

# **FINLAND**

## **Procurement Monitoring Report Template** **under the Directives 2014/23/EU, 2014/24/EU and 2014/25/EU**

## General information

<b>Scope of reporting</b>
<p>The report covers the period between 1<sup>st</sup> January 2017 and 31<sup>st</sup> December 2017. The new procurement rules were in force starting 1<sup>st</sup> January 2017.</p>
<b>General information</b>
<p>In Finland the number of above EU thresholds procurement notices was 4333 and the number of awarded contracts was 2707 during the reporting period.</p>
<b>Information on monitoring and reporting bodies</b>
<p>Reporting body:</p> <ul style="list-style-type: none"><li>- Ministry of Economic Affairs and Employment is the entity in charge of drafting the report based on the information received from numerous different stakeholders.</li></ul> <p>Monitoring bodies:</p> <ul style="list-style-type: none"><li>- The Finnish Competition and Consumer Agency (FCCA) supervises compliance with procurement rules in general. The FCCA has had the powers starting 1<sup>st</sup> January 2017.</li><li>- The National Audit Office (NAO) is Finland's Supreme Audit Institution and operates in affiliation with Parliament. It audits the state's finances, monitors and evaluates fiscal policy and oversees party and election funding. Through its independent audit work the National Audit Office ensures that public funds are spent according to Parliament's decisions, in compliance with legislation and wisely and that fiscal policy is exercised in a sustainable manner.</li><li>- In the municipalities the duties of local councils are laid down in the Local Government Act (410/2015) in the section 14 for the principles for internal control and risk management, and in the section 121 to set up a local authority audit committee.</li></ul>

- The Chancellor of Justice endeavours to ensure that the courts of law, other authorities and other persons or bodies assigned to perform public tasks comply with the law and fulfil their assigned obligations. The Chancellor of Justice supervises the authorities by handling any written complaints arising from their actions. A complaint may be filed with the Chancellor of Justice if the complainant believes that an authority, civil servant or public official or other person or body assigned to perform public tasks has acted in an unlawful manner, otherwise wrongfully or failed to fulfil their responsibilities. The Chancellor of Justice can also open an investigation on an issue on his own initiative, such as matters brought forth in the media.
- The Ombudsman has the task of providing oversight to ensure that authorities and officials observe the law and carry out their duties. In addition to authorities and officials, the scope of the Ombudsman's oversight includes also others that perform tasks of a public nature. The Ombudsman oversees compliance with the law mainly by examining the complaints that are received. He can also intervene in perceived shortcomings on own initiative.

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><b>Estimation of the aggregated total value of procurement which would have been covered by the directives if its value had exceeded the relevant thresholds</b></p>	<p>As regards the under EU threshold procurement, the Finnish central eNotification platform HILMA collects the data for <i>the estimated value</i>. Comprehensive data for <i>the value of the awarded contracts</i> (as requested in the template) under the EU thresholds is not available for the year 2017. At the moment, the contracting authorities are not filling in a contract award notice for the procurement the value of which is under EU threshold but above national thresholds.</p> <p>However, this data can be found in the eProcurement platforms, but it has not been gathered throughout the whole calendar year and not all of the contracting authorities are yet using the ePlatforms. This is likely to change in October 2018 as the eSubmission becomes mandatory. This should lead to obtaining complete data for the year 2019 onwards.</p>
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**II. Most frequent sources of wrong application or of legal uncertainty, including possible structural or recurring problems in the application of the rules**

<p><b>II.1. Qualitative reporting on application of public procurement rules</b></p>	
<p>Main sources of wrong application or of legal uncertainty</p>	<p>In Finland the Finnish Competition and Consumer Agency (monitoring body), the Market Court (first instance court) and the Supreme Administrative Court (appeal court) have their decisions freely available on their web sites.</p> <p>The courts do not gather comprehensive data on the main sources of wrong application or of legal uncertainty. We suggest that this an issue to be dealt with rather in the Commission working group of the first instance administrative bodies than in the monitoring report alone. To be able to report comprehensively on the findings regarding main sources of wrong application would at the moment require a manual examination of each judgment from each body.</p> <p>The Finnish Competition and Consumer Agency (FCCA) has had the powers to monitor the public procurement as of 1.1.2017 and therefore the organizing (recruiting and planning etc) the supervising unit to its full function took place only in 2017. Nevertheless, the FCCA took nearly 90 cases under investigation during its first operating year. A bit less than half of the pending cases were investigated by the FCCA's own initiation, as the others were investigated by request. Approximately 70 percent of cases concerned matters of illegal direct award. Around 60 percent of the cases were concluded during 2017, and on two of these the FCCA considered necessary to provide administrative guidance to the contracting entity.</p>

*In its first case of administrative guidance, the FCCA drew the attention of Central Ostrobothnia's joint municipal authority dealing with social welfare and health care matters (Soite) with regard to the objectives and implementation of principles referred to in the Act on Public Procurement and Concession Contracts. The award criteria in the call for tenders favoured one service provider on the market, excluding other potential parties and service providers.*

*In its decision, the FCCA drew the contracting authority's attention to the objectives and principles of equal treatment and proportionality, and to optimising the use of public funds and to create genuine competition in the market.*

*On its second case of administrative guidance, the FCCA stated, that the contracting authority Kunnan Taitoa Oy was in breach of the Act on Public Procurement and Concession Contracts when procuring telecommunications services. The contracting authority had deemed the lack of competition due to a technical reason grounds for direct award. However, the selected contracting partner was not the only service provider technically capable of implementing the required telecommunications service.*

Many of the cases of alleged illegal direct awards concerned amendments of procurement agreements during the agreement period. The FCCA evaluated whether the amendment was permitted in accordance with the Procurement Act. Also, relatively many of the alleged illegal direct award cases concerned direct awards implemented for technical reason, for a reason related to protecting an exclusive right or due to extreme urgency. In some cases, the FCCA had to interpret the in-house exception provisions.

In most cases the FCCA stated after preliminary investigation that further measures were not necessary. It was either clear that there was no significant contravention of legislation, the FCCA did not have the jurisdiction over the issue (usually due to the fact that the procurement had taken place before the FCCA got the monitoring powers or since the procurement did not exceed the thresholds), or the case was not prioritised for some other reasons. Problems associated with calculating the

	<p>estimated procurement value also stood out frequently during the FCCA’s preliminary investigations in 2017.</p> <p>As general conclusions the Market Court is stating that the most common claims are</p> <ul style="list-style-type: none"> <li>- the bidder who came second is claiming that the winning bid was not in accordance with the call for tenders</li> <li>- the call for tenders was unclear</li> <li>- the comparison of the tenders was not made correctly</li> </ul>
<p>Specific legal provisions (from EU or national law) which appear to raise significant problems of application</p>	<p>The Public Procurement Advisory Unit is giving advice to all contracting authorities. The unit doesn’t gather comprehensive data on the specific legal provisions or the type of difficulties on which they get most questions on.</p> <p>However, the unit has made an indicative list of the issues they are most frequently requested for guidance:</p> <ul style="list-style-type: none"> <li>• Evidence for the absence of the mandatory exclusion grounds <ul style="list-style-type: none"> <li>○ in general the applying of these provisions to different situations, including negotiated procedure without a prior notice</li> <li>○ should contracting authority ask for new extract from the relevant register when the contract is modified during the contract period?</li> </ul> </li> <li>• European Single Procurement Document <ul style="list-style-type: none"> <li>○ complex language in the ESPD causes confusion among contracting authorities</li> <li>○ at the period of transition: when the ESPD should be provided in electronic form</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ contracting authorities have not fully understood the meaning of the ESPD; contracting authorities demand the EO's to provide ESPD, but still often oblige them to provide the same information also separately</li> <li>● Clarifying and completing tenders <ul style="list-style-type: none"> <li>○ the new more flexible provisions in the 2014 Public Procurement Directive compared to the previous case law; can contracting authorities ask tenderers to clarify those details of a tender which are to be used at the comparison of tenders.</li> <li>○ when can the clarifying be made during the process?</li> </ul> </li> <li>● Modification of contracts during their term <ul style="list-style-type: none"> <li>○ changes affecting the contracting partner and subdivision of the contract</li> </ul> </li> <li>● In-house provisions</li> <li>● Services referred to in article 74 (annex XIV) (national legislation annex E) <ul style="list-style-type: none"> <li>○ what does "other specific services" include in practice?</li> </ul> </li> </ul>
<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 FCCA has not yet gathered information on the specific type of problems identified or assessment of the impact of these difficulties on the efficiency of the public procurement process. It is too soon to draw any conclusions as the FCCA started the monitoring duty only in the beginning of 2017. The FCCA will report their findings yearly to the Ministry of Economic Affairs and Employment.</p>
<p><b>II.2 Supporting documents</b></p>	
<p>Please provide any available evidence of the issues identified under section II.1.</p>	



<b>II.3. Quantitative indicators</b>	
Indicators about the national review system	<p>We propose that the indicators will be discussed in the Commission working groups (EXPP and the WG of first instance administrative review bodies) to ensure that the courts are able to provide the data in a comparable manner to allow easier comparison of the information provided by the MS.</p> <p>In the Market Court the number of cases was 496. The average length of the review procedure was 8,3 months.</p> <p>In the Supreme Administrative Court number of resolved cases was 84, of which in 16 cases the Court took different view than the Market Court. The average length of the review procedure was 17,9 months.</p> <p>Information on the Market Court (in Finnish only) <a href="#">Markkinaoikeuden vuositilastot</a>  Information on the Supreme Administrative Court (in Finnish only) <a href="#">KHO:n vuosikertomukset</a></p>
Histogram of values of procedures, covering also procedures below the thresholds	We are not able to provide comprehensive information for the year 2017. However, it will be possible in the future once all contracting authorities are using eProcurement platform and we are able to obtain complete data in manageable format.

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

<p><b>III.1. Qualitative reporting on fraud, corruption, conflict of interests etc.</b></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>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 relevant provisions of the Directive were efficiently transposed in the national Act on Public Procurement and Concession Contracts (1397/2016) and the required certificates are mainly obtainable in electronic form. At the moment the extract from the criminal record is still however mainly used in paper format due to the data protection rules.</p> <p>In addition to the Procurement Act the issues relevant to prevent the grey economy are dealt with in the Act on the Contractor's Obligations and Liability.</p> <p>The Act applies to any contractor (also private): 1) who in Finland uses temporary agency workers; or 2) at whose premises or work site in Finland is working an employee, who is in the service of an employer having a subcontract with the contractor, and whose tasks relate to the tasks normally performed in the course of the contractor's operations or to transportation relating to the contractor's normal operations.</p> <p>The purpose of the Act is to promote equal competition among businesses and to ensure the compliance with statutory terms and conditions of employment. The Act enables contractors to ensure that their partners comply with what is required of them by law. Contractors must obtain the reports specified in the Act on all partners before signing any agreements on subcontracting or temporary agency work. In order to comply with the obligation to investigate, contractors must obtain the same reports for both Finnish and foreign partners.</p> <p>Before signing any agreements, the contractor must obtain the following reports on the hired-labour companies (temporary work agencies) and subcontractors concerned:</p>

- report on entries in the withholding tax register, the employer register and the register of taxable persons liable for VAT,
- Trade Register extract or a document with comparable content,
- report on tax payment status,
- certificate stating that employee pension insurance has been taken out and that pension insurance contributions are paid up, or a report stating that a payment agreement concerning outstanding pension insurance contributions has been signed,
- report on the collective agreement or principal terms and conditions of employment applying to the work in question,
- report on how occupational health care is provided, and
- certificate stating that statutory accident insurance has been taken out (agreements concerning construction).

Envisaged amendments in the national Competition Act (948/2011) are planned to enhance the exchange of the information between different authorities in order to better enable the national authorities to prevent corruption and fraud.

On 28 April 2016, the Government issued a Resolution on a National Strategy for Tackling the Shadow Economy and Economic Crime for 2016–2020. In accordance with the Resolution, to implement the Strategy, a separate Action Plan was drawn up. The Action Plan against the Shadow Economy and Economic Crime comprises 20 projects that have been grouped according to the key projects set out in the Strategy. KEY PROJECT 1: Well-Functioning markets and healthy competition will be ensured by improving the opportunities for honest business for companies and people by reducing the administrative burden and by enhancing anti-corruption action. Sub-project 1.4 enhancing the prevention, identification and detection of corruption was launched 20th of January 2018. One of the goals of this working group is to focus on the corruption related to procurement: “prevent corruption by enhancing the supervision of the public procurement, improving the contracting authorities’ access

to information, as well as expanding and adding the contracting authorities possibilities to intervene and react when corruptive behavior is detected. Corruption prevention will be also enhanced by legislative amendments but, also by guiding the contracting authorities through training and written information.” Another goal of the working group is to enhance the reporting possibilities when corruption is detected. In addition to this, Working group should also find ways to improve the existing whistleblowing protection.

Also the Finnish Competition and Consumer agency is active in fighting the grey economy. The FCCA and the Tax Administration launched a joint outreach project in 2016. The project targets major cities in Finland. The main themes are corruption, various forms of bribery and unethical conduct in procurement and cartels. The aim is to:

- gather information on how cities have are handling the risk of various misconducts in their procurement,
- raise the procuring organizations’ awareness of these risks and
- give advice on conduct, best practices and internal guidelines.

The project has been well received. The FCCA and the Tax Administration have also found the experience very positive and the project continues in 2018.”

Open access to the information of the public spending is an important tool to prevent fraud and corruption.

- Many municipalities publish data on their purchases as open data <https://www.avoindata.fi/en>
- Information on the state purchasing invoices can be view in the Tutkihankintoja.fi (only in Finnish at the moment) <https://tutkihankintoja.fi/>

<b>III.2. Supporting documents</b>	
<p>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>	<p>Information on the webpages of</p> <ul style="list-style-type: none"> <li>- Ministry of Economic Affairs and Employment <a href="http://tem.fi/en/contractor-s-obligations-and-liability">http://tem.fi/en/contractor-s-obligations-and-liability</a></li> <li>- Occupational Safety and Health Administration <a href="http://www.tyosuojelu.fi/web/en/black-economy/contractor-s-obligations-and-liability/agreement-with-a-foreign-company">http://www.tyosuojelu.fi/web/en/black-economy/contractor-s-obligations-and-liability/agreement-with-a-foreign-company</a> <a href="http://www.tyosuojelu.fi/documents/95118/1317087/Compliance_with_obligation_to_check_for_enterprises_registered_abroad/dbbe7bb4-d13d-c292-e07e-f61f999a2164">http://www.tyosuojelu.fi/documents/95118/1317087/Compliance_with_obligation_to_check_for_enterprises_registered_abroad/dbbe7bb4-d13d-c292-e07e-f61f999a2164</a></li> <li>- Parliamentary monitoring group for tackling of the shadow economy and economic crime <a href="http://valtioneuvosto.fi/en/article/-/asset_publisher/10616/harmaan-talouden-ja-talousrikollisuuden-torjunnan-parlamentaarinen-seurantaryhma-asetettu">http://valtioneuvosto.fi/en/article/-/asset_publisher/10616/harmaan-talouden-ja-talousrikollisuuden-torjunnan-parlamentaarinen-seurantaryhma-asetettu</a></li> <li>- <a href="http://valtioneuvosto.fi/en/article/-/asset_publisher/10616/harmaata-taloutta-ja-talousrikollisuutta-voidaan-parhaiten-torjua-ennalta-estavalla-tyolla">http://valtioneuvosto.fi/en/article/-/asset_publisher/10616/harmaata-taloutta-ja-talousrikollisuutta-voidaan-parhaiten-torjua-ennalta-estavalla-tyolla</a></li> </ul> <p>Act on Public Procurement and Concession Contracts (1397/2016) <a href="https://www.finlex.fi/fi/laki/kaannokset/2016/en20161397.pdf">https://www.finlex.fi/fi/laki/kaannokset/2016/en20161397.pdf</a></p> <p>Act on the Contractor's Obligations and Liability <a href="http://www.finlex.fi/en/laki/kaannokset/2006/en20061233.pdf">http://www.finlex.fi/en/laki/kaannokset/2006/en20061233.pdf</a></p> <p>Competition Act (948/2011) <a href="https://www.finlex.fi/fi/laki/kaannokset/2011/en20110948">https://www.finlex.fi/fi/laki/kaannokset/2011/en20110948</a></p>
<b>III.3. Quantitative indicators</b>	
<p>Statistical distribution of buyers by frequency of actual competition</p>	<p>Currently we are not able to collect comprehensive data suggested in this section.</p>

	<p>The eProcurement system to enable to collect such data is still under development. The data gathered at the moment is only partial for the year 2017 as the use of the system has been gradually increasing during the year 2017.</p> <p>The Ministry of Justice is planning to take on a project to set up relevant indicators to obtain information, but at the moment it is too soon to foresee the development.</p>
Statistical distribution of buyers by frequency of using a negotiated procedure without the prior publication of a call of competition	Comprehensive data not available for the year 2017
Quantitative assessment of collusion risks	Comprehensive data not available for the year 2017
Risk of undiscovered conflict of interest	Comprehensive data not available for the year 2017

#### IV. Level of SMEs' participation in public procurement

IV.1. Qualitative reporting on SME participation	
Key challenges encountered	<p>The relevant provisions of the Directive were efficiently transposed in the national Act on Public Procurement and Concession Contracts (1397/2016). We do not have exact information on the results of the legislation during the year 2017.</p> <p>A national strategy for improving the conditions for entrepreneurship is currently being prepared. One area of the strategy is to make suggestions how the public sector can promote entrepreneurship by offering a reference market for small businesses.</p> <p>The Federation for Finnish enterprises has received partial funding from the Ministry of Economic Affairs and Employment to their network of public procurement advisor to enhance the participation of SME's in public procurement. The focus has been in informing the small entrepreneurs and the municipalities about the different possibilities. The work was starting in the beginning of 2017. The advisors have advised both the public sector and the tenderers. The advisors have participated in the preparation of municipalities' guidance regarding public procurement. Altogether, several dozens of guidances and policy papers have been reviewed and commented by the advisors from the SME's point of view. Also, the principle to divide purchases in smaller parts has been communicated to nearly all the municipalities in Finland. As a result, the municipalities have agreed to publish also smaller purchases, under the national thresholds, in open public procurement platform.</p>

The national thresholds were increased as the new procurement legislation entered into force in the beginning of 2017. According to The Federation for Finnish enterprises, small enterprises seem to have suffered from this. High thresholds make it difficult for new or small companies to enter into the market. On the other hand, the legislative change regarding dividing the procurement in smaller lots, has led to dividing purchases to smaller parts. This has been beneficial for the SME's giving them the opportunity to bid as well. In addition, The Federation for Finnish enterprises has seen a trend that the municipalities are voluntarily publishing procurement below the national thresholds and this has as well helped SME's to participate in public procurement.

According to The Federation for Finnish enterprises, another observation that is harmful for the smaller companies is that the municipalities have been making framework agreements with several companies (often accepting all bidders). However, it is not always clear on which prioritizing grounds the purchases are allocated. The companies consider this as unopen process subject to corruption. It remains unclear has there been as well a breach of the procurement rules if the contracting authority didn't use mini-competition.

The interest on bidding as a consortia has been increasing. The SME's have not yet gained experience in innovative public procurement, but the preparatory measures are in progress.

The Federation for Finnish enterprises has prepared material for the network of the advisors to offer it to the small businesses and the contracting authorities. The network has as well improved significantly the dialogue between small businesses and public procurers.

The Federation for Finnish enterprises has already completed a survey in Southern Finland, which shows that there is lack of trust among the SME's regarding the contracting authorities. At the moment surveys are conducted in other areas as well. In general, an open dialogue is the key issue in improving the openness of procurement and enhancing competition. There has as well been positive results from the surveys stating that the municipal strategies for public procurement are developing into more SME friendly direction. Compared to the results from the previous years for example the



	<p>competence of the municipal procurers, the information available already prior to the procurement procedure and the willingness to divide the purchase into to SME friendly lots have receive more positive evaluating from the SME's.</p> <p>According to The Federation for Finnish enterprises, the state is less SME friendly in its procurement compared to the municipalities. The purchases are often larger and not divide into lots and the requirements for the turnover are as well respectively higher.</p>
<p><b>IV.2. Supporting documents</b></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>Information on the national strategy for improving the conditions for entrepreneurship (in Finnish only)  <a href="http://tem.fi/artikkeli/-/asset_publisher/jarventaus-ja-kekalainen-yrittajyysstrategian-selvityshenkiloiksi">http://tem.fi/artikkeli/-/asset_publisher/jarventaus-ja-kekalainen-yrittajyysstrategian-selvityshenkiloiksi</a></p> <p>The Federation for Finnish enterprises has published some results and guidance in Finnish:</p> <p>Information on a survey <a href="https://www.yrittajat.fi/helsingin-yrittajat/a/uutiset/571018-julkisten-hankintojen-tasapuolisuus-epailyttaa-yrittajia">https://www.yrittajat.fi/helsingin-yrittajat/a/uutiset/571018-julkisten-hankintojen-tasapuolisuus-epailyttaa-yrittajia</a>  Information on a survey <a href="https://www.yrittajat.fi/uudenmaan-yrittajat/a/uutiset/570459-uudessa-hankintalaissa-pk-yritykset-haluttiin-mukaan-markkinoille-mutta-ensimmaisten">https://www.yrittajat.fi/uudenmaan-yrittajat/a/uutiset/570459-uudessa-hankintalaissa-pk-yritykset-haluttiin-mukaan-markkinoille-mutta-ensimmaisten</a>  Survey on the under threshold procurement  <a href="https://www.yrittajat.fi/sites/default/files/lopullinen_pienhankintakysely_yrittajat_kunnat2017.pdf">https://www.yrittajat.fi/sites/default/files/lopullinen_pienhankintakysely_yrittajat_kunnat2017.pdf</a>  Information on public procurement  <a href="https://www.yrittajat.fi/sites/default/files/faktaa_palvelusetelista_hankinnoista.pdf">https://www.yrittajat.fi/sites/default/files/faktaa_palvelusetelista_hankinnoista.pdf</a>  Information on public procurement <a href="https://www.yrittajat.fi/yrittajat/kunnat-ja-yrittajyys/a/kunta/julkiset-hankinnat-553079">https://www.yrittajat.fi/yrittajat/kunnat-ja-yrittajyys/a/kunta/julkiset-hankinnat-553079</a></p>

	Information on the advisory network for SME friendly procurement <a href="https://www.yrittajat.fi/etela-pohjanmaan-yrittajat/a/uutiset/568221-autamme-hankinnoissa-yrittajia-ja-hankintayksikoita">https://www.yrittajat.fi/etela-pohjanmaan-yrittajat/a/uutiset/568221-autamme-hankinnoissa-yrittajia-ja-hankintayksikoita</a>
<b>IV.3. Quantitative indicators</b>	
Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section IV.1. above	<p>We are collecting data in the eNotification system HILMA to find out how often the winner is a SME. This function was introduced only in the autumn 2017 and therefore we are not yet able to report the full calendar year 2017.</p> <p>At the moment we are developing the central eNotification system towards eProcurement system. We shall be able to obtain much richer data on SME participation from the year 2020 onwards.</p>

## V. Information on the practical implementation of national strategic procurement

<b>V.1 Green procurement ('GPP')</b>	<p>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."<sup>1</sup> 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.</p>
<b>V.1.1 Qualitative reporting</b>	
<p>Key challenges encountered</p>	<p>The key challenge in promoting GPP is the lack of credible and valid data on the uptake of GPP and the effects of it. Studies show that procuring authorities use GPP, but the majority does not do it systematically. There is still a lack of information on what to prioritise and how to conduct GPP in practice. The key challenges for public authorities are however the lack of strategic leadership and resources to conduct GPP more systematically and more ambitiously.</p> <p>The recently started Competence Centre for Sustainable and Innovative Public Procurement (KEINO) will take actions to overcome the challenges. <a href="http://www.procurementcompetence.fi">www.procurementcompetence.fi</a></p>
<b>V.1.2. Supporting documents</b>	
<p>Please report any available evidence or supporting document</p>	<p>The Government Decision-in-Principle on the promotion of sustainable environmental and energy solutions in public procurement <a href="http://www.ym.fi/download/noname/%7B3901F888-CDEF-4CA3-BFAB-C4E8163B6DED%7D/109838">http://www.ym.fi/download/noname/%7B3901F888-CDEF-4CA3-BFAB-C4E8163B6DED%7D/109838</a></p>

<sup>1</sup> Commission Communication (COM (2008) 400) "Public procurement for a better environment"

<p>for point V.1, illustrating the measures, achievements or challenges faced, relating to the promotion of green public procurement.</p>	<p>The national GPP criteria database and help Desk for GPP has been running since 2012 <a href="http://www.motivanhankintapalvelu.fi/en">www.motivanhankintapalvelu.fi/en</a></p> <p>The Finnish roadmap for circular economy <a href="http://www.ym.fi/download/noname/%7BECA99413-0543-420F-8999-7DD3F1BA18AF%7D/132864">http://www.ym.fi/download/noname/%7BECA99413-0543-420F-8999-7DD3F1BA18AF%7D/132864</a></p> <p>Press release on the newly established Competence centre: <a href="http://tem.fi/artikkeli/-/asset_publisher/osaamiskeskus-vauhdittamaan-kestavia-ja-innovatiivisia-julkisia-hankintoja?_101_INSTANCE_KbgSvtizPgsM_languageId=en_US">http://tem.fi/artikkeli/-/asset_publisher/osaamiskeskus-vauhdittamaan-kestavia-ja-innovatiivisia-julkisia-hankintoja? 101_INSTANCE_KbgSvtizPgsM_languageId=en_US</a></p> <p>Finnish Environment Institute is providing support (both market studies, financing opportunities and joint procurement ) for local governments in cleantech procurement and collecting best practices in “Cleantech Procurement Folder”. <a href="http://www.hinku-foorumi.fi/fi-FI">http://www.hinku-foorumi.fi/fi-FI</a></p>
<p><b>V.1.3. Quantitative indicators</b></p>	
<p>Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section V.1.1 above.</p>	<p>No statistical data exists on the above mentioned.</p> <p>Report on the status of sustainable public procurement (in Finnish) <a href="https://helda.helsinki.fi/handle/10138/228340">https://helda.helsinki.fi/handle/10138/228340</a></p>

<b>V.2 Socially responsible public procurement ('SRPP')</b>	<p>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.</p>
<b>V.2.1 Qualitative reporting</b>	
<p>Key challenges encountered</p>	<p>In general, the key challenge encountered in promoting socially responsible public procurement has been the lack of knowledge and experience among some of the contracting authorities as well as among the bidders. In some instances, the contracting authorities might not have been motivated to go through the extra effort if they cannot foresee the benefits. It has been as well encountered that the local branches of the international companies in Finland might need support or a permission from their head office to be able to meet the social requirements. In practice, this requires that the tender documents are drafted in English. Sometimes lack of political commitment can prevent the contracting authority from actively taking account of the social considerations.</p> <p>The Ministry of Economic Affairs and Employment has published a guide (2017) which uses practical examples to illuminate how social aspects can be taken into account in public procurement. The guide divides the procurement process into five stages so that opportunities for considering social aspects in different stages of procurement are as clear as possible.</p> <p>We have seen successful capacity building among the contracting authorities.</p> <p>The state central purchasing body Hansel has the principal of responsible central purchasing. They carry out responsible procurement in all competitive tenders. They award Hansel's own ecolabel to framework agreements, which meet their environmental criteria, defined separately for each framework agreement. Their framework agreements automatically comply with the central government corporate responsibility criteria and guidance.</p>

The National Institute for Health and Welfare (THL) was piloting a model of promoting employment (of the persons in a weaker labour market position) with procurement with four large cities Helsinki, Vantaa, Espoo and Oulu during 1.5.2015 - 31.10.2017 in HANDU –project. The results were positive and the model has been established as a part of the procurement in these cities. A survey of the results is due to be published before summer 2018.

The state central purchasing body Hansel and a municipal central purchasing body KL Kuntahankinnat have been co-operating with a Finnish NGO Finnwatch to draft a code of conduct for suppliers of ICT to ensure that procured goods and services are manufactured under sustainable and socially responsible conditions.

According to the code of conduct:

According to the United Nations Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, business enterprises should, within the framework of internationally recognized human rights, the international human rights obligations of the countries in which they operate as well as relevant domestic laws and regulations:

- respect human rights, which means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved; and
- within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur; and
- seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts.

Ministry of Economic Affairs and Employment has published a survey of the experiences of the different contracting authorities regarding socially responsible procurement. The purpose of the survey was to highlight concrete examples and experiences. Some of the contracting authorities were at piloting phase and some had years of experience. The findings were that the facts which support the use of social criteria in public procurement consist of inclusion at strategy level, the management's commitment and support, pressure created by trade union representatives and public opinion, experts keen on the theme, and the application of the criteria to suitable procurements.

In the national Act on Public Procurement and Concession Contracts (1397/2016) is a clause concerning minimum terms and conditions of employment:

Section 98 Special terms and conditions of a procurement agreement

	<p>(1) The contracting entity may impose special terms and conditions on the implementation of a procurement agreement, provided that the said terms and conditions are linked to the procurement in the manner referred to in section 94. The terms and conditions may relate to the financial or social aspects of the procurement, or to its innovative, environmental and employment aspects. The special terms and conditions of the procurement agreement shall be indicated in the contract notice, in the invitation to negotiate or in the documents of the call for tenders.</p> <p>(2) A condition shall be included in a procurement agreement concluded between a central government authority and the successful tenderer in competitive tendering requiring compliance with at least the minimum terms and conditions of employment governing work of the same nature under the law and collective agreements of Finland in work that forms part of a procurement agreement to be implemented in Finland.</p> <p>(3) The provisions of subsection 2 concerning the duty of a central government authority shall also apply when another contracting entity concludes a procurement agreement concerning a public works contract</p>
<p><b>V.2.2. Supporting documents</b></p>	
<p>Please report any available evidence or supporting document for point V.2.1 illustrating the measures, achievements or challenges faced, relating to the promotion of SRPP.</p>	<p>The ministry of Economic Affairs and Employment <a href="http://tem.fi/en/socially-responsible-public-procurement">http://tem.fi/en/socially-responsible-public-procurement</a></p> <p>The National Institute for Health and Welfare  <a href="https://thl.fi/fi/tutkimus-ja-kehittaminen/tutkimukset-ja-hankkeet/hankinnoista-duunia-handu/in-english">https://thl.fi/fi/tutkimus-ja-kehittaminen/tutkimukset-ja-hankkeet/hankinnoista-duunia-handu/in-english</a></p> <p>Model of promoting employment with procurement  <a href="https://thl.fi/documents/10531/2407080/Toimintamalli_en_netisivuille.pdf/9a46dd5d-651f-48ab-aef7-1744cda83100">https://thl.fi/documents/10531/2407080/Toimintamalli_en_netisivuille.pdf/9a46dd5d-651f-48ab-aef7-1744cda83100</a></p> <p>Hansel's principal of responsible central purchasing - more information about the corporate responsibility actions <a href="#">2016 Corporate Responsibility Report</a>.</p> <p>Hansel's Code of Conduct for Suppliers in ICT (in english from page 26) <a href="http://finnwatch.org/images/pdf/Vastuulliset-hankinnat.pdf">http://finnwatch.org/images/pdf/Vastuulliset-hankinnat.pdf</a></p>

	<p>Experiences of the social criteria in public procurement (abstract in English in the end of the document)</p> <p><a href="http://tem.fi/documents/1410877/2869440/Kokemuksia+sosiaalisten+kriteerien+käytöstä+julkisissa+hankinnoissa.pdf/01cf8f1f-dc5d-4dd1-b183-befa419cd102/Kokemuksia+sosiaalisten+kriteerien+käytöstä+julkisissa+hankinnoissa.pdf.pdf">http://tem.fi/documents/1410877/2869440/Kokemuksia+sosiaalisten+kriteerien+käytöstä+julkisissa+hankinnoissa.pdf/01cf8f1f-dc5d-4dd1-b183-befa419cd102/Kokemuksia+sosiaalisten+kriteerien+käytöstä+julkisissa+hankinnoissa.pdf.pdf</a></p>
<p><b>V.2.3. Quantitative indicators</b></p>	<p><i>This section contains examples of quantitative indicators related to section V.2. Other indicators can also be included in the report.</i></p>
<p>Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section V.2.1 above.</p>	<p>Comprehensive data not available for the year 2017</p>



<p><b>V.3 Public procurement of innovation</b></p>	<p>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&amp;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&amp;D and procurement of innovative solutions.</p> <p>Data about the volume and share of innovative procurements is not yet available. A study was carried out in 2016-2017 to develop methods for data collection and measurement. The following preliminary results were obtained: Roughly half of randomly selected public procurements were based on detailed specifications and price as dominant criterion thus leaving no room for innovative solutions. Less than 10 % of procurement specifications provide some room for innovative solutions. As the data covered only tendering documents, it is not known how many of these resulted in actual contracts for innovative solutions. This will be subject to further investigation. No detailed data is available for the number of pre-commercial procurements in Finland. Some PCP projects have been undertaken, particularly in the transportation sector. However, they appear to be single occasions, not widely spread procurement practice.</p> <p><a href="http://tietokayttoon.fi/julkaisu?pubid=23501">http://tietokayttoon.fi/julkaisu?pubid=23501</a> (In Finnish, includes English summary)</p>
<p><b>V.3.1 Qualitative reporting</b></p>	
<p>Key challenges encountered</p>	<p>Key challenges identified include the following:</p> <ul style="list-style-type: none"> <li>- The government target of 5 % is not clearly specified what it covers. Particularly for service procurement and infrastructure investments which comprise the bulk of all public procurements, the European definitions of PPI and PCP are open to various interpretations.</li> </ul>

- The economic policy objectives related to growth and job creation are not powerful motivators for public procurement authorities as primary rationales for undertaking innovation procurement. They account for public service production, and procurement should bring about improvement in efficiency, effectiveness or sustainability of those services.
- Standardised methods for assessing improvement potential from innovative solutions to public services are not extensively available. Without effective assessment tools which are also accepted by the market players public agencies are likely to perceive procurement of innovative solutions as risky. Legal requirements for tender appraisal warrants assessment of proposals on the basis of objective and measurable criteria.
- Competence is generally insufficient among public procurers. There is qualitative deficiency for skills to undertake innovation procurement. More generally, the scarce resources in procurement functions create pressure for fast execution of procurement projects thus leaving little space for innovation.

Overview of innovation procurement policy and implementation activities:

- The Finnish government has given emphasis on public procurement of innovation by setting an objective that 5 % of all public procurement should be innovative.
- In June 2017 the government made a decision to establish a competence centre for sustainable and innovative procurement. Six million Euro grant funding was allocated for establishment and operation of a 'network based' competence centre. The centre is composed of experts and resources from eight organisations. The Competence Centre for Sustainable and Innovative Procurement KEINO has commenced its operation as of March 2018. The KEINO centre's mission is to promote adoption of sustainable and innovative public procurement, increase the strategic orientation in public procurement, and facilitate formation of buyers' groups, particularly in the government priority policy areas (bio-based and circular economy, digitalisation, mobility, and health and wellbeing).
- An action plan for innovation procurement within the central government was compiled in 2017 and its implementation is currently underway. The action plan outlines sector-specific activities to be undertaken in all policy domains.
- The innovation funding agency Business Finland grants support funding for public procurers to undertake public procurement of innovation. The funding has been available since 2008 and more than 100 projects have been supported so far. In 2017, additional funding allocation was provided to Business Finland to increase its support for innovation procurement.
- The most advanced cities and municipalities have carried out their own development projects on strategic use of public procurement for innovative solutions. Several cities have generated strategic roadmaps in order to identify most

	<p>promising opportunities for procurement of innovative products, services, and solutions. They have also started to collect and analyse data in order to identify the current level of innovation procurement and create a baseline against which to measure progress over time.</p> <ul style="list-style-type: none"> <li>• More emphasis is being put to understand and model expected benefits for public procurers from innovative procurements: contribution of innovative solutions to public service improvement in terms of efficiency, effectiveness, and sustainability. Few policy sectors have set their own targets for innovation procurement. The Health Growth Programme and Transportation Growth Programme have specified public procurement of innovation as a key instrument in fostering innovation and adoption of novel solutions.</li> </ul> <p>Progress has been made among the leading public procurers to pilot practices related to innovation procurement. A remaining challenge is more widespread diffusion of these practices among all central, regional and local government agencies. The development is also somewhat unevenly distributed among the policy sectors.</p>
<p><b>V.3.2. Supporting documents</b></p>	
<p>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>	<p>Programme of Prime Minister Sipilä's Government sets a general target: "An objective is that the level of innovative procurement be 5 per cent of all public procurement."</p> <p><a href="http://valtioneuvosto.fi/en/sipila/government-programme">http://valtioneuvosto.fi/en/sipila/government-programme</a></p> <p>No special national provisions have been made concerning innovation procurement in the Finnish PP legislation. The relevant provisions of the Directive were efficiently transposed in the national Act on Public Procurement and Concession Contracts (1397/2016).</p>

	<p>The national guidelines for the central government procurement provide general guidelines about public procurement of innovation. Innovative public procurement has been defined followingly:</p> <ul style="list-style-type: none"><li>- Innovative public procurement is procurement of new or significantly improved good, service or works which improves productivity, quality, sustainability and/or effectiveness of public services. It may concern the object, process or method of procurement. Innovativeness of procurement object may involve procurement of novel product or service, combination of existing products and/or services or innovative method of procurement. Innovative public procurement can mean also innovation-friendly procurement which involves searching for new solutions or outcomes or triggering innovation involving research and development leading to creation of completely new solutions. <a href="http://vm.fi/julkaisu?pubid=20801">http://vm.fi/julkaisu?pubid=20801</a> (In Finnish only)</li></ul> <p>On national activities on capacity-building on innovation procurement:</p> <ul style="list-style-type: none"><li>- KEINO - Competence Centre for Sustainable and Innovative Public Procurement <a href="http://www.procurementcompetence.fi/">http://www.procurementcompetence.fi/</a></li></ul> <p>Systematic information about outcomes is not yet available. Concerning specific procurement cases there is evidence available about positive impacts on quality and efficiency of public services as well as effects on company growth and R&amp;D activities. More systematic evidence will be collected within the KEINO competence center measurement activities.</p> <p>As regards the government target of 5 % innovative procurement a tick box was built in the national central eNotification platform. The contracting authority is free to estimate has the procurement included innovative aspects. Since it is left for the contracting authority to define the results are not going to be comparable, but the purpose is as well to draw the attention of the contracting authority in considering the issue. This was built in the award notice in the autumn of 2017 and we do not yet have collected this data for the report.</p>
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