	<ul style="list-style-type: none"> - key challenges encountered in promoting innovation procurement, if any - measures taken to overcome them - difficulties still existing in the Member State
Answer	<p>The Competition and Consumer Authority has not encountered challenges with innovation in procurement.</p> <p>New possibilities for procuring innovation were published in the Danish Public Procuring Act from 2016. A new procedure called <i>innovationspartnerskab</i> (innovation partnership) was meant to help contracting authorities to innovate new ideas with companies.</p> <p>Opposed to the former possibility of attaining innovation through a so-called <i>offentlig privat innovationspartnerskab (OPI)</i>, in English “public private innovation partnership”, the procedure innovation partnership has a built in tender. With OPI’s the authority who wants an innovation has to tender a product or service after innovating it.</p> <p>The new procedure, innovation partnership, allows the possibility of excluding of the co-innovating company, because of the possibility that a specific company has a better chance of attaining the contract. The new procedure innovation partnership has been used as tendering procedure in five to six tenders.</p> <p>Source:</p> <ul style="list-style-type: none"> - The Danish Public Procurement Act on innovation partnerships, cf. §§ 73-79
V.3.2. Supporting documents	
Please report any available evidence or supporting document illustrating the measures, achievements or challenges faced, relating to the promotion and implementation of innovation procurement.	<p><i>Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):</i></p> <ul style="list-style-type: none"> • <i>National Action Plan and/or targets for innovation procurement and its stage of implementation. Information on how are they defined.</i> • <i>Any additional provisions for innovation procurement in your national legislation that go beyond the provisions in the EU public procurement directives (e.g. more detailed definition of innovative solutions and/or R&D, specific provisions on innovation procurement Art 33 of 2014 EU State aid rules on R&D&I)</i> • <i>National guidelines on innovation procurement (e.g. on IPR handling, joint procurement to</i>

	<p><i>create demand pull for buying innovative solutions, on R&D procurement)</i></p> <ul style="list-style-type: none"> • <i>National activities on capacity-building on innovation procurement (institutionalised or ad-hoc training, helpdesks, etc.)</i> • <i>Information about outcomes e.g. impact on demand side (increase in quality and/or efficiency of public services), impact on the supply side (increase in sales/company growth, intensified investments in R&D/innovation and/or IPRs), wider market impacts (number/value of contracts awarded to SMEs, amount of contracts awarded to non-domestic providers)</i>
Answer	The Competition and Consumer Authority does not have further documentation.

VI. Replicability

This section should provide information allowing anyone to fully replicate the quantitative results presented in the report.

Links to datasets used to prepare the report	The Commission recommends publishing the source data as open data, e.g. as is the case for the Tenders Electronic Daily database at http://data.europa.eu/euodp/cs/data/dataset/ted-csv .
Answer	<p>TED data: TED data has been used in section III.3 about the statistical distribution of buyers by frequency of using a negotiated procedure without the prior publication of a call of competition.</p> <p>The document type “Voluntary ex ante transparency notice” has 416 contract notices. Voluntary ex ante transparency notices entail the two procedures “contract awards without prior publication” and “negotiated procedures without a call for competition”. Three of the tenders where concession notices and have been removed.</p> <p>Own data: The Competition and Consumer Authority continuously maps contract awards in TED manually to gather information on tenders in Denmark.</p> <p>Four part-time employees monitor and map new contract awards in the TED database. All information is stored in our own database. By doing so information that only can be obtained through reading the contract award notices can be analysed. Furthermore it can be detected when tendering authorities have errors in their registry in TED. In those cases the Competition and Consumer Authority contacts</p>

	<p>the tendering authorities to clarify potential errors.</p> <p>In about 10 percent of contract notices there is not submitted a contract notice. The Competition and Consumer Authority will contact tendering authorities within a year, to clarify what has happened with the tender.</p> <p>The mapping of TED should therefore contain both more information on tenders and a higher degree of correct information.</p>
<i>Files used to obtain the results from the datasets</i>	This section should include for example the scripts or code for the relevant statistical software or the Excel files used.
Answer	The excel file is not submitted.

Annex I:

Methodology for estimating the value of procurement which would have been covered by the directives if its value had exceeded the relevant thresholds

Answer: The Competition and Consumer Authority has not been able to give this data, because it is not registered, and a potential answer would be uncertain.

1. Classification and methodology

Indicate the basic characteristics of the methodology used by selecting from the options below. Description of the methodology is to be given in the subsequent section.

1.1. General approach:

- a) [data available under national publication requirements]
- b) [sample-based estimates]
- c) [combined]

Please note that in our opinion using existing administrative data is preferable, as it implies both lower administrative burden (no additional data collection is necessary) and higher data quality.

If a sampling approach is taken, both the source of the sample and the sampling methodology, provided in the following subsection, must be able to withstand careful scrutiny. This ensures that the estimate is representative of the whole Member State.

1.2. Source of data:

Scope:	above national publication thresholds [✓]	below national publication thresholds [✓]
Source of data: [e-notification platforms]		

[e-submission platforms]		
[invoices]		
[budgets]		
[other]		

2. Methodology description

Indicate, amongst others, information on the sources of data, approaches taken to deal with possible missing data and erroneous data, and representativeness of the sample used (if a sample-based approach was taken). If methodology is different depending on the thresholds or source of data, please clearly indicate this, including the relevant thresholds.