

**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**

**General information**

<b>Scope of reporting</b>
<p>New directives in Lithuania were transferred to the national law after 1 January 2017 – <b>the new regulation of public procurements came into force on 1 July 2017.</b></p> <p>The report contains information on the EU Directive Value and Below EU Directive Value Threshold procurements. Quantitative information and indicators of EU Directive Value Procurements have been prepared as per the data of TED open data on Lithuanian contract notices and notices on the contracts concluded in 2017.</p> <p>Other quantitative information that cannot be calculated based on the TED data (green procurements, the scope of participation of micro, small and medium-sized enterprises in procurements, etc.) and information of Below Directive EU Value Threshold Procurements (without low value procurements) has been prepared as per the data of the reports of the public procurement procedures carried out during the period from 1 January 2017 to 30 June 2017 that have been published by the contracting authorities in the Central Public Procurement Information System (hereinafter referred to as the CPP IS).</p> <p>All forms of contract notices and reports have changed after the new regulation of public procurement came into force on 1 July 2017, and the works of modification of CPP IS related to renewal of the forms, collection of data for analysis are still ongoing. The pending quantitative information of 2017 for the second half of 2017 will be supplemented along with the next change of the report.</p>
<b>General information</b>
Number of procurement procedures (i.e. the number of notices announcing a call for competition) Number of awarded contracts

## Information on monitoring and reporting bodies

In accordance with the provisions of part 1 of the Article 98 of the Law of the Republic of Lithuania on Public Procurement (hereinafter referred to as the LPP)<sup>1</sup> and of part 1 of the Article 104 of the Law of the Republic of Lithuania on Procurement carried out by contracting entities that operate in water management, energy, transport and postal services sector (hereinafter referred to as the LP)<sup>2</sup>,  
**the Procurement Monitoring Report is prepared and submitted to the European Commission by Public Procurement Office.**

### **Information for the Procurement Monitoring Report has been provided by the following institutions<sup>3</sup>:**

Ministry of Economy of the Republic of Lithuania;  
Ministry of Environment of the Republic of Lithuania;  
Special Investigation Service of the Republic of Lithuania;  
Financial Crime Investigation Service of the Republic of Lithuania under the Ministry of the Interior of the Republic of Lithuania;  
Competition Council of the Republic of Lithuania;  
Chief Official Ethics Commission;  
Environmental Project Management Agency (APVA);  
Lithuanian Business Support Agency (LVPA);  
Central Project Management Agency (CPVA).

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<sup>1</sup> <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/b63962122fcb11e79f4996496b137f39?jfwid=-wd7z6gl6o>.

<sup>2</sup> <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/f82d89d12fcb11e79f4996496b137f39?positionInSearchResults=0&searchModelUUID=f39213e2-21fb-4de5-83f4-36d4d7c2dedb>.

<sup>3</sup> According to the provisions of part 4 of the Article 98 of the LPP / part 4 of the Article 104 of the LP, at the request of Public Procurement Office the procurement supervisory authorities referred to in part 3 of the Article 92 of the LPP / part 4 of the Article 104 of the LP and the public legal entities administering the financial support of the European Union and individual states authorised by the resolution of the Government of the Republic of Lithuania shall provide the Public Procurement Office with the information on the determined irregularities of this law, on the cases of fraud or corruption when carrying out procurements, and other available information that is necessary for the preparation of the Monitoring Report submitted to the European Commission.

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>	<ul style="list-style-type: none"> <li>• The value of the Below Directive Value Threshold Procurements (without low value procurements)<sup>4</sup> – 1 168,3 MM EUR;</li> <li>• The value of low value procurements<sup>5</sup> – 949, 5 MM EUR;</li> </ul> <hr/> <p>Total value of procurement which would have been covered by the directives if its value had exceeded the relevant thresholds – 2 117,8 MM EUR;</p> <p>The methodology of calculation of the total value of Below EU Directive Value Threshold Procurements is presented in the Annex 1.</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><b>II. 1. 1. Main sources of wrong application or of legal uncertainty</b></p>	<p>After entry into force of the Directives 2014/25/EU and 2014/24/EU the legal system of public procurement in the Republic of Lithuania did not change significantly, but rather got adapted to a new legal regulation.</p>

<sup>4</sup> The data of Below Directive Value Threshold Procurements for the public procurements executed according to the Law on Public Procurement that was in force until 30 June 2017.

<sup>5</sup> For the Low Value Procurements executed in the reporting year 2017.

The most common irregularities which the Public Procurement Office observes in its assessment of both procurement procedures and the execution of public procurement contracts, remain the same over the past few years and remained substantially unchanged after the change of the legal regulation (after the directives were transferred to the national law).

The procurement related problems can be classified as several large groups:

- 1) Problems related to procurement executives;
- 2) Problems related to public procurements in progress and any public contracts resulting therefrom.

#### **Problems related to procurement executives**

It should be noted in this case that public procurement problems are not related to allocating procurers to the particular groups, types, sub-types or activities but rather with well-established cultural, social status, the personnel they have in their possession, differentiation of functions, internal control and the level of corruption tolerance. The procurers of all types are detected to have committed any particular irregularities in the public procurements selected and evaluated according to the risk system, regardless of the value of the procurement, the procurement object or the way of procurement.

When assigning persons to conduct public procurements the heads of contracting authorities must take into account economic, technical, legal knowledge of such persons and their understanding of the legal acts governing public procurement. However, they often fail to do so, or doing this is not always possible, especially in medium-sized or small contracting authorities. Even less this is done in the contracting authorities not having specialised procurement departments.

It can be noted that large contracting authorities employ higher skilled professionals, and therefore, technical errors are less common in such authorities. Furthermore, published procurements are mainly executed in large contracting authorities, and low-value procurements occur less often.

Two concerns can be distinguished at this point: inexperience (lack of knowledge about, failure to take a closer look at the governing legal acts, etc.) and abuse (protectionism, seeking a benefit for oneself, etc.).

There is no certification of public procurement professionals in the Republic of Lithuania so far. This could be a solution for the first concern. But the Public Procurement Office makes every effort to provide methodological assistance, organises training, provides consulting, publishes training material both for contracting authorities and

suppliers. While the second concern cannot be addressed by means of legal regulation because this is more to do with personality values. In addition, it is important to note that in certain cases no effective mechanism was created to manage unclear conflict of interest.

**Problems related to public procurements in progress and any public contracts resulting therefrom**

Within this context, four groups with subgroups could be distinguished:

- 1) Planning and initiating public procurement;
- 2) Preparation of public procurement documents;
- 3) Execution of public procurement procedures;
- 4) Execution of a public procurement contract.

Planning and initiating public procurement

The fundamental problems of the stage of planning and initiating public procurement regarding which the Public Procurement Office in most cases both advises contracting authorities and establishes infringements during evaluation:

- 1) improperly planned funds which leads to inability by contracting authority to enter into a public procurement contract following the completion of public procurement procedures because it receives the tenders with the prices exceeding the value planned, or the tender price corresponding to the market prices even goes beyond the limits of the certain value;
- 2) selection of the Common Procurement Vocabulary (CPV) code – contracting authorities are not always able to assign a correct CPV code, and this is not always because of ignorance but also because there are many overlapping CPV codes. Furthermore, assigning of incorrect CPV code also causes the problems that are associated with calculation of values.
- 3) Splitting/non-splitting of the procurement object into lots. Different variants are possible in this case, e.g.:
  - artificial splitting of the procurement object into smaller ones in order to avoid either a higher public procurement procedure or a published public procurement procedure while limiting the ability of suppliers to participate in public procurements and competitive procedures (published procurements);

- artificial enlargement of procurement object (combination) results in establishment of disproportionately high (superfluous) qualification requirements. As a consequence, competition is restricted, advantageous conditions to protect certain suppliers are created, the market is narrowed, the conditions are created for the emergence of a monopoly;
- 4) agreements for purchase of additional works, goods or services related to the main public procurement contract, though they had to be provided for in advance in the main public procurement contract. The alleged urgency regarding the events “which could not be envisaged” should be distinguished separately, though such the urgency is due to the improper actions of the contracting authority itself, e.g. due to poor planning, artificially, etc.

#### Preparation of public procurement documents

Preparation of public procurement documents can be assigned both to planning and initiating public procurement, and to a group of public procurement execution. However, it should be classified as a separate group because a success of public procurement strongly depends on properly prepared public procurement documents.

Problems in the stage of preparation and publicity of public procurement documents are usually related to two essential elements: ignorance and abuse. The following most common problems can be distinguished:

1. Establishment of the minimum – inadequate deadlines for submission of tenders and applications for the procurement object;
2. Establishment of the minimum permissible number of tenderers called to submit their tenders in the limited procedure, though more tenderers could be called;
3. The European Single Procurement Document (ESPD) – lack of understanding that there is no longer necessary to ask the suppliers to provide documents, that declaration is the only sufficient document, also have no skills of applying the tool itself / do not understand its wording, and this results in misunderstandings during evaluation of declarations.
4. Establishment of excessive, discriminatory, too high minimum qualification requirements or those that are unrelated to the procurement object or that are disproportionate to the procurement object for the supplier or its specialists, e.g.: the requirements for the participants to provide recommendations of significantly higher value previously completed contracts than the value of published public procurement, establishment of too high financial criteria for turnover, too precise, an extended list of mechanisms / equipment (e.g. 10 lorries, three tractors with scoops of a specified size are required to complete the work), etc.

5. The criteria for assessing the cost-effectiveness of tenders (parameters, descriptions, comparative weights) are established in the way that allows the members of the Public Procurement Commission to assess the technical data of the tender in a subjective manner and to select a “proper” supplier. The fact that the contracting authorities don’t know how to/do not attempt to establish transparent and proportionate cost-effectiveness criteria (parameters, descriptions, comparative weights) during the public procurements of works, but rather give priority to subjective parameters that do not have a real impact on the quality of works and the rational use of funds, and therefore, accordingly, when tenders are evaluated, the procurements can be won by the supplier who has skills of writing very good and persuasive “stories”, can be identified as a separate problem.

6. Definition of technical specifications for a public procurement object – a field where many mistakes are made, and this is often because of insufficient skills of or experience in preparation of such documents, specifications are prepared for the certain companies and more favourable conditions are created for the certain suppliers. This is often done by specifying a specific trademark in the technical specification and by preventing offering of other equivalent goods, by adapting the totality of the requirements of the technical specification to the equipment to the equipment of the specific supplier (manufacturer).

7. Failure to provide explanations of the public procurement documents, or provision of unclear explanations. Also providing explanations to the particular concerned suppliers only, or failure to make explanations available in the public domain.

Execution of public procurement procedures;

As well as in the stage of preparation and publicity of the Public procurement documents, in the stage of public procurement procedures are for the most part related to two essential elements: ignorance or abuse. We can distinguish the following most commonly encountered problems:

1. Qualification and tenders of the contracting authority’s suppliers are assessed not in accordance with the requirements established in the public procurement documents, e.g. the tenders do not meet the technical specification, but the tender is considered to be appropriate, the supplier is unreasonably recognized as the supplier who does not comply with the minimum qualification requirements, e.g. the non-established requirements are assessed too, or the tender data provided in accordance with the other form or in other part of the tender are not assessed.

2. The contracting authorities apply the grounds for elimination in an incorrect manner – they are afraid

to apply the rejection ground and this is because of unauthorized contracts, though a contract was executed improperly, the contracting authority does not acknowledge the non-performance of the contract, and other contracting authorities cannot reject the tenders of such suppliers in the procurements;

3. Unwillingness of the contracting authority to carry out electronic procurement, and therefore when possible it tries to avoid them.

4. An unusually low tender price is evaluated formally - when the contracting authority is not sure about the supplier's ability to perform the procurement agreement or requires excessive information, and the suppliers provide with declarative explanations only.

5. Lack of transparency in the actions of the procurers and commissions of public procurements: incomplete protocols of the commission, non-specified specific motives and reasons/explanations for the points awarded and the reasons thereof.

6. The contracting authorities improperly notify (failing to provide all mandatory information) the suppliers on the results of the public procurement, or make the suppliers completely unaware thereof. Such the problems lead to the fact that the tender that is not economically most advantageous wins the public procurement.

7. There are also problems with the tenders of the suppliers – when the suppliers who have offered the lowest price refuse from entering into a contract, or intentionally fail to specify qualification requirements, fail to provide explanations, fail to justify the unusually low price, and as result the contracting authority has no other choice but to enter into a public procurement contract with the supplier who has submitted a more expensive tender.

#### Execution of a public procurement contract

The most common problems related to fulfilment of public procurement contracts, related to the human resources of the contracting authorities because the contracting authorities fail to carry out proper supervision of contract execution – fail to control execution of public procurement contracts, the contracting parties fail to abide with the terms and conditions of contracts, the contracts can be actually changed. Regarding improper supervision of fulfilment of contracts:

1. The goods which do not meet the technical specifications (tenders) are accepted;
2. The maximum quantities established in the public procurement contract are exceeded failing to execute the new public procurement procedures for them;



	<p>3. The public procurement contract is fulfilled by the entities which are mentioned neither in the supplier's tender nor in the public procurement contract;</p> <p>4. The deadlines for the execution of the works, provision of services or delivery of goods established in the public procurement contract are not observed;</p> <p>5. There is a breach of the terms and conditions established in the public procurement contract which are specified by the supplier in the tender and resulting in recognition of the supplier's tender as the most economically advantageous tender, when contention is not limited to the price.</p> <p>6. The provisions of the public procurement contract are formed improperly (e.g. the opportunities for and the terms and conditions of change of the public procurement contract are not provided for, the sufficient measures ensuring execution of the contractual obligations are not established, the essential provisions of the public procurement contract and the grounds and the procedure for termination of the public procurement contract are not established, etc.), and this later results in a more complicated execution of the public procurement contract, causing disputes between procurers and suppliers.</p> <p>7. The contracting authorities rarely take advantage of the opportunity to include the suppliers having infringed the public procurement contract in a list of the Unreliable suppliers;</p> <p>8. Failure to use E.invoice.</p> <p>In light of the fact that public procurements form a significant part of the budget of both the EU and the member states, the aforementioned problems could be addressed through validation of certification of public procurement specialists.</p>
<p><b>II. 1. 2. Specific legal provisions (from EU or national law) which appear to raise significant problems of application</b></p>	<ul style="list-style-type: none"> <li>• Directive 2014/24/EU establishes an obligation to divide tenders into lots in the case of above the threshold procurement. For under the threshold procurement, such division remains a possibility, not an obligation. However PPO notices that when providing arguments for non-division of under the threshold tenders, contracting authorities fail to evaluate whether these arguments are of an objective nature. E. g. most popular explanations are: division into lots means more contracts, hence more human resources are needed to supervise the implementation of the contracts (when in practice similar types of contracts are usually handled by the same person); division of contracts into lots leads to increased prices, since the tender becomes less attractive to economic operators (when in practice division attracts SMEs and increases competition); contracting authority does not divide the tender into lots because the law allows not to (when in practice such decision must be taken after</li> </ul>

	<p>Careful evaluation of all important circumstances – decision’s impact on competition, rational spending, actual supply in the market, etc.).</p> <ul style="list-style-type: none"> <li>• <b>Application of non-competitive procedures</b> (procedures without prior publication) – while national law allows to apply non-competitive procedures in exhaustive list of cases, contracting authorities tend to abstain from evaluation whether non-competitive procedure in that particular case is the most effective.</li> <li>• <b>Application of price-quality ratio</b> – while when evaluating the tenders contracting authority give higher points for certain criteria, in the contract implementation phase these qualitative aspects are not observed, or due to the lack of understanding of the importance of the criteria, they are set unreasonably high or without evaluation of their actual need, which determines that some economic operators do not participate in the procurement, assuming the procurement is rigged or realizing that they do not comply with the criteria, without investing human, financial and time resources to challenge them.</li> <li>• <b>Current notification form</b> does not require to provide information that will be provided in tender documents, accordingly, modification of notification will not be necessary if there are changes in tender documents. As a result, some contracting authorities fail to properly inform economic operators about changes made in tender documents, which results into failure to submit the bid according to the requirements.</li> </ul> <p><b>Publication of contracts and confidentiality</b> – national law sets an obligation to publish the winning tender, the contract and its modifications on a national e-procurement platform CPP IS. However, some contracting authorities tend to cover up certain parts of the published contracts and deem them confidential without giving any proper explanation, even though publishing the contract without that information becomes useless (e.g. price, valuations, etc.).</p>
<p><b>II. 1. 3. 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 applica-</b></p>	<p>Following the analysis of the public procurements evaluated by over the last Public Procurement Office few years and the public procurement contracts, some trends associated with the specific mistakes made during execution of public procurements in certain sectors could be distinguished:</p> <ol style="list-style-type: none"> <li>1) The problems of the public procurements of renewal of the technical equipment of the halls of cultural and leisure centers: the contracting authorities try to avoid dividing the procurement object consisting of different groups of goods (sound, cinema technologies, lighting, audiovisual and / or conference equipment) into lots, and try to purchase everything during one procurement, thus restricting competition or forcing the suppliers to form groups with other suppliers. Improper maintenance of the experience gained by the advisers of the contracting</li> </ol>

<p><b>tion of the rules, but nonetheless point at structural or recurring problems yielding a sub-optimal outcome.</b></p>	<p>authorities can be also noticed, i.e. when the technical specification of renewal of stage, lighting and other equipment is prepared as per the descriptions of the specific goods, and this results in restriction of competition, and only the representatives of the specific manufacturer can take part in the public procurement;</p> <p>2) Problems of the field of medicine:</p> <p>a. Acquisition of medical equipment: when preparing a technical specification of medical equipment the contracting authority selects a specific article of a specific manufacturer, and transfers from the information leaflet of the manufacturer (brochures, the specifications available in the website) to the technical specification of the terms and conditions of the public procurement not only the general requirements directly related to the functional properties of the item, but also the specific requirements that can only be met by the specific item of that specific manufacturer;</p> <p>b. Acquisition of the medical measures designed for operating the equipment that is already in the possession: the several trends can be noticed in this case:</p> <p>i. The contracting authority on the grounds of lease, lending, donation, etc. receives medical equipment free of charge or for a very low price, and later, without any competition (through a non-public procurement method) acquires equipment consumables (reagents) for a higher price than under competitive conditions from the entity which has provided with medical equipment;</p> <p>ii. The contracting authority launches a call for tenders by specifying the equipment that is in its possession (the life cycle of which is often expired), and specifies in the requirements of the technical specification of the terms and conditions of the public procurement the specific requirements for consumables (reagents) posed namely by the already available equipment, preventing the suppliers from offering alternatives and, at the same time, allowing only the specific supplier to take part in the openly announced public procurement;</p> <p>iii. The contracting authority launches a call for tenders for consumables (reagents) of the equipment that is in its possession (the life cycle of which is often expired), and allows the suppliers to supply equivalent equipment, but establishes very specific requirements of the equipment that is already in its possession in the requirements of the technical specification of the terms and conditions of the public procurement, and requires the suppliers to provide with the proofs of equivalence thereof, and thus restricts a competitive environment.</p>
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3) The problems of the field of water management (the similar trends can be also seen in other procurements of the infrastructure objects). Three essential trends could be distinguished in this case:

a. Unduly adapted procurement method – restricted procurement procedure. Even though the procurement method itself is good and appropriate, the conditions of adaptation thereof established in the terms and conditions of the public procurement, by limiting the number of the suppliers involved and their selection, are inadequate. In order to select a supplier with the highest qualification, the contracting authority sets the qualification criteria, for example, a number of the contracts of the appropriate value which are already fulfilled and/or those in progress, the average annual income related to the procurement object, the specialist experience, etc., and points out that the highest number of points will be awarded to the candidate having the highest number of the contracts requested, the highest income, etc. In order to meet such the qualification requirements the suppliers form larger groups of entities with other suppliers. However, it can be noticed in practice that such formation of groups with other suppliers is of non decisive importance for proper fulfilment of contract because in reality the contract is fulfilled by only one or two joint-activity partners of, e.g. five partners. Such the situation occurs when the number of agreements in possession of or income of the group of entities awarded with the highest number of points during the selection procedure becomes disproportionately large compared with the procurement object and is beyond what is reasonably necessary.

b. It often happens that after completing the qualification selection it turns out that the maximum point of the qualification selection has been achieved by the candidates the number of which exceeds the number of the candidates who will be called to submit tenders established in the procurement documents. In such cases, as per the practice that existed so far, the candidates who have lodged their applications at the earliest are called to submit their tenders. In the opinion of PPO, this practice is perverse and should be changed because thus the candidates compete for a velocity of submission of an application, not for a qualification. In order to avoid this and taking into account the essence of the limited selection of the tender – to select the most qualified candidates who will submit tenders, it must be established in the procurement documents that if the maximum number of points is achieved by the candidates the number of which exceeds the number of the candidates that are planned to be called to submit their tenders, the contracting authority will call all candidates who have achieved the maximum number of points;

	<p>c. The criterion of evaluating an economic advantage is applied improperly – when creative and persuasive “stories” are evaluated. The contracting authorities often establish the criteria that cannot be evaluated in a quantifiable manner (e.g. deadline, productivity, operating costs, etc.), but, though related to the procurement object, are descriptive by their nature (e.g. risk management, perception of the environment, communication, organisation of works, environmental measures and application of management systems, etc.), and the suppliers must provide with the subjectively evaluated descriptive documents, i.e. creative and persuasive “stories”. In addition, very high values are established for such criteria, sometimes even 60 percent.</p>
<p><b>II. 2 Supporting documents</b></p>	
	<p>In order to help contracting authorities and suppliers Public Procurement Office provides methodological support both in a specific case and a systematic support. Also makes publicly available good practices as well as conclusions and reports of procurement evaluations. Please find the examples listed below that are available in Lithuanian language only:</p> <ol style="list-style-type: none"> <li>1) Conclusions and reports of the evaluation of the procurement procedures:  <a href="http://vpt.lrv.lt/lt/ukio-subjektu-prieziura/isvados-ataskaitos/viesieji-pirkimai-atliekami-pagal-lr-viesuju-pirkimu-istatyma-1">http://vpt.lrv.lt/lt/ukio-subjektu-prieziura/isvados-ataskaitos/viesieji-pirkimai-atliekami-pagal-lr-viesuju-pirkimu-istatyma-1</a></li> <li>2) Conclusions and reports of evaluation of public procurement contracts:  <a href="http://vpt.lrv.lt/lt/ukio-subjektu-prieziura/isvados-ataskaitos/pirkimo-sutartys-sudarytos-atlikus-pirkimo-proceduras-pagal-viesuju-pirkimu-istatyma">http://vpt.lrv.lt/lt/ukio-subjektu-prieziura/isvados-ataskaitos/pirkimo-sutartys-sudarytos-atlikus-pirkimo-proceduras-pagal-viesuju-pirkimu-istatyma</a></li> <li>3) Good practice:  <a href="http://vpt.lrv.lt/lt/konsultacine-medziaga/perkanciosioms-organizacijoms/vpi/geroji-praktika">http://vpt.lrv.lt/lt/konsultacine-medziaga/perkanciosioms-organizacijoms/vpi/geroji-praktika</a></li> <li>4) Training material:  <a href="http://vpt.lrv.lt/lt/konsultacine-medziaga/perkanciosioms-organizacijoms/vpi/mokymu-medziaga-1">http://vpt.lrv.lt/lt/konsultacine-medziaga/perkanciosioms-organizacijoms/vpi/mokymu-medziaga-1</a></li> <li>5) Frequently Asked Questions:  <a href="http://vpt.lrv.lt/lt/duk?query=&amp;search=&amp;category%5B%5D=5">http://vpt.lrv.lt/lt/duk?query=&amp;search=&amp;category%5B%5D=5</a></li> <li>6) About public procurements in a plain manner:  <a href="http://vpt.lrv.lt/lt/konsultacine-medziaga/perkanciosioms-organizacijoms/vpi/apie-viesuosius-pirkimus-paprastai-2">http://vpt.lrv.lt/lt/konsultacine-medziaga/perkanciosioms-organizacijoms/vpi/apie-viesuosius-pirkimus-paprastai-2</a></li> </ol>

	<p>7) Consultation archive until 1 July 2017 when new laws came into force by transferring 2014/24/EU and 2014/25/EU directives: <a href="http://vpt.lrv.lt/lt/konsultacine-medziaga/perkanciosioms-organizacijoms/vpi/archyvas">http://vpt.lrv.lt/lt/konsultacine-medziaga/perkanciosioms-organizacijoms/vpi/archyvas</a></p> <p><b>Several direct links concerning the problems raised:</b></p> <p>1) Dividing tenders into lots – informational communication regarding the malpractices in application of this requirement (only available in Lithuanian): <a href="http://vpt.lrv.lt/lt/naujienos/parengeme-informacini-pranesima-del-pirkimo-objekto-skaidymo-i-dalis">http://vpt.lrv.lt/lt/naujienos/parengeme-informacini-pranesima-del-pirkimo-objekto-skaidymo-i-dalis</a></p> <p>2) Change of the procurement documents after their publication: the procurement should be terminated if the essential terms and conditions are changed, and a new call for tenders shall be launched after completion of clarification of the terms and conditions. <a href="http://vpt.lrv.lt/uploads/vpt/documents/files/pranesimas.pdf">http://vpt.lrv.lt/uploads/vpt/documents/files/pranesimas.pdf</a></p> <p>3) Confidentiality requirements <a href="http://vpt.lrv.lt/uploads/vpt/documents/files/konfidencialumas_atnaujinta2017.pdf">http://vpt.lrv.lt/uploads/vpt/documents/files/konfidencialumas_atnaujinta2017.pdf</a></p> <p>4) Guidelines for evaluating the most economically advantageous tender: <a href="http://vpt.lrv.lt/uploads/vpt/documents/files/ENPV_gaires_galutinis_su%20logo%202018_02_13.pdf">http://vpt.lrv.lt/uploads/vpt/documents/files/ENPV_gaires_galutinis_su%20logo%202018_02_13.pdf</a></p> <p>5) Establishment and justification of unusually low price offered or costs: <a href="http://vpt.lrv.lt/uploads/vpt/documents/files/Neiprastai-mazos-kainos-ar-sanaudu-nustatymas-ir-pagrin-dimas-gaires(1)(1).pdf">http://vpt.lrv.lt/uploads/vpt/documents/files/Neiprastai-mazos-kainos-ar-sanaudu-nustatymas-ir-pagrin-dimas-gaires(1)(1).pdf</a></p> <p>Supporting documentation for other above mentioned cases is unavailable, since these trends are noticed when evaluating specific procedures, in conversations with contracting authorities and economic operators, etc.</p>
<p><b>II. 3. Quantitative indicators</b></p>	
<p><b>II. 3. 1. Indicators about the national review system</b></p>	<p><b>The scope of claims addressed to the procurers and of the actions brought before the court</b></p> <p>Information on whether claims have been made to the procurer in connection with the procurement procedures<sup>6</sup> the procurer, and whether the claim has been brought before the court is accumulated in the reports of public procurement procedures published by the procurers in the CPP IS. On the basis of this information it is possible</p>

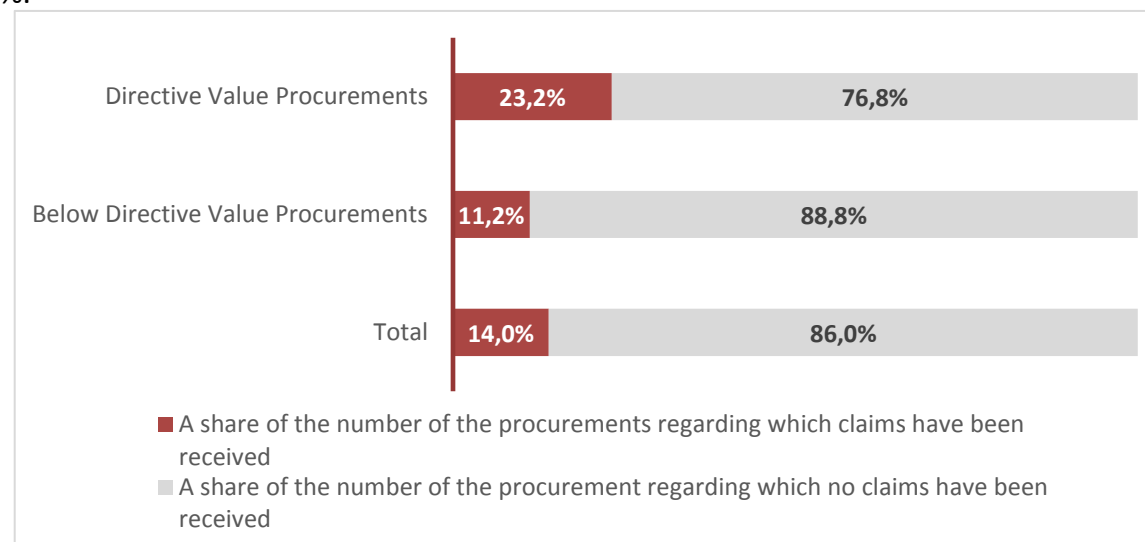
<sup>6</sup> The data of Directive and Below Directive Value Threshold Procurements (without low value public procurements).

to find out whether the procurement procedures were contested by claims or the actions brought before the court, but it is impossible to find out how many claims were received in connection with one or other procurement procedure.

The scope of complaining against the procurement procedures by making claims or bringing actions before the court in 2017 is determined on the basis of the data of these reports<sup>7</sup>:

- **claims have been made to the procurers** regarding 1 069 public procurement procedures, i.e. regarding 14% of the number of the procurement procedures carried out during this period, of them:
  - 1) regarding 23,2% (407) of Directive Value Threshold Procurement Procedures;
  - 2) regarding 11,2 % (662) Below Directive Value Procurement Procedures.

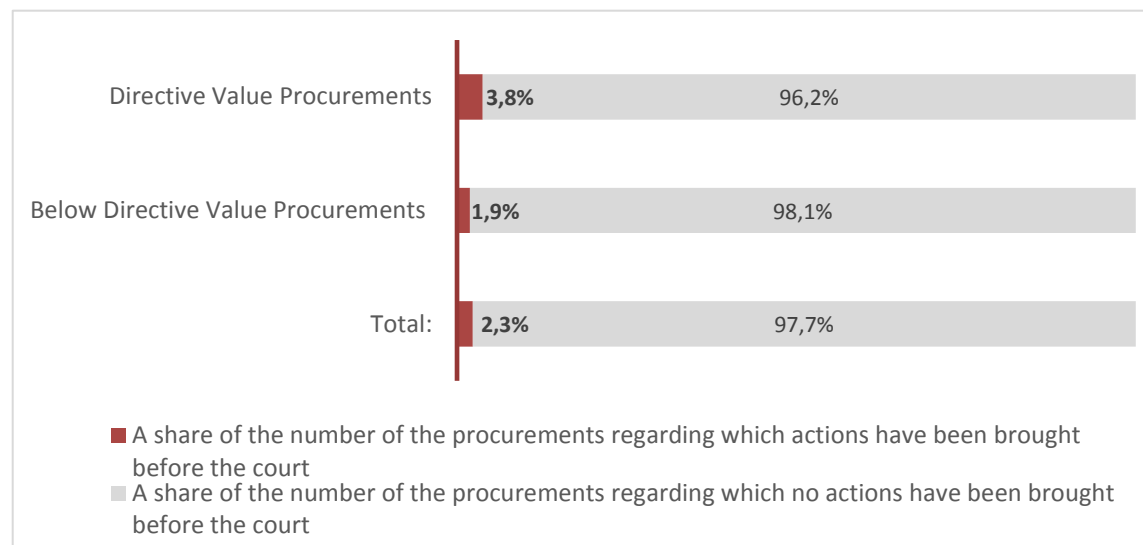
**Fig. 2. 1** The number of the procurement procedures in connection with which claims have been received by the procurers, %.



<sup>7</sup> Data are provided on the public procurements carried out according to the Law on Public Procurement that was in force until 30 June 2017.

- **actions have been brought before the courts** regarding 178 procurement procedures, i.e. regarding 2.3% of all procurement procedures that took place during that period:
  1. regarding 3.8% (66) of Directive Value Threshold Procurement Procedures;
  2. regarding 1.9% (112) of Below Directive Value Threshold Procurement Procedures.

**Fig. 2. 2** The number of the procurement procedures in connection with which the actions have been brought before the courts, %





### **The scope of public procurement proceedings, duration of the proceedings, results**

Information has been prepared on the basis of the data provided by the National Courts Administration<sup>8</sup> (hereinafter referred to as the NCA) on the public procurement proceedings that have been closed in 2017.

311 proceedings in total related to public procurements have been closed **at the courts of first instance**, 41% of them were the proceedings related to Directive Value Threshold Procurements, and 59% of them were the proceedings related to Below Directive Value Threshold Procurements (see table 2. 1).

100 appeal proceedings have been held **at the courts of higher instance**, 36% of them regarding Directive Value Threshold Procurements, 64% regarding Below Directive Value Threshold Procurements.

**Table 2. 1** The scopes of the closed proceedings related to public procurements

Distribution of the number of the closed proceedings						
Court competence	Directive Value Threshold Procurements	A share of the total number of the closed proceedings, %	Below Directive Value Threshold Proceedings	A share of the total number of the closed proceedings, %	The total number of the closed proceedings	%
Court of first instance	131	42,1%	180	57,9%	311	75,7%
Appellate court	36	37,1%	61	62,9%	97	23,6%
Court of cassation	-	0,0%	3	100,0%	3	0,7%
<b>Total:</b>	<b>167</b>	<b>40,6%</b>	<b>244</b>	<b>59,4%</b>	<b>411</b>	<b>100,0%</b>

**Duration of the proceedings** *at the courts of first instance* is regulated by part 4 of the Article 423<sup>8</sup> of the Code of Civil Procedure of the Republic of Lithuania (hereinafter referred to as the CCP): “The adjudication must be adopted not later than within sixty days from the date when the action was brought before the court”. *At appellate courts* – by part 3 of the Article 423<sup>9</sup> of the CPP: “The adjudication in the proceeding on the appeal must be adopted not later than within forty five days from the date of receipt of the case at the appellate court”.

<sup>8</sup> <http://liteko.teismai.lt>.

The average duration of the closed proceedings:

- 66 days at the courts of first instance, 43 days at the appellate courts and 176 days at the courts of cassation.
- The proceedings of Directive Value Threshold Procurements took on average 61 day, and the proceedings of Below Directive Value Threshold Procurements took on average 62 days.
- The overall duration of the proceedings related to public procurements was 62 days (see table 2. 2).

The actual duration of the proceeding is calculated from the date when the action was brought before the court to the date of closure of the proceeding.

**Table 2. 2** The average duration (in days) of the closed proceedings related to public procurements

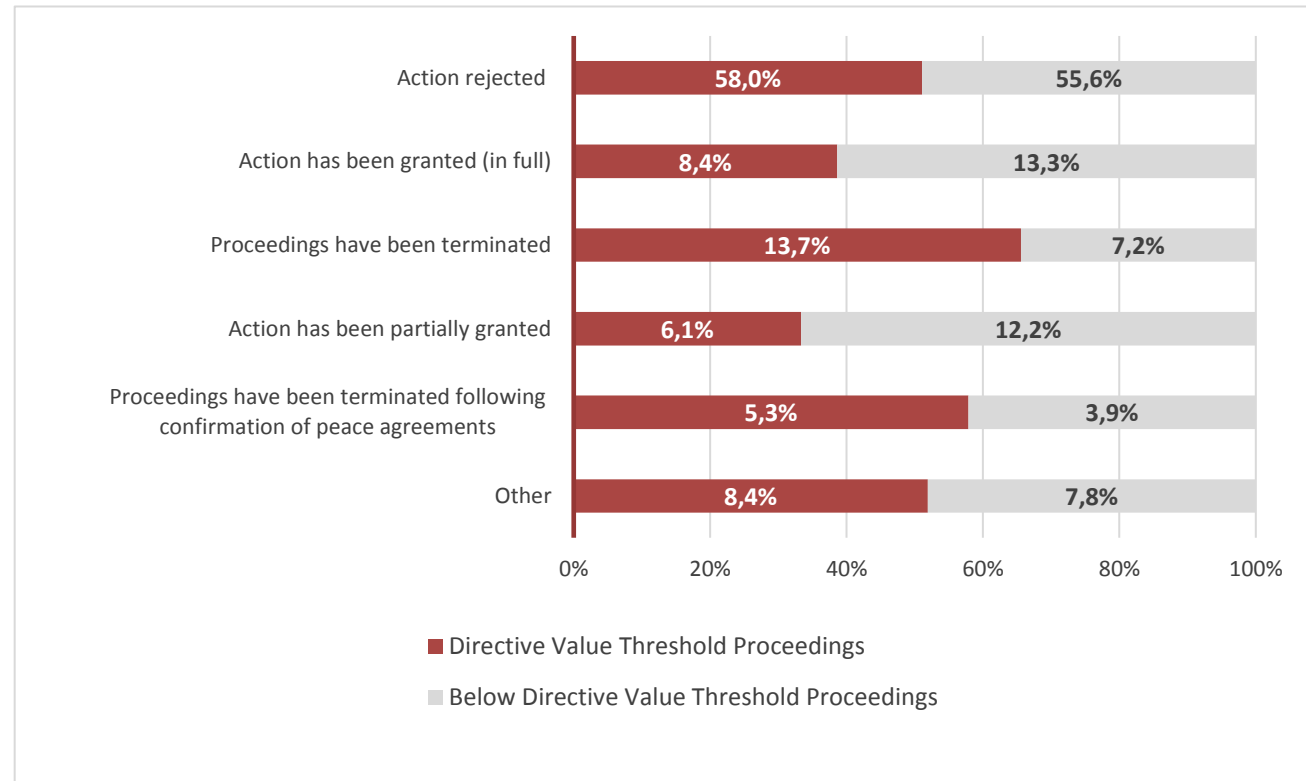
The average duration (in days) of the closed proceedings			
Competence of the court	Directive Value Threshold Procurements	Below Directive Value Threshold Procurements	Average
Court of first instance	66,8	66,2	66,4
Appellate court	40,0	45,0	43,1
Court of cassation	-	175,7	175,7
<b>Average</b>	<b>61,0</b>	<b>62,2</b>	<b>61,7</b>

**Results of proceedings**

The most common result of the proceedings closed *at the courts of first instance* – “the action rejected” accounted for 57% of all public procurement proceeding that have been closed in 2017. The action rejected in the Directive Value Threshold Procurements accounted for 58%, in the Below Directive Value Threshold Procurements accounted for 56%.

The action has been granted in full for the benefit of the claimant at the courts of first instance in 11% (35 proceedings) of all the proceedings that have been closed at the courts of first instance. The partially granted action accounted for almost 10% (30 proceedings) of all the proceedings closed at the courts of first instance. The total number of the actions granted (in full and partially) accounted for 21% of all the proceedings closed at the court of first instance.

**Fig. 2. 3** Percentage distribution of the results of the closed proceedings



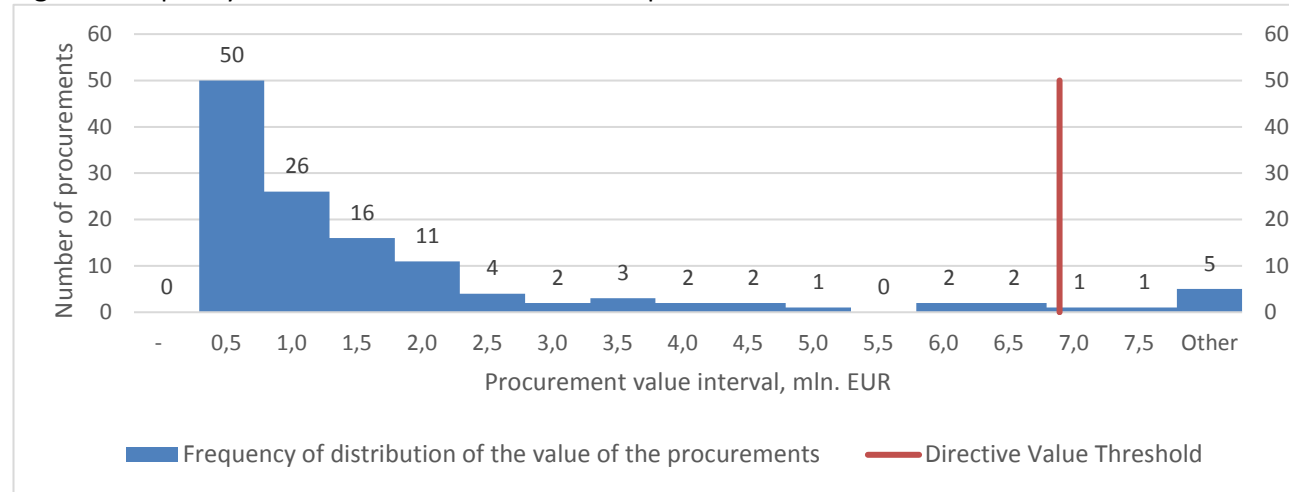
Information has been prepared as per the data provided by the National Courts Administration (hereinafter referred to as the NCA)<sup>9</sup>.

<sup>9</sup> <http://liteko.teismai.lt>.

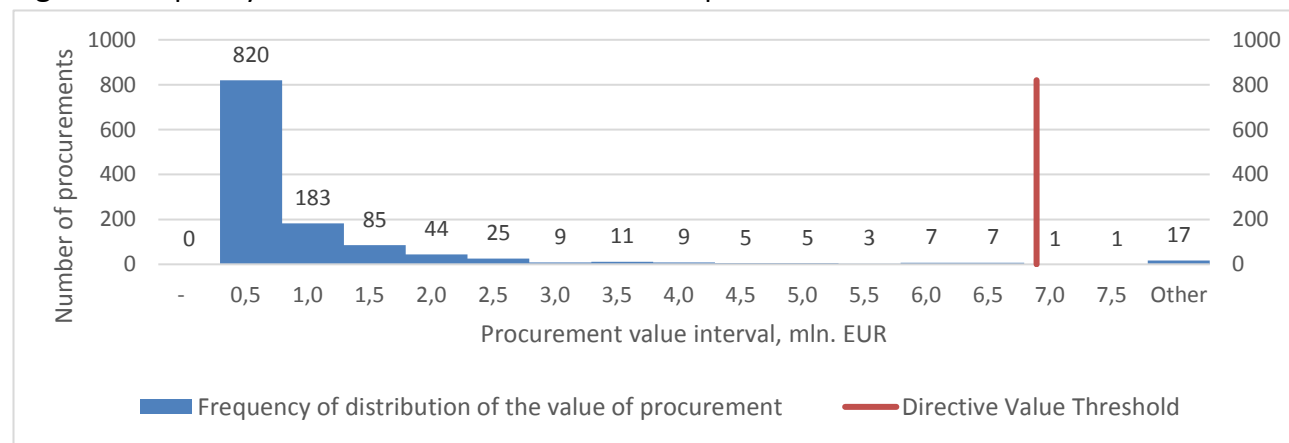
<p><b>II. 3. 2. Histogram of values of procedures, covering also procedures below the thresholds</b></p>	<p><b><u>Frequency of distribution of the procurement values around directive value threshold</u></b></p> <p>The following should be used for determination of frequency of distribution of procurement values around Directive value threshold:</p> <ul style="list-style-type: none"> <li>• <b>for Directive Value Threshold Procurements</b> – the data of Tenders Electronic Daily (hereinafter referred to as TED) of 2017<sup>10</sup>, without the data of preliminary contracts and the contracts of dynamic procurement system;</li> <li>• <b>for Below Directive Value Threshold Procurements</b> – the data of the procurement procedure reports submitted by the contracting authorities to Public Procurement Office and published in CPP IS.</li> </ul> <p>The procurement value has been calculated as the value of all contracts entered into during the procurement procedures of the relevant procurement.</p> <p>Because of application of different Directive Value Threshold frequency of distribution of procurement values is shown separately by the central contracting authorities belonging to the system of the state administration entities (hereinafter referred to as the Central CAs) and other contracting authorities (hereinafter referred to as Other CAs).</p> <p>Frequencies of procurement values are also divided as per the types of procurement object into goods along with services and by separating works. The procurement values are divided into intervals: goods-services every 10.000 EUR, works – in intervals of 500 000 EUR.</p> <p>Diagrams presented in figures 2.4-2.7 show frequency of distribution of procurement values for Directive Value Threshold Procurements and Below Directive Value Procurements jointly, by attributing procurements to the relevant interval of values as per the value of the contracts entered into during the procedures of the relevant procurement.</p>
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<sup>10</sup> <https://data.europa.eu/euodp/lt/data/dataset/ted-csv>.

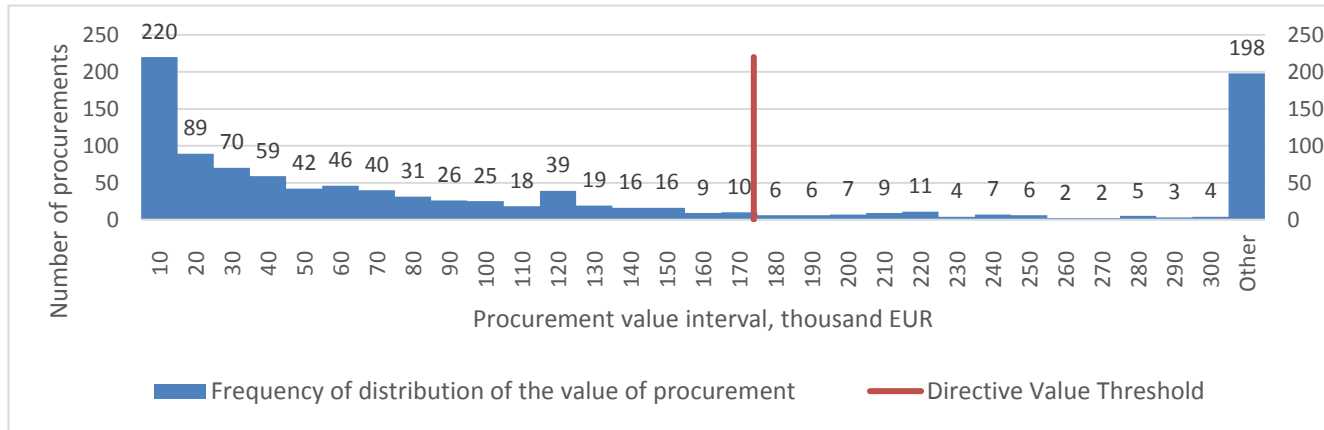
**Fig. 2. 4** Frequency of distribution of the value of the procurements of works of the Central CAs



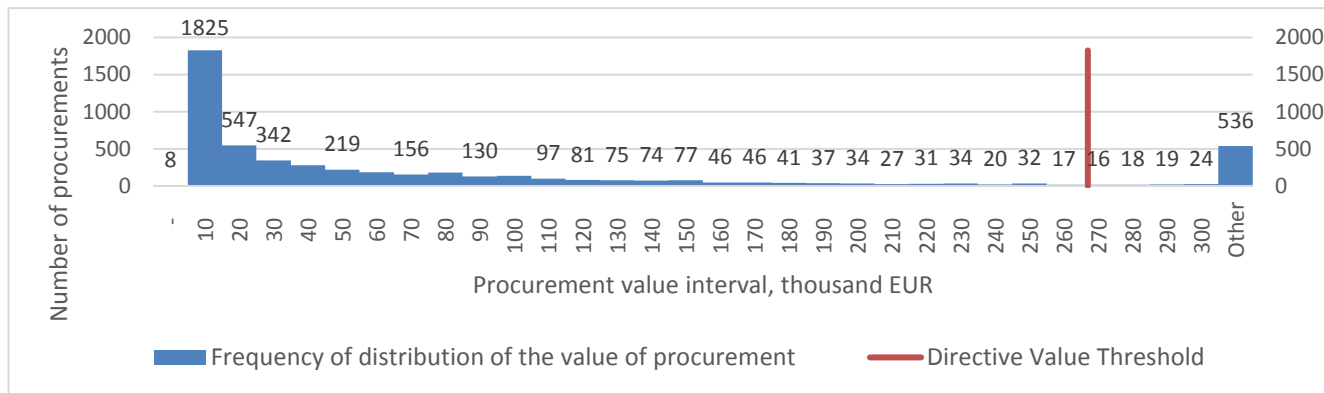
**Fig. 2. 5** Frequency of distribution of the value of the procurements of works of Other CAs



**Fig. 2. 6** Frequency of distribution of the value of the procurements of goods and services of the Central CAs



**Fig. 2. 7** Frequency of distribution of the value of the procurements of goods and services of Other CAs



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

<b>III.1. Qualitative reporting on fraud, corruption, conflict of interests etc.</b>	
<b>III. 1. 1. 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</b>	<p><b><i>The key measures that have been put in place and institutional arrangements made:</i></b></p> <p><u>Public Procurement Office</u> is the main institution responsible for public procurement control. Public Procurement Office monitors public procurement procedures, prevents violations, considers cases of administrative offences. Upon establishment of violations of the Law on Public Procurement (hereinafter – LPP), Public Procurement Office has a right to oblige contracting authority to cancel the public procurement procedures, annul or overturn the decisions made. Upon establishment of violations of LPP and possible manifestations of corruption, violations of competition law, adulterate of documents Public Procurement Office has a right to forward the material for further investigation to the law enforcement institutions (i. e. Lithuanian Special Investigation Service, Competition Council). Additionally, Public Procurement Office has a right to appeal to the court for the protection of public interest with the request to terminate the contact or framework agreement or apply alternative sanctions.</p> <p><u>Special Investigation Service</u> (hereafter – STT) is the main law enforcement institution to investigate fraud or corruption related crimes.</p> <p><u>The National Audit Office</u> is an institution performing public (financial (regularity) and performance) audit. One of the main goals of the National Audit Office is to supervise the lawfulness and effectiveness of the management and use of the State property and execution of the State budget.</p> <p>The newly amended Law on the STT (2017-12-19 No. XIII-938) has established the new function of the STT – Analytical Anti-Corruption Intelligence. Para. 1-3 Art. 8 of the Law provide for the right of the STT to obtain information resources, data and documents as well as other information necessary to carry out its functions. While Art. 9 of the Law on the Special Investigation Service foresees that information collected and processed during the Analytical Anti-corruption Intelligence may be provided to the state or municipal authorities and officials authorized to take decisions that are significant in terms of reducing corruption, in order to neutralize the</p>

	<p>threats and risks of corruption before they become criminal acts. Thus, the newly institutionalized mechanism also allows to detect and/or prevent possible risks, breaches and irregularities in the public procurement process.</p> <p>Moreover, in the framework of the Operational Programme for the European Union Funds' Investments in 2014–2020 (which encompasses public procurement procedures) STT:</p> <ul style="list-style-type: none"> <li>- Investigates and reveals corruptive criminal acts and implements anti-corruption measures;</li> <li>- Organizes meetings with interested institutions for the provision of methodological and practical assistance of the suspected corrupt offenses;</li> <li>- STT provides information to the Programme Managing authority on alleged crimes of corruptive nature;</li> <li>- Implements anti-corruption measures, participates in the preparation of the legal acts, regulating the administration and financing of the operational Programme, and provides recommendations to the responsible institutions on their amendment and improvement.</li> </ul> <p>STT, The Ministry of Finance, the Implementing Agency and the Managing Authority of the Programme are foreseen to inform each other about the alleged criminal offense of a corrupt nature.</p> <p>It has to be mentioned that in Lithuania there is National Anti-Corruption Programme of 2015-2025<sup>11</sup> and Inter-agency Implementation Plan<sup>12</sup> which were developed and their implementation organised and controlled by the Government (the task was given to the Ministry of Justice) in co-operation with the Special Investigation Service (STT)<sup>13</sup>. The National Anti-Corruption Programme and its Implementation Plan provide many anti-corruption measures, including public procurement area. STT contributes to increasing integrity in the public procurement area by conducting anti-corruption assessment of laws and draft laws, corruption risk analysis, taking part in the development of the National Anti-Corruption Programme and a sectoral Corruption Prevention Programme in Public Procurement. Implemented measures according to the National Anti-Corruption Programme are:</p>
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<sup>11</sup> Online access (in English): [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=1040477](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=1040477)

<sup>12</sup> Online access (in Lithuanian): [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=1046517&p\\_tr2=2](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=1046517&p_tr2=2)

<sup>13</sup> <http://www.stt.lt/en/>



	<ol style="list-style-type: none"> <li>1) Limited implementation of “in house” contracts. Our parliament reacted to STT’s, Public procurement office’s and Competition council’s opinions and limited implementation of “in house” contracts in new Public procurement law.</li> <li>2) In CPP IS publication of data about suppliers who failed to fulfil or failed to implement a procurement contract and this was a substantive breach of the procurement contract due to the supplier's fault.</li> <li>3) Public procurement office manuals concerning evaluation of the most economically advantageous tender, design service procurements, assessment of supplier's exclusion bases, qualifications, quality management systems and environmental management system standards.</li> <li>4) Promoting new type of innovative and pre-commercial public procurement Public procurement office manuals concerning organization and execution of pre-commercial procurement and innovative procurement.</li> </ol> <p>Other measures/mechanisms include:</p> <ol style="list-style-type: none"> <li>1) When there is a matter of international procurement, into public procurement commissions as members include representatives of contracting authority's founder or other controlling entity and representatives of the public – as observers;</li> <li>2) Development of CPP IS;</li> <li>3) Development of Central contracting authority’s (CPO LT) electronic system which would allow to purchase more goods, services and works in one place electronically;</li> <li>4) Development of Public procurement risk management information system;</li> <li>5) Improve system of public procurement disputes.</li> </ol> <p>During 2017, STT performed 6 corruption risk analysis<sup>14</sup> (CRA) concerned public procurement in municipalities, ministries and state owned enterprise. Some irregularities in practice organising and executing procurements were found by STT and suggestions to improve situation were given, like:</p> <ol style="list-style-type: none"> <li>1) To determine the order of formation of contracting authority's need for purchases;</li> </ol>
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<sup>14</sup> Online access (in Lithuanian): <http://www.stt.lt/lt/menu/korupcijos-prevencija/korupcijos-rizikos-analize/2017-metu-rizikos-analizes/>

- 2) To impose higher reputational, impartial and confidential requirements to initiators of purchases;
- 3) More often publish technical specifications for purchases;
- 4) To establish a mandatory rotation of members of procurement commissions and purchasers;
- 5) In the composition of public procurement commissions do not include persons who are banded by subordination relationships.

Moreover, STT collected all information about risks that were found performing CRA and anti-corruption assessments of laws and draft laws and with possible solutions prepared a draft to send to main contracting authorities (municipalities and ministries) to get feedback what actions have been done controlling corruption risks and what are other possible good practice to eliminate corruption risks (ongoing activity).

The Special Investigation Service in accordance with its competences collects the information (regarding the person who's integrity should be checked – for example person who's seeking position as a Head of the Office responsible for the public procurements) from law enforcement, control, criminal intelligence subjects or the main criminal intelligence institutions, intelligence institutions, and other institutions, establishments and companies, data from civil service register, if necessary – from other state and service registers or information systems, as well as its own classified and unclassified information about a person, and provides it to the party that is designating or has designated a person for office.

Anti-corruption education in 2017 was focused on education in the most risky sectors, including the field of public procurement. In 2017 STT officials organized 146 seminars for risky public and private sector representatives, in which nearly 6,000 listeners participated. Also in 2017, a short video lecture on "Corruption Risk in Public Procurement" has been presented by STT on the YouTube channel, which has been viewed already by nearly 400 viewers.

Video link here: <https://www.youtube.com/watch?v=Yb2fO4HQLig&t=125s>

In 2018, STT continues thematic anti-corruption education seminars and most of the lectures planned for the first half of 2018 focused on the corruption in public procurements topic.

**Channels for the reporting corruption (applicable to the public procurement infringements also):**

Mobile app "Pranešk STT" ("Report to the STT");

	<p>Website <a href="http://www.stt.lt">www.stt.lt</a> (in English <a href="http://www.stt.lt/en">http://www.stt.lt/en</a>);  By phone “Hot line” 24/7, Nr.852663333 (from outside the Country +37052663333);  By e.mail <a href="mailto:pranesk@stt.lt">pranesk@stt.lt</a>.</p>
<p><b>III. 1. 2. 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</b></p>	<p><b>The key measures that have been put in place:</b></p> <p>The Article 21 (1) of the LPP states that conflicts of interest cover any situation where employees, Public Procurement Commission members or experts, observers of the contracting authority or of a procurement service provider acting on behalf of the contracting authority who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure. In order to prevent conflicts of interest in public procurement contracting authorities have to require the above listed individuals to sign a declaration of impartiality before starting to perform assigned duties. The form of declaration of impartiality is approved by the Chief Official Ethics Commission and Public Procurement Office of the Republic of Lithuania.</p> <p>Declaration of impartiality is: 1) an obligation to perform the assigned duties objectively, in a business-like manner, without prejudice, according to the principles of suppliers equality, non-discrimination, proportionality, mutual recognition and transparency, 2) an obligation to inform the head of contracting authority about the probable conflict of public and private interests, in case of any of the following circumstances:</p> <ul style="list-style-type: none"> <li>• It becomes clear that my spouse, close relative or a legal person, governed by such person participates in a certain procurement as a supplier ;</li> <li>• Me, my spouse or close relative has some kind of interest in certain suppliers success in the procurement (membership in governance of supplier, owning a part of statutory capital of the supplier, receiving any type of income from the supplier)</li> <li>• Exist are any other circumstances that impede keeping to the principles listed above.</li> </ul> <p>If contracting authority receives valid information that the individual listed in the Article 21 (1) of the LPP possibly has got into the situation of conflict of interest and has not resigned from the decision making or observing process, the head of contracting authority suspends participation of that individual in the public procurement process and starts investigation of his/her activity. Upon establishment of the conflict of interest, the head of contracting</p>

authority eliminates that individual from the decision-making or observing process and evaluates whether an exclusion ground of supplier has arisen.

Contracting authorities are required to exclude from participation in a procurement procedure any supplier where a conflict of interest within the meaning of Article 21 of LPP cannot be effectively remedied by other less intrusive measures.

Additionally to the measures described above, The Law on the Adjustment Of The Public And Private Interests in the Civil Service requires from the Members of Public Procurement Commission or other individuals assigned to exercise the simplified public procurement procedures or the experts of public procurement to declare the private interests before starting to perform assigned duties.

The Chief Official Ethics Commission has approved the Guidelines on the determination of conflict of interests, arising in public procurement. This document is a methodological tool for the heads of contracting authorities and helps to minimize the risk of conflict of interest in public procurement.

The main responsibility for controlling conflicts of interests lies with the Chief Official Ethics Commission. There were changes made to Law on the Adjustment of public and private interests in the civil service<sup>15</sup> and since 2018-01-01 all (not only civil servants) members of public procurement commissions have to declare their private interests before starting duties. However this rule do not apply to members of public procurement commissions who organise public procurement procedures according to communal sector law (applicable to water, energy, transport or postal services contracting entities).

Proactive uncontrolled public and private interests. A common situation is when business and government representatives have different ties to each other: they can study, work or spend time together, they can belong to the same political party or be related to the relationship of kinship and marriage. The connection of individuals is not evaluated negatively, until does not cause a conflict of interest. Currently, in Lithuania, only those from all possible conflicts of public and private interest are investigated, that become publicly known. Unidentified conflicts of interest increase the risk of occurrence of corruption and cause damages to the state when such an interests of business or individuals are satisfied. It was noticed that business seeks to have as many links to the public institutions or politicians as possible. Often, entrepreneurs themselves become politicians and unfortunately,

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<sup>15</sup> Online access (in Lithuanian): <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.41669/grnNIKfGyo>

	<p>there is no effective proactive control of public and private interests in Lithuania, which would allow identification of potential conflicts of interest in advance and prevent the adoption of decisions unprofitable for the state, yet. But the aforementioned Analytical Anti-Corruption Intelligence allows to conduct network analysis and, thus, detect and prevent risks regarding nepotism and favouritism in public procurement by providing this information to the public authorities (decision-makers) responsible for strengthening institutional anti-corruption environment.</p>
<p><b>III.2. Supporting documents</b></p>	
	<p><b>The Law on Public Procurement:</b>  <a href="https://www.e-tar.lt/portal/lt/legalAct/TAR.C54AFFAA7622/tEzUrLXKCg">https://www.e-tar.lt/portal/lt/legalAct/TAR.C54AFFAA7622/tEzUrLXKCg</a></p> <p><b>The Law on the Special Investigation Service:</b>  <a href="https://www.e-tar.lt/portal/lt/legalAct/TAR.9C9FA25983BC/feJGonqQtE">https://www.e-tar.lt/portal/lt/legalAct/TAR.9C9FA25983BC/feJGonqQtE</a></p> <p><b>The Law on the National Audit Office:</b>  <a href="https://www.e-tar.lt/portal/lt/legalAct/TAR.61BB05227699/vHVdNOBKRh">https://www.e-tar.lt/portal/lt/legalAct/TAR.61BB05227699/vHVdNOBKRh</a></p> <p><b>The form of declaration of impartiality:</b>  <a href="https://www.e-tar.lt/portal/lt/legalAct/89e014105a6511e7846ef01bfff9b64">https://www.e-tar.lt/portal/lt/legalAct/89e014105a6511e7846ef01bfff9b64</a></p> <p><b>The Law on the Adjustment Of The Public And Private Interests in the Civil Service:</b>  <a href="https://www.e-tar.lt/portal/lt/legalAct/TAR.C0E550D6ADF0/IFNBhTJHJE">https://www.e-tar.lt/portal/lt/legalAct/TAR.C0E550D6ADF0/IFNBhTJHJE</a></p> <p><b>Guidelines on the determination of conflict of interests arising in public procurement:</b>  <a href="https://www.e-tar.lt/portal/lt/legalAct/f2eaa2105ca211e79198ffdb108a3753">https://www.e-tar.lt/portal/lt/legalAct/f2eaa2105ca211e79198ffdb108a3753</a></p> <p>The newly amended Law on the Special Investigation Service (hereafter – STT) (2017-12-19 No. XIII-938) has established the new function of the STT – Analytical Anti-Corruption Intelligence, that could be used to detect and prevent risks regarding nepotism and favouritism in public procurement by providing this information to the public authorities (decision-makers) responsible for strengthening institutional anti-corruption environment.</p> <p>After the proposals on public procurement were submitted, the administrative burden was reduced for the both public sector and businesses due to the procurement of public contracting authorities in accordance with the simplified procurement rules prepared by the Public Procurement Office, and not by the contracting authorities themselves. The number of legal acts has dropped from around 4,000 to 1; internal transactions are governed by the principle of competition and only allowed to municipalities in exceptional cases where it would not be possible</p>

to guarantee the continuity, good quality and availability of the provision of a service through a public procurement procedure; In order to ensure more effective supervision of internal transactions (including their changes), they are published in the CPP IS.

### III.3. Quantitative indicators

#### III. 3. 1. Statistical distribution of buyers by frequency of actual competition

Table 3. 1 presents frequency of distribution of the number of the contracting authorities and contracting entities (hereinafter referred to as the public procurers) having entered into contracts in 2017 with only one supplier tender.

This number of the public procurers is divided into intervals (%) as per the part of the number of the contracts entered into by each public procurer with only one supplier tender of the total number (%) of the contracts entered into by that particular public procurer. The calculations include neither the preliminary contracts nor the contracts entered into on the basis of the preliminary contracts, nor the contracting authorities having entered into less than three contracts during the reporting period. The calculations have been carried out as per the data of **the Directive Value Threshold Procurements** executed by the public procurers in 2017. The data sources:

- TED open data (datasets of announcements of contract award) (<https://data.europa.eu/euodp/en/data/dataset/ted-csv>).

**Table 3. 1** The number of public procurers as per frequency of the distribution of the contracts with only one supplier tender (**Directive Value Threshold Procurements**).

	<0%; 10%>	(10%; 20%>	(20%; 30%>	(30%; 40%>	(40%; 50%>	(50%; 60%>	(60%; 70%>	(70%; 80%>	(80%; 90%>	(90%; 100%>
<b>Number of the public procurers</b>	38	25	20	27	18	8	9	4	3	9

#### Overview of “One tenderer” procurements in Lithuania

In order to help the public procurers and the tenderers the Public Procurement Office (hereinafter referred to as the Office) assess the potential risks inherent in certain sectors of public procurement, and to make the process of public procurement more efficient, transparent, has carried out in 2017 the analysis of “One tenderer” procurements during the period 2014-2016 **not only for Directive Value Threshold Procurements but also for those below Directive Value Threshold**. The analysis was intended to draw a map of “One tenderer” public procure-

	<p>ments as per the segments of public procurements by determining the distribution of “One tenderer” procurements as per the groups of procurements objects, types of the contracting authorities, etc. This would be helpful in determining problem areas of public procurements, wherein procurement tenders are least competitive, most pronounced supplier agreements and “market sharing”.</p> <p>The data of the public procurement procedure reports published by the contracting authorities in the CPP IS have been used for the analysis of Directive Value Threshold “One tenderer”<sup>16</sup> Procurements and Below Directive Value Threshold “One tenderer” Procurements.</p> <p>A full overview of “One tenderer” is available at:  <a href="http://vpt.lrv.lt/uploads/vpt/documents/files/Vieno%20dalyvio%20vie%C5%A1ieji%20pirkimai%202014-2016%20m(1).pdf">http://vpt.lrv.lt/uploads/vpt/documents/files/Vieno%20dalyvio%20vie%C5%A1ieji%20pirkimai%202014-2016%20m(1).pdf</a>.</p>
<p><b>III. 3. 2. Statistical distribution of buyers by frequency of using a negotiated procedure without the prior publication of a call of competition</b></p>	<p>Table 3. 2 presents frequency of the distribution of the number of the public procurers having entered into contracts in 2017 without a pre-announced call to tender. This number of the public procurers is divided into intervals (%) as per the part of the procurement procedures executed by each of them without a pre-announced call to tender of the number (%) of all <b>Directive Value Threshold</b> procurement procedures executed by that public procurer. The calculations do not include those public procurers who during the reporting period have fulfilled less than three procurement procedures. The calculations have been performed as per the data of the <b>Directive Value Threshold</b> procurements executed by the contracting authorities in 2017.</p> <p>The data sources:</p> <ul style="list-style-type: none"> <li>• TED open data (datasets of announcements of contract award and announcements of procurements) (<a href="https://data.europa.eu/euodp/en/data/dataset/ted-csv">https://data.europa.eu/euodp/en/data/dataset/ted-csv</a> ).</li> <li>• The data of procurement procedure reports of Directive Value Threshold Procurements are accumulated in CPP IS (<a href="https://cvpp.eviesiejipirkimai.lt/">https://cvpp.eviesiejipirkimai.lt/</a>). The public procurers who executed more than three procurement procedures during the reporting period have been determined as per the data accumulated in CPP IS.</li> </ul>

<sup>16</sup> The value of “One tenderer” criterion, based on the data of the reports of public procurement procedures, has been assigned as per the number of the tenders submitted in the queue of tenders established in the public tender for each part of the procurement object separately, i.e. the public procurement is classified as “one tenderer” procurement if the tenders for the separate parts of the procurement object have been submitted by one supplier, or, after rejection of the tenders of other participants, only one supplier has left in the queue of the tenders.

**Table 3. 2** The number of the public procurers when the procurement procedure was executed without pre-announced call to tender (**Directive Value Threshold Procurements**).

	<0%; 10%>	(10%; 20%>	(20%; 30%>	(30%; 40%>	(40%; 50%>	(50%; 60%>	(60%; 70%>	(70%; 80%>	(80%; 90%>	(90%; 100%>
<b>Number of the public procurers</b>	185	13	5	5	2	2	1	0	0	10

Table 3. 3 presents frequency of the distribution of the number of the public procurers having entered into contracts in 2017 without pre-announced call to tender. The number of the public procurers is divided into intervals (%) as per the part of the procurement procedures executed by each of them without a pre-announced call to tender of the number (%) of all **Below Directive Value Threshold** procurement procedures executed by that public procurer. The calculations do not include those public procurers who during the reporting period have fulfilled less than three procurement procedures. The calculations have been performed as per the data of the **Below Directive Value Threshold Procurements**<sup>17</sup> executed by the public procurers in 2017.

The data sources:

- The data of procurement procedure reports of Below Directive Value Threshold Procurements are accumulated in CPP IS (<https://cvpp.eviesiejipirkimai.lt/>).
- The data of the announcements of Below Directive Value Threshold Procurements are accumulated in CPP IS. The public procurers who executed more than three procurement procedures during the reporting period have been determined as per the data of the announcements accumulated in the CPP IS.

**Table 3. 3** The number of the public procurers when the procurement procedure has been carried out without pre-announced call to tender (**Below Directive Value Threshold**).

	<0%; 10%>	(10%; 20%>	(20%; 30%>	(30%; 40%>	(40%; 50%>	(50%; 60%>	(60%; 70%>	(70%; 80%>	(80%; 90%>	(90%; 100%>
<b>Number of the public procurers</b>	236	38	22	12	10	3	4	2	0	8

<sup>17</sup> Without low value public procurements.



<b>III. 3. 3. Quantitative assessment of collusion risks</b>	<p>Competition Council of the Republic of Lithuania (hereinafter – CC) hasn't conducted a similar quantitative assessment of collusion risks.</p> <p>While doing assessment of risk of cartels in public procurement CC followed the recommendations of Organisation for Economic Co-operation and Development on how to fight fake offers in public procurement <sup>18</sup>.</p>
<b>III. 3. 4. Risk of undiscovered conflict of interest</b>	<p>We can not provide the percentage expression of this indicator because such statistics are not being conducted, but we would like to point out that during the procurement procedures there are requirements for commission members and experts to provide impartial declarations according to the established standard form<sup>19</sup>, which prevents potential conflicts of interest.</p> <p>In case, when undiscovered conflict of interests is identified, pre-trial investigations are initiated and carried out in accordance with the procedure established by the Code of Criminal Procedure of the Republic of Lithuania by classifying acts as potential fraud, misuse of service and/ or improper performance of duties, respectively, in accordance with Articles 182, 228 and 229 of the Criminal Code of the Republic of Lithuania.</p> <p>Suppliers, in accordance with the practice established in Lithuania, should submit official data about the ownership of the legal entity from the Register of Legal Persons, together with the tender proposal documents.</p> <p>Please be informed that since 01/08/2014 in Lithuania operates Legal Entities Shareholders Information System (hereinafter - JADIS)<sup>20</sup>. JADIS information already includes shareholder's data which allows financial institutions, other obliged entities, competent authorities to establish the identity of a beneficial owner in most cases.</p> <p>With a purpose to fully meet the requirements of the 4th Anti-Money Laundering Directive 2015/849 Art. 30, some JADIS technical changes must be adopted. In accordance with the Republic of Lithuania law on the prevention of money laundering and terrorist financing article 25, all legal persons will have to submit information on their beneficial owners to the manager of JADIS (manager of JADIS is state enterprise "Centre of Registers"). This information will be submitted to JADIS since the 01/01/2019<sup>21</sup>.</p>

<sup>18</sup> Recommendations and other important document are available online: <http://www.oecd.org/competitions/cartels/>.

<sup>19</sup> <https://www.e-tar.lt/portal/lt/legalAct/89e014105a6511e7846ef01bfff9b64>.

<sup>20</sup> <https://www.e-tar.lt/portal/lt/legalAct/TAR.672DFD353334/iGZGTsjvQj>

<sup>21</sup> <https://www.e-tar.lt/portal/lt/legalAct/TAR.C44837068B55/MhWkaVxopa>.

#### 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](http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en).

<b>IV.1. Qualitative reporting on SME participation</b>	
IV. 1. 1. Key challenges encountered	Measures taken to facilitate the participation of SMEs in public procurement are described in the IV.2 section.
<b>IV.2. Supporting documents</b>	
<b>IV. 2. 1. The 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</b>	<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"> <li><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></li> </ul> <p>According to the Article 28 (1) of the LPP, contracting authorities are obliged to divide contracts above EU threshold into lots. Such division should be done on a quantitative basis, on a qualitative basis or in accordance with different subsequent project phases. The duty to divide the contracts into lots is not applicable, if contracting authority can justify in the tender documents that the division into lots could cause the decrease of competition, contract management would become too expensive or technically complicated, different lots would be so coherent that contracting authorities would be obliged to coordinate the suppliers and that could increase the risk of improper contract implementation or exist any other circumstances to justify the decision not to divide the contracts into lots.</p>

When contracts are divided into lots, contracting authorities have to indicate in the contract notice or in the invitation to confirm interest:

1) whether tenders may be submitted for one, for several or for all of the lots;

2) the maximum number of lots per tenderer, if contracting authority decides to limit the number of lots that may be awarded to one tenderer. Contracting authorities have to indicate in the procurement documents the objective and non-discriminatory criteria or rules they intend to apply for determining which lots will be awarded where the application of the award criteria would result in one tenderer being awarded more lots than the maximum number.

3) whether contracting authority may award contracts combining several or all lots, if more than one lot may be awarded to the same tenderer. In this case, contracting authorities should indicate the lots or groups of lots that may be combined.

Overly demanding requirements concerning economic and financial capacity frequently constitute an unjustified obstacle to the involvement of SMEs in public procurement. Seeking to reduce the risks of such requirements the Article 47 (3) (1) of the LPP provides for the limitation that the minimum turnover required by contracting authorities from economic operators should normally not exceed at the most twice the estimated contract value.

**The Law on Public Procurement:**

<https://www.e-tar.it/portal/It/legalAct/TAR.C54AFFAA7622/tEzUrLXKCg>

- *Specific measures ensuring that payment for public contracts are made on time, especially in the case of SMEs*

Article 87 of the LPP indicates that all contracts should include the payment terms and conditions, which must be in accordance to the Law on the Prevention of Late Payments on the Commercial Contracts.

The Law on the Prevention of Late Payments on the Commercial Contracts states that the payment period for the goods, services and works provided cannot exceed more than 60 days, unless otherwise clearly agreed in the contract and that provision may not be considered as unfair to the contractor. Indications when longer payment period could be considered as unfair to the contractor are defined in the Law.

**The Law on the Prevention of Late Payments on the Commercial Contracts:**

	<p><a href="https://www.e-tar.lt/portal/lt/legalAct/TAR.3DCC460F8996/XoosqBCvjN">https://www.e-tar.lt/portal/lt/legalAct/TAR.3DCC460F8996/XoosqBCvjN</a></p> <ul style="list-style-type: none"> <li>• <i>Specific measures addressing the payments to subcontractors</i></li> </ul> <p>Article 88 of the LPP states that at the request of the subcontractor and where the nature of the contract so allows, the contracting authority shall transfer due payments directly to the subcontractor for services, supplies or works provided. The payment terms should include appropriate mechanisms permitting the main contractor to object to undue payments.</p> <ul style="list-style-type: none"> <li>• <i>Existing guidelines or instructions for contracting authorities on how to treat grouping (e.g. consortia) of SMEs: NA</i></li> <li>• <i>Existing guidelines for contracting authorities on the application of 'divide or explain' principle: NA</i></li> <li>• <i>Existing targets for SME participation in public procurement: NA</i></li> </ul>
<p><b>IV.3. Quantitative indicators</b></p>	
<p><b>IV. 3. 1. The quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section IV.1. above</b></p>	<p><b><u>Indicators of the participation of small and medium-sized enterprises in public procurements in 2017<sup>22</sup></u></b></p> <p>The following data sources have been used for preparation of information:</p> <ul style="list-style-type: none"> <li>• the data of Directive and Below Directive Value<sup>23</sup> Threshold procurement procedure reports submitted by the procurers to Public Procurement Office and published in the CPP IS on tenderers, successful tenderers, the number of the procurements already held, the number and values of the contracts entered into;</li> <li>• the data provided by Statistics Lithuania on the characteristics of the enterprises that took part in and won the public procurements that were held in Lithuania for identification of micro, small and medium-sized enterprises (hereinafter referred to as SMEs).</li> </ul> <p>The SMEs that in 2017 took part in the public procurements that were held in Lithuania accounted for 82% of all enterprises that took part in the public procurements. The number of the SMEs that took part in the Directive and</p>

<sup>22</sup> Data are provided on the public procurements carried out in accordance with the Law on Public Procurement that was in force on 30 June 2017.

<sup>23</sup> Without low value procurements.

Below Directive Value Procurements was similar, i.e. they accounted for 82% and 83% respectively of all enterprises that took part in the procurements (see table 4. 1).

**Table 4. 1.** The number of the SMSs that took part in the public procurements

The size of the enterprise	Directive Value Threshold Procurements	Percentage	Below Directive Value Threshold Procurements	Percentage	Total	Percentage
Medium-sized	544	21,9%	1 086	21,3%	1 330	21,3%
Small	820	33,0%	1 783	35,0%	2 108	33,7%
Micro	673	27,1%	1 378	27,0%	1 668	26,7%
<b>The total of SMEs:</b>	<b>2 037</b>	<b>82,0%</b>	<b>4 247</b>	<b>83,3%</b>	<b>5 106</b>	<b>81,7%</b>
Other	446	18,0%	853	16,7%	1 146	18,3%
Total:	2 483	100,0%	5 100	100,0%	6 252	100,0%

The number of the public procurements in which SMEs took part in 2017 accounts for 79% of all the procurements that were held during this period. The percentage of both Directive and Below Directive Value Procurements in which SMEs took part of all procurements that already have been held was similar, i.e. 78% and 79% respectively (see table 4. 2).

**Table 4. 2.** The number of the public procurements in which SMEs took part

The size of the enterprise	Directive Value Threshold Procurements	Percentage	Below Directive Value Threshold Procurements	Percentage	Total	Percentage
Medium-sized	1 105	27,0%	3 290	28,1%	4 395	27,8%
Small	1 254	30,7%	3 735	31,9%	4 989	31,6%
Micro	828	20,2%	2 229	19,0%	3 057	19,3%
<b>The total of SMEs:</b>	<b>3 187</b>	<b>77,9%</b>	<b>9 254</b>	<b>79,0%</b>	<b>12 441</b>	<b>78,7%</b>
Other	902	22,1%	2 466	21,0%	3 368	21,3%
Total:	4 089	25,9%	11 720	74,1%	15 809	100,0%

The value of the contracts entered into by SMEs in the public procurements of 2017 accounted for 62% of the value of all contracts concluded. The value of the contracts entered into by SMEs in Directive Value Threshold Procurements amounted to 56%, and in Below Directive Value Threshold Procurements – 72% of the value of all contracts concluded.

**Table 4. 3** The value of the public procurement contracts entered into with SMEs, million EUR

The size of the enterprise	Directive Value Threshold Procurements	Percentage	Below Directive Value Threshold Procurements	Percentage	Total	Percentage
Medium-sized	706,3	30,5%	575,5	45,2%	1 281,8	35,7%
Small	461,3	19,9%	266,9	21,0%	728,2	20,3%
Micro	133,0	5,7%	67,7	5,3%	200,7	5,6%
<b>The total of SMEs:</b>	<b>1 300,6</b>	<b>56,1%</b>	<b>910,1</b>	<b>71,5%</b>	<b>2 210,7</b>	<b>61,6%</b>
Other	1 017,9	43,9%	362,1	28,5%	1 380,0	38,4%
Total:	2 318,5	64,6%	1 272,2	35,4%	3 590,7	100,0%

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

<b>V.1 Green procurement ('GPP')</b>	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>24</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
<b>V.1.1 Qualitative reporting</b>	
Key challenges encountered	As of 1 July 2017, following the entry into force of the legislative amendment of the Law on Public Procurement of the Republic of Lithuania (hereinafter – Law on Public Procurement) and the new Law on the procurement by entities operating in the sectors of water management, energy, transport and postal services of the Republic of Lithuania (hereinafter – Law on Procurement in the Utilities Sector), contracting entities in the Utilities Sector is no longer considered contracting authorities under the Law on Public Procurement.

<sup>24</sup> Commission Communication (COM (2008) 400) "Public procurement for a better environment".

Taking into account the provisions of the Law on Public Procurement and Law on Procurement in the Utilities Sector, amendments to the legislation regulating the implementation of green public procurement in Lithuania were introduced in 2017.

The Ministry of Environment is responsible for the formation of Green Public Procurement (hereinafter – GPP) policy in Lithuania. Its main functions are: to determine the goals and intended results; to prepare implementing measures for green procurement; to identify the product groups that are regulated by environmental criteria; to identify environmental criteria for product groups; to prepare a description of the procedure for the application of environmental criteria; to prepare and periodically improve the training plan of GPP. The Environmental Protection Agency is responsible for the implementation of GPP. Its main functions are: to review the environmental criteria applied, to submit proposals for updating or modifying the criteria; to organize training of green procurement for contracting authorities and suppliers; to develop and distribute guidance and educational publications on green procurement; to give advice on green procurement issues. The Public Procurement Office carries out the monitoring of green procurement and compile statistic on GPP.

In accordance with Article 35 of the Law on Public Procurement and Article 48 of Law on Procurement in the Utilities Sector, the procurement documents shall specify *„requirements and/or criteria for the energy efficiency and environmental protection of goods, services or works in the cases and according to the procedure defined by the Government of the Republic of Lithuania or its authorized institution“*.

The targets of green procurement, which should be achieved every year by contracting authorities and contracting entities operating in the water, energy, transport and postal services, have been confirmed by the Resolution of the Government of the Republic of Lithuania. The percentage of environmental criteria to be achieved by contracting authorities in the context of public procurement and procurement by contracting entities in the sectors of water management, energy, transport and postal services was established for the period from 2017 till 2020. The Resolution No 1133 of the Government of the Republic of Lithuania adopted on 21 July 2010 (amendment: Resolution No 828 as of 11 October 2017) stipulates that contracting authorities defined by the Law on Public Procurement of the Republic of Lithuania and contracting entities defined by Law on Procurement in the Utilities Sector shall apply the following criteria, in terms of number and of value, while performing public procurement of goods, services and work, or procurement with environmental criteria: at least 45 percent of such procurement in 2017, at least 45 percent in 2018, at least 50 percent in 2019 and at least 50 percent in 2020.

It should be noted that by 2016 only the public authorities were obliged to achieve the specified percentage of green procurement, while for the other contracting authorities (municipalities and their subordinate institutions) it was only recommended.

Taking into account the provisions of the Law on Public Procurement and the Law on Procurement in the Utilities Sector, amendments to the description of the environmental criteria applicable to the acquisition of goods, services or works, and to the procedure for the application of environmental criteria set out by Order No D1-508 of the Minister of Environment of the Republic of Lithuania of 28 June 2011 “Concerning validation of the list of products for public procurement and procurement of which the environmental criteria are applicable, the application of the procedure for the environmental criteria and the environmental criteria to be applied by contracting authorities and contracting entities when purchasing goods, services or works” were applied (amendment: Order No D1-672 of 22 August 2017) (hereinafter – Order). The Order sets minimum and comprehensive environmental criteria for 30 products: paper; office supplies; tissue paper; products from recycled plastics; publishing-and printing-related services; event management services; imaging equipment; inks and toners for printers and etc.; mobile phones; TV; domestic equipment; furniture; food and catering; cleaning supplies and services; textile goods; vehicles and transports; goods and services for gardening; building design, construction and building materials; thermal insulation materials; wall panels; hard floor covering; windows and exterior doors; indoor lighting and light bulbs; sanitary tapware; water-based heaters; combined heat and power generation equipment; road construction and traffic signs; street lighting; water-based heaters, electrical and medical electrical and electronic equipment.

Assessing the green procurement made in recent years, the planned volume of green procurements, calculated based on the number of purchases, has not been achieved. By 2016 only the public authorities were obliged to achieve the specified percentage of green procurement, while for the other contracting authorities (municipalities and their subordinate institutions) it was only recommended. The percentage of green procurement, made by contracting authorities, that were required to apply environmental criteria when purchasing goods, services or works, calculated on the basis of the number of purchases, in 2014 has amounted to 21.1% (planned to be 30%), 2015 - 17.9% (planned - 35%), however, if calculated on the basis of value of procurement, 37.3% and 49.3% of green procurement were achieved in the corresponding years. In 2016, when all contracting authorities became obliged to apply environmental criteria while making public procurements of goods, services or works, the percentage of green procurement was calculated on the basis of larger quantity and value of public procurement. Despite the fact that the number of contracting authorities that have carried out green procurement has increased (in 2005 there were 1 586 contracting authorities, in 2016 – 1 762), in 2016 the planned amount of green procurement was



	<p>not reached, based on the number of purchases and the value of purchases, they accounted for 8.3% (by number) and 13.3% (by value) respectively.</p> <p>To successfully implement the green procurement in Lithuania, it is necessary to strengthen the purchaser's ability to make green procurement, to strengthen the advisory function, i.e. provide more guidance and training materials, as well as more qualified training seminars for procurers. For that purpose, Green Procurement Training Program has been updated.</p>
<p><b>V.1.2. Supporting documents</b></p>	
	<p><b>National Progress Programme for the period 2014-2020</b> was confirmed by the Resolution No 1482 „On the Approval of the National Progress Program for the period of 2014-2020“ of 28 November 2012 by the Government of the Republic of Lithuania (amendment of 12 December 2016). To achieve the purpose of the priority „Environment that is friendly for economic growth“ set in the program is to create favorable conditions for the development of entrepreneurship and sustainable business, one of the objectives was set out:” <i>3.1.3.1. to develop an environmentally friendly business culture by promoting the development of a green market by carrying out green (environmental criteria are included in the public procurement documents, therefore the product is chosen not only in terms of price and quality, but also in terms of its less environmental impact), and also sustainable (environmentally friendly and meeting economic and social development requirements) public procurement, to create incentives for businesses to invest in green technologies, goods and services</i>”. As the final goal for 2020 year, the part of green purchases set out by the approved Program Evaluation Criteria list, is 50%.  <a href="https://www.e-tar.lt/portal/lt/legalAct/TAR.31A566B1512D">https://www.e-tar.lt/portal/lt/legalAct/TAR.31A566B1512D</a></p> <p><b>National Environment Protection Strategy</b> approved by the Seimas of the Republic of Lithuania by the Resolution No XII-1626 „On the Approval of the National Environmental Protection Strategy“ of 16 April 2015. Paragraph 94.5 of the Strategy introduces the promotion of the development of green public procurement system: „<i>to achieve the successful application of green procurement criteria while purchasing goods, services and works that have a significant impact on the environment and, therefore, to promote sustainable use of natural resources, reuse and recycling of products, increased use of renewable energy sources, development of environmental technologies, to enhance the supply of environmentally friendly goods, services and works</i>“.  <a href="https://www.e-tar.lt/portal/lt/legalAct/a3b8f760ea5711e4a4809231b4b55019">https://www.e-tar.lt/portal/lt/legalAct/a3b8f760ea5711e4a4809231b4b55019</a></p>

The Resolution No 1133 of 21 July 2010 of the Government of the Republic of Lithuania „On the Resolution No 804 of the Government of the Republic of Lithuania of 8 August 2007 „On the Approval of the National Green Procurement Implementation Program“ and the revocation of its amendments“ (amendment: No 828 of 11 October 2017, current version of 17 October 2017). The Resolution **sets the objectives of green procurement for the period of 2017-2020.** „2. *The contracting authorities defined by the Law on Public Procurement of the Republic of Lithuania and contracting entities of the Republic of Lithuania, operating in the sectors of water management, energy, transport and postal services, defined by the law, shall apply the following criteria, in terms of number and of value, while performing public procurement of goods, services and work, or procurement with environmental criteria: at least 45 percent of such procurement in 2017, at least 45 percent in 2018, at least 50 percent in 2019 and at least 50 percent in 2020, except in cases where there are no goods, services or work in progress on the market that meet the environmental criteria established for green procurement, as well as in cases where the exceptions to their application are provided by the laws of the Republic of Lithuania and the resolutions of the Government of the Republic of Lithuania*“.

<https://www.e-tar.lt/portal/lt/legalAct/TAR.7BD90628EAE1>

The Order No D1-840 of the Minister of Environment of the Republic of Lithuania of 23 November 2015 „On the Approval of Measures for the Implementation of Green Procurement for 2016-2020“ **confirms the measures for the implementation of green procurement for the period of 2016-2020.** The measures identify the key exercises in green procurement: to strengthen the capacity of contracting authorities to carry out green procurement, to encourage suppliers to place as many environmental friendly products as possible on the market, to collect and compile the information on environmentally friendly products, to ensure that green procurement is carried out in accordance with environmental criteria and that acquired products are the most environmentally friendly; specific measures for the implementation of these tasks are provided; the authorities, responsible for the implementation of specific measures and the deadlines of the measures are defined.

<https://www.e-tar.lt/portal/lt/legalAct/17da9120942c11e5a6f4e928c954d72b>

Order No D1-508 of the Minister of Environment of the Republic of Lithuania of 28 June 2011 „Concerning validation of the list of products for public procurement and procurement of which the environmental criteria are applicable, the application of the procedure for the environmental criteria and the environmental criteria to be applied

by contracting authorities and contracting entities when purchasing goods, services or works“ (amendment: Order No D1-672 of 22 August 2017, current version of 25 August 2017) (hereinafter – Order).

The Order confirms the list of products for public procurement and procurement of which the environmental criteria are applicable and environmental criteria to be applied by contracting authorities and contracting entities when purchasing goods, services or works.

The Order establishes environmental criteria for public procurement of products or for procurement of products in utilities sector, based on GPP in the EU criteria. The environmental criteria set are minimum and comprehensive they are formulated in such way that purchasers could copy them directly into contract documents.

The Order defines green procurement, establishes the procedure for the application of environmental criteria and the process of calculation of green procurement.

Green procurement is a procurement, when purchaser (contracting authorities defined by the Law on Public Procurement of the Republic of Lithuania and contracting entities of the Republic of Lithuania, operating in the sectors of water management, energy, transport and postal services) includes all the environmental criteria established by the Order in the contract documents, selecting the goods, services and works (hereinafter – Products) not only according to their price and quality, but also regarding their the least environmental impact possible, during several or all phases of the product, thus encouraging the development of the most environmentally friendly products. In addition to the mandatory minimum environmental criteria, the purchaser may add one or more or all the expanded environmental criteria established by the Order or other additional environmental criteria determined by the purchaser. In order to be considered as green, the product must meet all the minimum environmental criteria set for the product. The purchasers can formulate the environmental criteria: by describing the object of procurement (in technical specifications); by establishing minimum qualification requirements for suppliers or qualification selection criteria; by defining criteria for the evaluation of proposals submitted by suppliers (selecting the most economically advantageous proposals in terms of price/cost/quality ratio or cost of product lifecycle); or by specifying the terms of the contract agreement.

The product acquired in green procurement, in comparison with another product that performs the same function, is characterized as follows:

- less of natural resources are needed to produce a product, to provide a service or to perform a work and environment is being less polluted;
- less of electric energy is needed to produce a product, to provide a service or to perform a work, instead of this renewable, ecological energy sources are being used;

- it contains less or contains no dangerous, toxic and environmentally harmful substances;
- it is solid, durable, functional, does not pollute the environment and is not harmful to health;
- it and its components are suitable for repeated use;
- when transformed into waste, it is suitable for reuse, recycling or other use.

The list of products for which environmental criteria are set and environmental criteria are periodically reviewed / updated supplemented.

<https://www.e-tar.lt/portal/lt/legalAct/TAR.4B60A8C9678B/LteTBwGIPq>

<https://www.e-tar.lt/portal/lt/legalact/6f875be088a611e7a3c4a5eb10f04386>

In order to promote green purchases, in 2017, suppliers, purchasers, other interested institutions and people were consulted by phone and e-mail, the methodical support has been provided. The measures used for dissemination of green procurement are the following: trainings provided for participants interested in green procurement on a remote basis; providing useful information about green procurement on the websites of the Ministry of Environment and the Environmental Protection Agency; informing suppliers and purchasers by e-mail; participation in events, presenting green procurement, organized by other institutions. **Green Procurement Training Programme** confirmed by the Order No D1-85 of the Minister of Environment of the Republic of Lithuania of 6 February 2018 „Concerning the amendment of the Order No D1-122 of the Minister of Environment of the Republic of Lithuania of 3 March 2008 „On the Green Procurement Training Program Confirmation“ was updated. The program describes the purpose and process of the training, proposes some training topics, indicates the sources of information and links to useful information.

<https://www.e-tar.lt/portal/lt/legalAct/3c1fcf000c9811e8a5fc9d9b3a58917b>

Information on GPP in websites of the Ministry of Environment, of the Ministry of Economy and of the Environmental Protection Agency:

<HTTP://WWW.AM.LT/VI/INDEX.PHP#R/1185>

<http://ukmin.lrv.lt/lt/veiklos-sritys/viesuju-pirkimu-politika/darnieji-inovatyvus-ir-ikiprekybiniai-viesieji-pirkimai/zalieji-pirkimai>

<HTTP://GAMTA.LT/CMS/INDEX?RUBRICID=1DE0B792-C752-4C19-BD9D-29BB8FE5A34E>

Links to useful information on statistics date, trainings and consultations:

<http://vpt.lrv.lt/lt/statistika-ir-analize/temines-viesuju-pirkimu-analizes>

<HTTP://VPT.LRV.LT/LT/KONSULTACINE-MEDZIAGA>

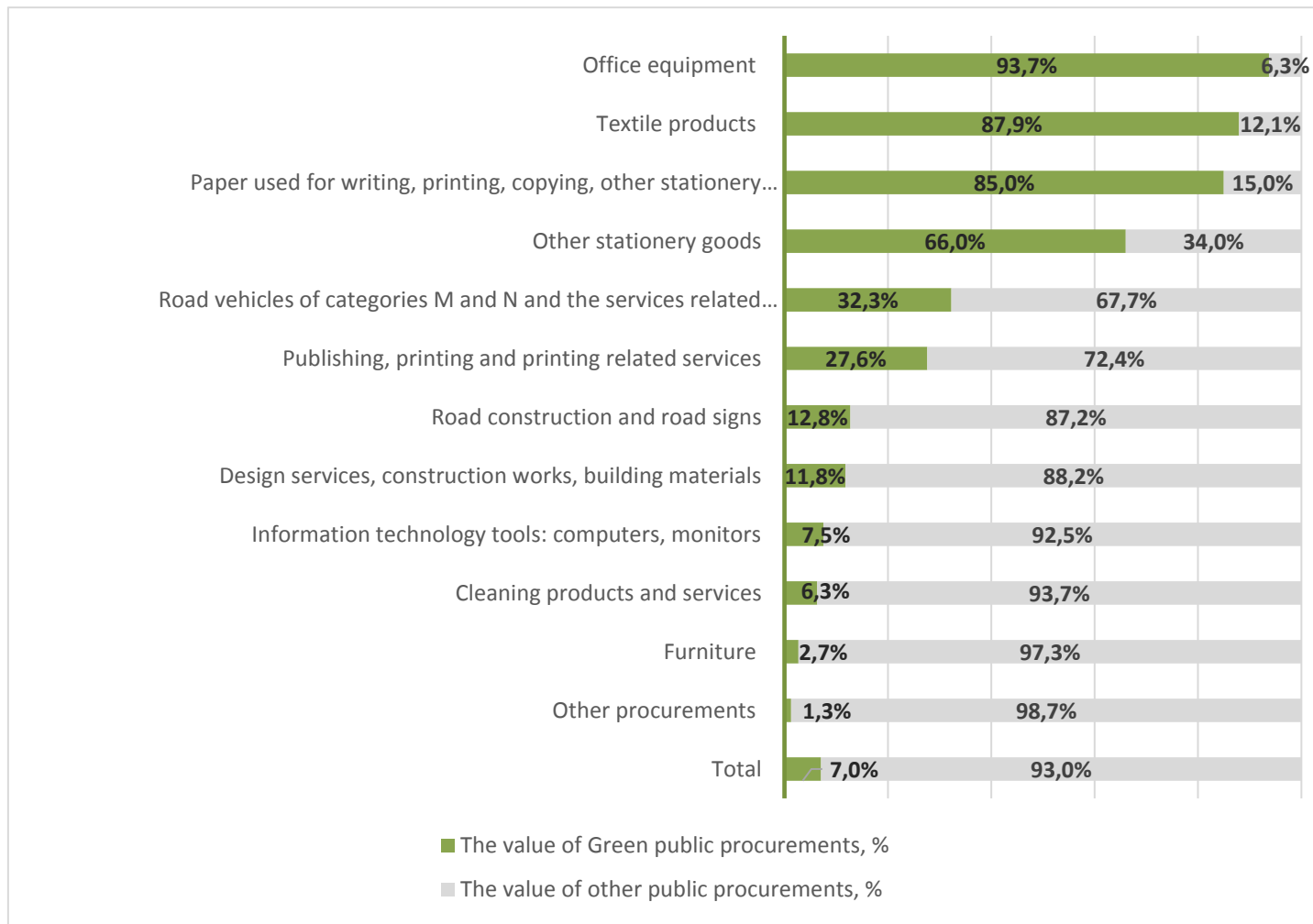
	<p>Links to useful information on environmental labels, environmental management systems:  <a href="http://gamta.lt/cms/index?rubricId=3caa9ead-6077-4a57-9ca5-c483acf796e3">http://gamta.lt/cms/index?rubricId=3caa9ead-6077-4a57-9ca5-c483acf796e3</a>  <a href="HTTP://WWW.AM.LT/VI/INDEX.PHP#A/7104">HTTP://WWW.AM.LT/VI/INDEX.PHP#A/7104</a></p> <p>Links to EU and to other websites:  <a href="HTTP://WWW.AM.LT/VI/INDEX.PHP#A/7110">HTTP://WWW.AM.LT/VI/INDEX.PHP#A/7110</a>  <a href="http://gamta.lt/cms/index?rubricId=2b685c26-7f06-45b4-a0a4-3b18bde59680">http://gamta.lt/cms/index?rubricId=2b685c26-7f06-45b4-a0a4-3b18bde59680</a>  <a href="https://www.e-tar.lt/portal/lt/legalAct/3c1fcf000c9811e8a5fc9d9b3a58917b">https://www.e-tar.lt/portal/lt/legalAct/3c1fcf000c9811e8a5fc9d9b3a58917b</a></p>
<p><b>V.1.3. Quantitative indicators</b></p>	
<p>The 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>	<p>Information of the year 2017<sup>25</sup> on the scale of green public procurements (the number, value of procurement procedures) in Lithuania has been also prepared for <b>Directive Value Threshold and Below Directive Value Threshold</b> procurements<sup>26</sup> by distinguishing the groups of the products the public procurements of which are subject to environmental criteria<sup>27</sup>. The data source – the data of the public procurement procedure reports published by the contracting authorities in the CPP IS.</p> <p>The scope of green public procurements in Lithuania in 2017:</p> <ul style="list-style-type: none"> <li>• <b>Directive Value Threshold Green public procurements</b> constituted 7% according to value and 4.3% according to number of all <b>Directive Value Threshold</b> procurements (see fig. 5. 1, 5. 2);</li> <li>• <b>Below Directive Value Threshold Green public procurements</b> constituted 9.9% according to value and 3.3% according to number of all <b>Below Directive Value Threshold</b> procurements (see fig. 5. 3, 5. 4);</li> <li>• <b>The full scope of Green public procurements</b> constituted 8.0% according to value and 3.5% according to number of the scope of all public procurements.</li> </ul>

<sup>25</sup> The data have been provided on the public procurements executed according to the Law on Public Procurement that was in force on 30 June 2017.

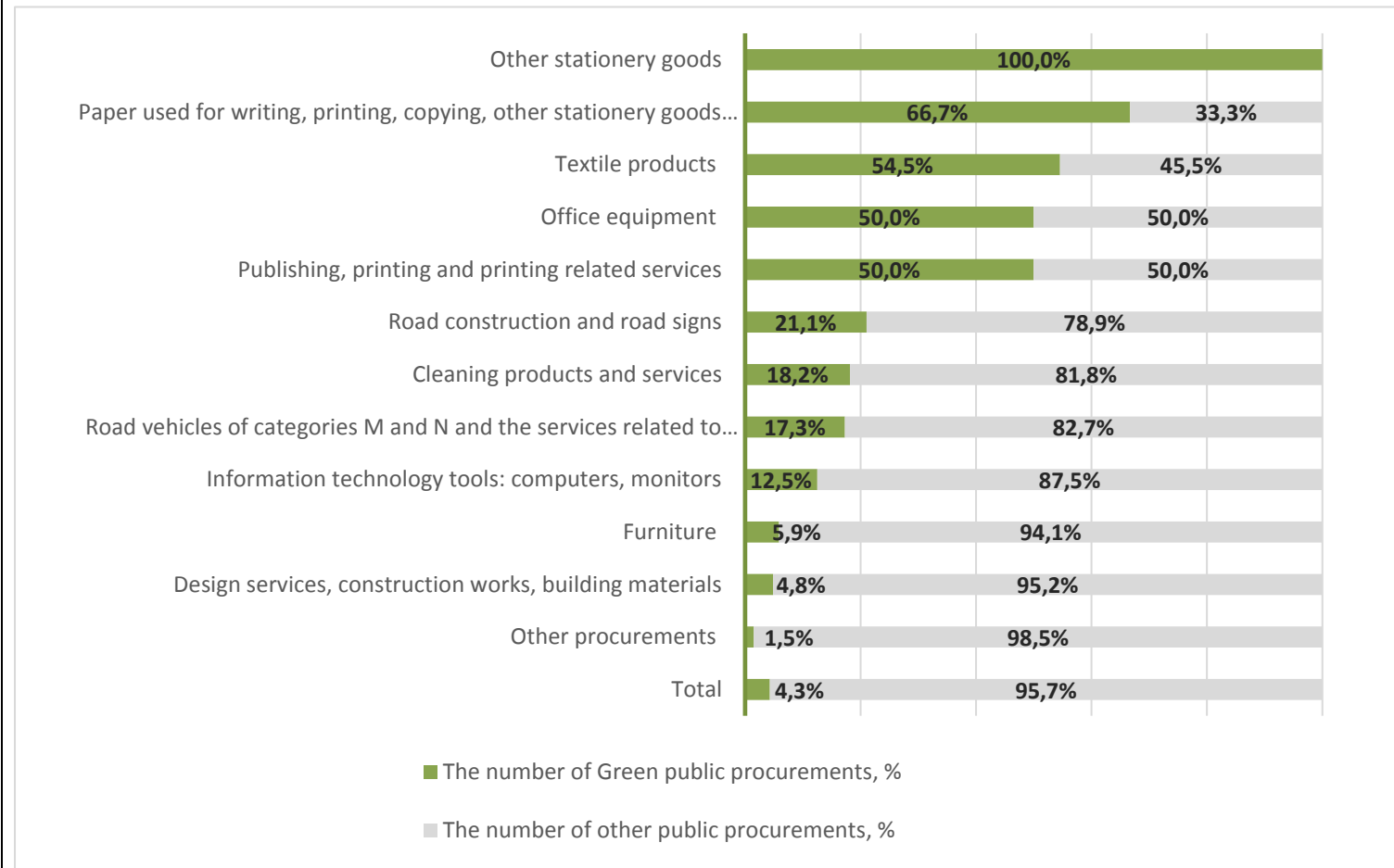
<sup>26</sup> Without low value public procurements.

<sup>27</sup> The list of the products, the public procurements of which are subject to the environmental criteria, approved by the Order No D1-508 of the Minister of Environment of the Republic of Lithuania of 28 June 2011 (version of [the Order No D1-672 of the Minister of Environment of the Republic of Lithuania of 22 August 2017](#)).

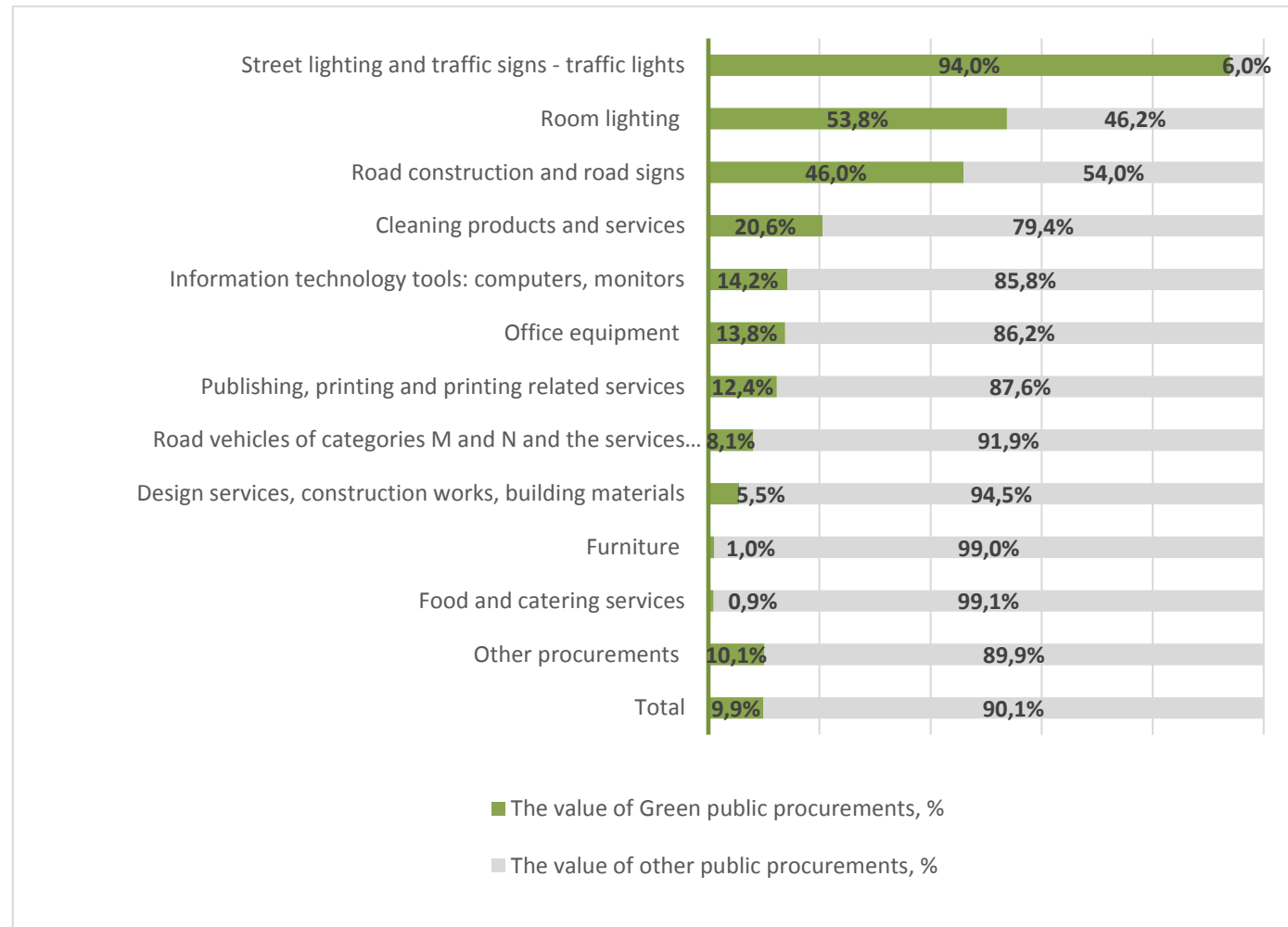
**Fig. 5. 1** Distribution of the value of Green public procurements (**Directive Value Threshold**) as per products, %



**Fig 5. 2** Distribution of the number of Green public procurements (**Directive Value Threshold**) as per products, %

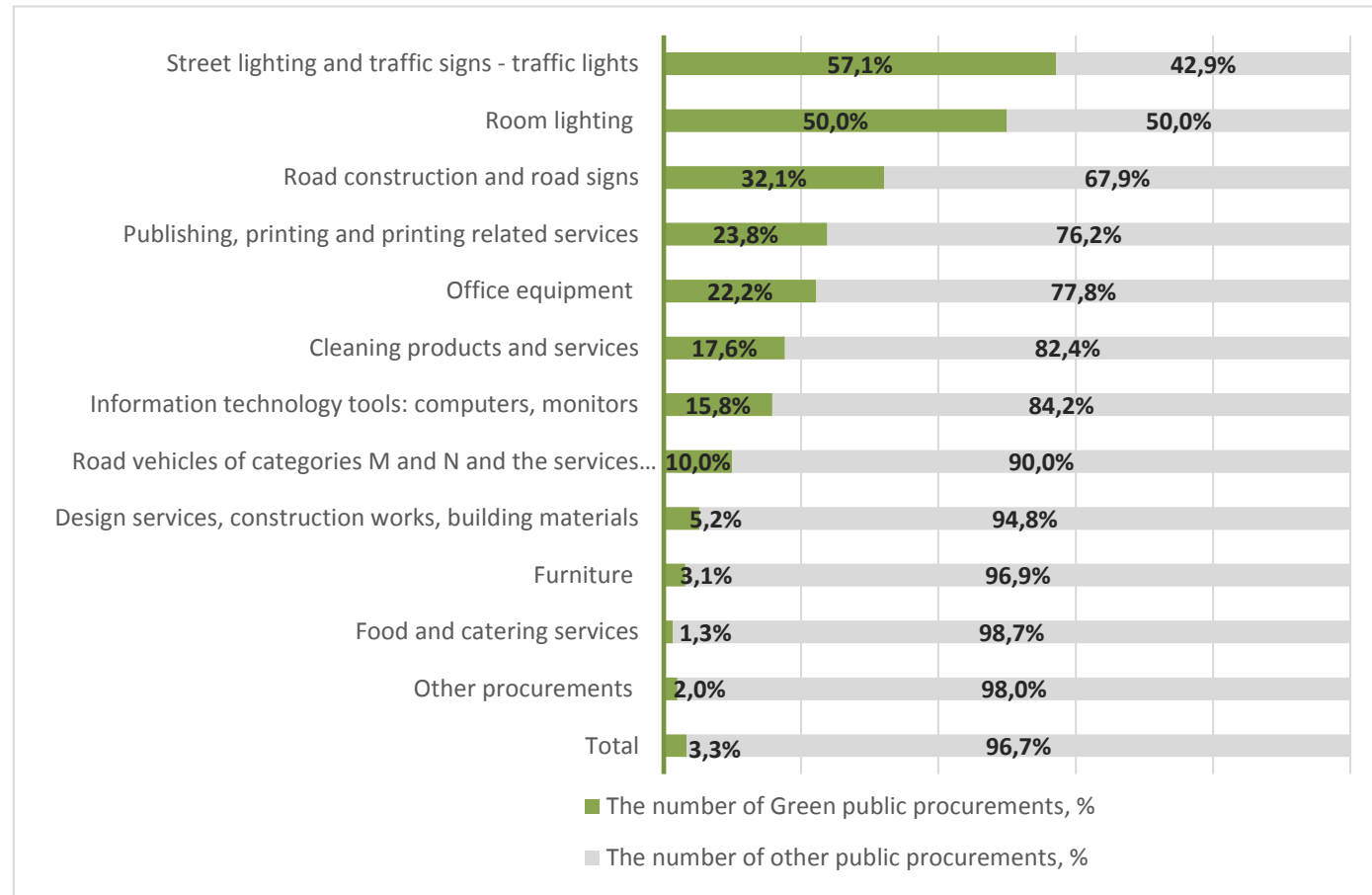


**Fig. 5. 3** Distribution of the value of Green public procurements (**Below Directive Value Threshold**) as per products, %





**Fig 5. 4** Distribution of the number of Green public procurements (**Below Directive Value Threshold**) as per product, %



In accordance with the Order No 1-840 of the Minister of Environment of the Republic of Lithuania “Regarding approval of the measures of the implementation of Green public procurements of the years 2016-2020” of 23 November 2015 the Public Procurement Office until the end of the 2<sup>nd</sup> quarter of each current year submits to the

	<p>Ministry of Environment of the Republic of Lithuania a prepared report of the results of the Green public procurements executed in the previous year (Directive and Below Directive Value Threshold). This report is published by the Public Procurement Office on its website at <a href="http://vpt.lrv.lt/lt/statistika-ir-analize/temines-viesuju-pirkimu-analizes">http://vpt.lrv.lt/lt/statistika-ir-analize/temines-viesuju-pirkimu-analizes</a> (“Green public procurements”). The report of the results of the Green public procurements executed in 2017 is planned to be prepared until the end of 2018.</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>	
Key challenges encountered	The measures taken in promoting socially responsible public procurement are described in V.2.2 section.
<b>V.2.2. Supporting documents</b>	
<p>The 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><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"> <li>• <i>National SRPP definition.</i></li> </ul> <p>SRPP is not defined in the national law.</p> <ul style="list-style-type: none"> <li>• <i>List and brief description of national policy initiatives launched in the area of SRPP</i></li> </ul> <p>According to the Article 17 (2) (2) of the LPP contracting authorities should strive to ensure that in the performance of public contracts economic operators comply with applicable obligations in the fields of environmental, social and labour law established by Union law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex 5 of LPP.</p> <p>According to the Article 46 (6) (1) &amp; (2) of the LPP contracting authorities may exclude from participation in a procurement procedure any economic operator in any of the following situations:</p> <ol style="list-style-type: none"> <li>1) where the contracting authority can demonstrate by any appropriate means a violation of applicable obligations in the fields of &lt;...&gt; social and labour law established by Union law, national law, collective agreements or by the international &lt;...&gt; social and labour law provisions, if the administrative punishment or economical sanction</li> </ol>

	<p>were applied to the supplier according to the national law of Lithuania or the law of other states and less than one year has passed from the date the decision stood up;</p> <p>2) where the contracting authority can demonstrate by appropriate means that the economic operator is guilty of grave professional misconduct, including violations of the laws on employees health and safety, if the administrative punishment or economical sanction were applied to the supplier or the head of the supplier according to the national law of Lithuania or the law of other states and less than one year has passed from the date the decision stood up or the administrative order was implemented.</p> <p>Finally, there is an obligation for contracting authorities to reserve a certain part of below threshold public procurement to social undertakings (see Article 23 (2) of the LPP).</p> <ul style="list-style-type: none"> <li>• <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></li> </ul> <p>The Article 55 (1) (1) (a) of the LPP states that the contracting authorities while purchasing works and using the best price - quality ratio should include some social aspects (the wages payable to the employees implementing the contract) into the evaluation</p> <p>However, due to some practical issues related to the implementation of this provision, it is under the review process.</p> <p><i>Any information on social labels in use: NA</i></p>
<p><b>V.2.3. Quantitative indicators</b></p>	
<p>The quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section V.2.1 above.</p>	<p><b>Information on the reserved contracts</b></p> <p><b>The number of</b> the contract notices of 2017 in which the contracting authorities reserved the right to take part in the public procurement procedures for sheltered workshops and economic operators with the main goal – social and professional integration of people with disabilities or disadvantaged people, or envisaged that such contracts would be executed according to the employment programmes of sheltered workshops <b>accounted for 0.3% of all Directive and Below Directive Value Threshold contracts notices.</b></p>

	<p><b>5. 1 Cotract notices on the reserved contracts in 2017</b></p> <table border="1" data-bbox="584 288 1962 517"> <thead> <tr> <th rowspan="2">Procurement value</th> <th colspan="3">Number of contract notices</th> </tr> <tr> <th>Contract notice</th> <th>Reserved right</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>Directive Value Threshold Procurements</td> <td>2 765</td> <td>8</td> <td>0,3%</td> </tr> <tr> <td>Below Directive Value Threshold Procurements</td> <td>6 685</td> <td>21</td> <td>0,3%</td> </tr> <tr> <td><b>Total</b></td> <td><b>9 450</b></td> <td><b>29</b></td> <td><b>0,3%</b></td> </tr> </tbody> </table> <ul style="list-style-type: none"> <li>• No procurement procedures carried out in accordance with the conditions set out in part 1 of the Article 77 of the Directive 2014/24/EU have been carried out in 2017.</li> <li>• No data on the procurement procedures, in the evaluation criterion of which and/or in the criterion of contract fulfillment conditions of which the social responsibility assessment has been taken in account, are collected in a stuctured form.</li> </ul> <p>The value of Below Directive Value reserved public procurement contracts of 2017 amounted to 26.3 million EUR. The information has been prepared as per the data of the contract notices and the reports published by the contracting authorities in CPP IS.</p>	Procurement value	Number of contract notices			Contract notice	Reserved right	Percentage	Directive Value Threshold Procurements	2 765	8	0,3%	Below Directive Value Threshold Procurements	6 685	21	0,3%	<b>Total</b>	<b>9 450</b>	<b>29</b>	<b>0,3%</b>
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<b>Total</b>	<b>9 450</b>	<b>29</b>	<b>0,3%</b>																	
<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><b>V.3.1 Qualitative reporting</b></p>																				
<p>Key challenges encountered</p>	<p><b>Key challenges encountered:</b> innovation related procurement is a relatively new thing and public procurers often think that it is complicated and that the “off-the-shelf” procurement is the best and the simplest way to acquire products or services.</p>																			

	<ul style="list-style-type: none"> <li>• <b>key challenges encountered in promoting innovation procurement, if any:</b> as the contracting authorities often think the innovation related procurement is too complicated, they are hesitant about taking part in trainings, consultations etc.</li> <li>• <b>measures taken to overcome them:</b> Agency for Science, Innovation and Technology (MITA) has a project called “Promotion of a new type of public procurement (innovation procurement and pre-commercial procurement)”. Project manager(s) take the initiative and are consulting the contracting authorities individually (per phone or by visiting them) or are organizing joint training seminars for several contracting authorities.</li> <li>• <b>difficulties still existing in the Member State:</b> a stronger incitement (political will) and awareness raising is needed in order to persuade the procurement staff to apply the different types of innovation procurement in the public contracting authorities.</li> </ul>
<b>V.3.2. Supporting documents</b>	
<p>The available evidence or supporting document illustrating the measures, achievements or challenges faced, relating to the promotion and implementation of innovation procurement.</p>	<p><b>National action plan and/ or targets for innovation procurement and its stage of implementation. Information on how they are defined:</b> NA.</p> <p>In the Lithuanian Innovation Development Programme 2014–2020 which was approved by Resolution No 1281 of the Government of the Republic of Lithuania of 18 December 2013, the target set for Innovative public procurement as percentage of total public procurement was 2 (year 2017).</p> <p>The Lithuanian Innovation Development Programme 2014–2020:  <a href="http://ukmin.lrv.lt/uploads/ukmin/documents/files/Lietuvos%20inovacij%C5%B3%20pl%C4%97tros%20programa_patvirtinta%202013%2012%2018_EN.pdf">http://ukmin.lrv.lt/uploads/ukmin/documents/files/Lietuvos%20inovacij%C5%B3%20pl%C4%97tros%20programa_patvirtinta%202013%2012%2018_EN.pdf</a></p> <p><b>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&amp;D, specific provisions on innovation procurement Art 33 of 21014 EU State aid rules on R&amp;D&amp;I):</b> NA.</p>

**National guidelines on innovation procurement (e.g. on IPR handling, joint procurement to create demand pull for buying innovative solutions, on R&D procurement)<sup>28</sup>:** In 2014 Ministry of Economy published the Guidelines on innovative public procurement approved by the Order No. 4-938 of the Minister of Economy of the Republic of Lithuania of 29 December 2014. These guidelines describe how public procurers can buy goods, services or works of better quality and more adapted to their needs, services or goods that could enhance performance of public procurers and quality of their services, and increase demand for innovation in the market.

**Guidelines on innovative public procurement:**

[http://ukmin.lrv.lt/uploads/ukmin/documents/files/Inovacijos/LR%20Ukmin%20isakymas%20del%20inovatyviu-jju%20pirkimu%20gairiu\\_14-12-29.pdf](http://ukmin.lrv.lt/uploads/ukmin/documents/files/Inovacijos/LR%20Ukmin%20isakymas%20del%20inovatyviu-jju%20pirkimu%20gairiu_14-12-29.pdf)

**National activities on capacity building on innovation procurement (institutionalized or ad-hoc training, helpdesks, etc.):** MITA is providing consultations on innovative public procurement for contracting authorities in Lithuania.

Ministry of Economy and MITA took also part in the Mutual Learning Exercise (MLE) on Innovation related public procurement, which was arranged by European Commission's Directorate-General for Research & Innovation in 2017.

In addition to that, in 2017 the Ministry of Economy submitted the application for the Structural Reform Support Programme 2017 (thereinafter – SRSP) and is participating in the project called “Improvement of the Lithuanian public procurement system through professionalization of the national workforce and streamlining of R&D tendering” (contact persons: Mr Petur Matthiasson, e-mail Petur.MATTHIASSON@oecd.org, and Mr Paulo Magina, e-mail Paulo.MAGINA@oecd.org). The Innovation Policy Division at the Innovation Department is responsible for the second part of the project that is “streamlining of R&D tendering”. The reason why Innovation Policy Division decided to participate in the SRSP is that in Lithuania there were many possibilities for the public sector to procure specific and urgent R&D services from private sector and from public research and technology organizations. The abun-

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<sup>28</sup> This information has already been provided to the chair of Mutual Learning Exercise (MLE) on Innovation related public procurement Mr Charles Edquist (e-mail Charles.edquist@circle.lu.se). The MLE was arranged by European Commission, Directorate-General for Research & Innovation, Directorate Policy Development and Coordination, Unit A.4 Analysis and monitoring of national research and innovation policies, contact: Mr Xavier Vanden Bosch (e-mail Xavier.vanden-bosch.@ec.europa.eu).

	<p>dance of schemes and mechanisms for the public procurement of R&amp;D services made that the schemes and mechanisms were very fragmented and poorly coordinated. The fragmented and inconsistent system of public procurement of R&amp;D services determined a very low economic effect of R&amp;D activities in Lithuania, e.g. weak collaboration between science and business, low level of research commercialization and inefficiency of demand-side innovation policy instruments. As Ministry of Economy is responsible for the innovation policy in Lithuania, it expects that the streamlining of R&amp;D tendering will lead to the development of a simple and consistent system of public procurement of R&amp;D services, which will in turn foster innovation in both private and public sectors.</p> <p><b>Information about outcomes:</b> NA.</p>
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## VI. Replicability

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

<p>Links to datasets used to prepare the report</p>	<p>The data of Directive Value and Below Directive<sup>29</sup> Value Threshold Public Procurements<sup>30</sup> procedure reports published by the procurers in CPP IS are available publicly in the Open Data Portal at <a href="http://www.freedata.lt/vpt">www.freedata.lt/vpt</a>.</p> <p>The search in the system can be conducted as per the name of the contracting authority or the tenderer, as per the procurement name or the name of the contracting company, the fragment of the name or the company code.</p>
<p>Files used to obtain the results from the datasets</p>	<p>Datasets are published at:  <a href="http://opendata.lt/dataset/viesieji-pirkimai">http://opendata.lt/dataset/viesieji-pirkimai</a></p>

<sup>29</sup> Without low value procurements.

<sup>30</sup> The data on the public procurements carried out in accordance with the Law on Public Procurement that was in force on 30 June 2017.

## 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**

#### **1. Classification and methodology**

##### **1.1. General approach:**

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

##### **1.2. Source of data:**

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

#### **2. Methodology description**

Estimating of the value of procurement which would have been covered by the directives if its value had exceeded the relevant thresholds (hereinafter referred to as “The total value of procedures below the EU threshold” determined by summing up:

- The value of Below Directive Value Threshold Procurements (without low value procurements);
- The value of low value procurements.

**Data sources (procurement reports) used for calculation of these values and the national requirements for their publication /**

##### **Methodology for the calculation of values**

- The value of Below Directive Value Threshold Procurements (without low value procurements) shall be determined as per the data of the procurement procedure reports (hereinafter referred to as the procurement procedure reports).



In accordance with the provisions of the National Public Procurement Regulation<sup>31</sup> the contracting authorities and the contracting entities (hereinafter referred to as the procurers) must provide the Public Procurement Office by means of CPP IS with report of every procurement procedure, including the procurement procedures during which the preliminary contract is concluded or the procurement contract is concluded on the basis of such the contract, a dynamic procurement system is created or the procurement contract is concluded on its basis within 15 days of the completion of the procurement procedures, but not later than until the commencement of the first payment under the procurement contract concluded.

The total value of Below Directive Value Threshold Procurements (without low value procurements) shall be calculated by summing up the value of the contracts entered into during the reporting period referred to in the procurement procedure reports;

- The value of Low Value Procurements<sup>32</sup> shall be determined as per the data of “Reports on public procurement contracts, procurement contracts and in-house procurement (hereinafter referred to as annual procurement reports) published by the procurers in the CPP IS.

In accordance with the provisions of the National Public Procurement Regulation<sup>33</sup> the procurers must provide the Public Procurement Office by means of CPP IS with annual procurement reports within 30 days of the end of the reporting calendar year.

The total value of Low Value Procurements shall be determined by summing up the value of Low Value Procurement contracts concluded during the reporting period.

The Public Procurement Office lays down the information to be presented in the annual reports of procurement procedures and procurements, the requirements for reports and their standard forms.

The data of the procurement reports shall be exported from the database of the CPP IS, processed and analysed using a data management program. The total value of Below Directive Value Threshold Procurements includes the data of the reports (procurement procedure reports<sup>34</sup>, annual reports of procurements<sup>35</sup>) about the value of the contracts concluded provided by means of the CPP IS by *all* procurers having executed Below Directive Value Procurements during the reporting period.

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<sup>31</sup> Clause 1 of part 2 of the Article 96 of the Law on Public Procurement (hereinafter referred to as the LPP) / clause 1 of part 2 of the Article 102 of the Law on Procurement carried out by contracting entities that operate in water management, energy, transport and postal services sector (hereinafter referred to as the LP).

<sup>32</sup> In accordance with part 3 of the Article 4 of the LPP / part 3 of the Article 12 of the LP, **Low Value Public Procurement** (hereinafter referred to as Low Value Procurement) is considered to be a simplified procurement when the envisaged value of goods or services procurement is less than 58 000 EUR (excluding Value Added Tax), and the envisaged value of works procurement is less than 145 000 EUR (excluding Value Added Tax).

<sup>33</sup> Clause 2 of part 2 of the Article 96 of the LPP/ Clause 2 of part 2 of the Article 102 of the LP.

<sup>34</sup> The data of Below Directive Value Threshold Procurements for the public procurements executed according to the Law on Public Procurement that was in force until 30 June 2017.

<sup>35</sup> For the Low Value Procurements executed in the reporting year 2017.