# Procurement Monitoring Report Template

**In view of the Member States' reporting process   
under the Directives 2014/23/EU, 2014/24/EU and 2014/25/EU**

# Purpose and key features of the template

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

* The template contains the following types of questions:

i) qualitative descriptions and assessment,

ii) supporting documents which provide the evidence for the descriptions and assessment made above,

iii) quantitative indicators.

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

# General information

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| **Scope of reporting** |
| The report should cover the period between 1st January 2017 and 31st December 2017. For quantitative data based on procurement notices, this means that the contract award notice should have been awarded in this period. If an MS has transposed later than on 1st January 2017, the reporting period should still start on the 1st January 2017.  If the scope of your report is broader than that indicated in the directives (e.g. because of lower thresholds, broader definition of contracting authorities, contracting entities, or subsidised contracts), please indicate this here. In such a case, for every indicator, information about procurement according to the EU directives and any other information should be presented separately, so that the same information can be compared between EU MS. |
| National thresholds for public procurement in the classical sector: 20.000 EUR without VAT for goods, services and design contest, 40.000 EUR without VAT for works, 750.000 EUR without VAT for social and other specific services. National thresholds for public procurement in the infrastructure sector: 50.000 EUR without VAT for goods, services and design contest, 100.000 EUR without VAT for works, 1.000.000 EUR without VAT for social and other specific services (explained in the Article 21 of the Public Procurement Act (Official Gazette no. 91/2015; hereinafter: PPA).  Article 47 of the PPA explains so called low-value contract procedure. It includes public procurements, which are not published in the Official Journal of the European Union. The regulation, as known in Slovenia, is even stricter comparing to Directive 2014/24/EU and Directive 2014/25/EU. The data on the contracts awarded whose value is less than the values referred to Article 21(1) of PPA shall be communicated by contracting authorities via an application established for that purpose on the public procurement portal by 28 February of the current year for the previous year (Article 106(2) of the PPA).  All submitted data referring to the value in this report do not include VAT.  The scope of this report includes the data of public procurement procedures above and also below the EU threshold where possible. |
| **General information** |
| Number of procurement procedures (i.e. the number of notices announcing a call for competition)   * procurement procedures above the EU threshold: 1.554 * procurement procedures below the EU threshold (beginning from 20.000 EUR): 5.579   Number of awarded contracts   * procurement procedures above the EU threshold: 1.460 * procurement procedures below the EU threshold (beginning from 20.000 EUR): 4.889 * procurement procedures above the EU threshold: 7.365 * procurement procedures below the EU threshold (beginning from 20.000 EUR): 8.340   First two lines include only the data on the number of awarded contracts without dividing them into lots, so the data on the number of awarded contracts are comparable with the data of the number of procurement procedures. Third and fourth line shows the data on the number of awarded contracts including lots. |
| I**nformation on monitoring and reporting bodies** |
| This section should include a list of the body/bodies performing the public procurement monitoring activities required by the public procurement directives and the entities in charge with the drafting of the report to be provided to the European Commission on the results of the monitoring activities. |
| The Ministry of Public Administration (The Ministry responsible for public procurement), written in the Article 114 of the PPA. |

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

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| **Estimation of the aggregated total value of procurement which would have been covered by the directives if its value had exceeded the relevant thresholds** | This stands for the value of procurement informally referred to as "below the EU threshold".  This section should include information on the estimated value of procurement as well as the methodology used. The methodology used for the estimation should be explained in **Annex I**.  "Value of procurement" should be understood as the value of the awarded contracts, so as to be comparable with estimates from contract award notices for above-threshold procurement. (Not as, for example, the value of procurement which could have taken place if a contractor was found, i.e. business opportunities, nor on the level of actual spending, i.e. paid invoices.)  The aggregated total value of procurement procedures above the EU threshold: 2.218.343.773 EUR  The aggregated total value of procurement procedures below the EU threshold (beginning from 20.000 EUR): 815.310.992 EUR  The aggregated total value of procurement procedures below the EU threshold (below 20.000 EUR): 984.290.788 EUR |

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

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| **II.1.** **Qualitative reporting on application of public procurement rules** |  |
| Main sources of wrong application or of legal uncertainty | The information should focus on:  - the most frequent cases of wrong application of the rules and of legal uncertainty  - the key causes for the wrong application of the rules and the legal uncertainty, including their relative importance, as well as the circumstances that explain their occurrence.  *Possible relevant (non-exhaustive) elements for consideration may be:*   * *types of contracting authorities particularly affected by public procurement errors* * *types of procedures or contracts particularly affected by public procurement errors* * *recurrent patterns pointing at specific difficulties at a particular stage of the procedure* |
|  | We cannot define or even point out which types of contracting authorities are particularly affected by public procurement errors, however there are over 3,000 contracting authorities in Slovenia of which many of them are small and only conclude a few public contracts a year and are therefore less skilled and informed of relevant legislation and procedures.  A negotiated procedure without prior publication and framework agreement, which is one of the techniques and instruments for electronic and aggregated procurement, are two most of the problematic procedures or contracts particularly affected by public procurement errors.Explained in details in below Chapter II.1 Specific legal provisions (from EU or national law) which appear to raise significant problems of an application.  A lot of questions regarding possibility to supplement the tender (or relevant documents and information in tender) points out specific difficulties at this stage of the procedure. |
| Specific legal provisions (from EU or national law) which appear to raise significant problems of application | The information should focus on:  - the specific legal provisions in question  - a description of the type of difficulties identified, if any  *Possible relevant (non-exhaustive) elements for consideration may be:*   * *lack of consistent application of a given provision by the contracting authorities* * *high frequency of requests for guidance as to how to understand or interpret a given provision* * *recurrence of the incorrect application of a given provision* * *need to issue (additional) interpretative guidance on a given provision* |
|  | Slovenian public procurement legislation is in coherence with EU acquirements. PPA transposed the following EU directives into the legislation of the Republic of Slovenia:  – Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65; hereinafter: Directive 2014/24/EU);  – Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243; hereinafter: Directive 2014/25/EU).  Slovenia has identified a different type of difficulties which relates to the implementation of above mentioned Directives:  Often, the requirements of public procurement law for the best quality (the best value for money) is not in accordance with the workers’ rights (social aspects). Explained in details in Chapter V.2 Socially responsible public procurement ('SRPP').  Regarding the conclusion and execution of framework agreements we have some difficulties to interpret articles 33(1), 50(2), 5(5) and 72(1)(a) of the Directive 2014/24/EU (hereinafter: Directive). We presented these issues to European Commission on the 16th of November 2017 and received a reply (see attachment 1 and 2).  Furthermore, the parties of the framework agreement are selected in one of the public procurement procedures referring to Article 39(1) of the PPA. The contracting authority shall include in this procedure the relevant technical specifications, reasons for exclusion, conditions for participation, terms of contract and contract award criteria. PPA not allow that the framework agreement can be established as qualification lists or lists of qualified economic operators, i.e. without mutual comparison of tenders to conclude framework agreements. According to the provisions of Article 48 of the PPA, the contracting authority may use different criteria in the procedure during the selection process of the parties, as the criteria in the procedure of selection of the provider of individual order at a given period of validity of the framework agreement. However, reviewing tender documentations published on the Public Procurement Portal, we have noticed that contracting authorities often use the qualification lists for conclusion of framework agreements.    At the same time, reviewing public procurement or tender documents published on the Public Procurement Portal, we have also found that contracting authorities often don`t use ESPD in accordance with the provisions of Article 79 of the PPA or is used inappropriately.  The calculation of the estimated value of a procurement shall be based on the total amount payable, net of VAT, as estimated by the contracting authority, including any form of option and any renewals of the contracts as explicitly set out in the procurement documents (Article 24(1) of the PPA). In the case of public supply or service contracts which are regular in nature or which are intended to be renewed within a given period, the calculation of the estimated contract value shall be based on the following:  a) the total actual value of the successive contracts of the same type awarded during the preceding 12 months or the financial year, taking account of any changes in quantity or value which might occur in the course of the 12 months following the initial contract; or  b) the total estimated value of the successive contracts awarded during the 12 months following the first delivery, or during the financial year if it is longer than 12 months (Article 24(10) of the PPA).  Two issues regarding above mention provisions have been most commonly recognised. The first refers to what is consider as supply or service, which is repeated regularly, and the second, how the object of the same type is properly determined.  Furthermore, for each tenderer, the grounds for exclusion and conditions for participation are in some ways the entry factor in the public procurement procedure. Who passes this test, is put in the phase of balance, which is the most advantageous tender based on the criteria. Criteria must be related to the subject-matter of the contract according to the Slovenian legislation and should also provide a higher quality of service. The issue arises where is seen the impact of social criteria on the subject-matter of the service itself and whether this influence (cohesion) can and should be understood broader than the direct economic impact of a [specific](https://sl.pons.com/prevod/angle%C5%A1%C4%8Dina-sloven%C5%A1%C4%8Dina/definite) social criterion in a [definite](https://sl.pons.com/prevod/angle%C5%A1%C4%8Dina-sloven%C5%A1%C4%8Dina/definite) public procurement.  The European Commission communicate that the new public procurement rules are more modern, simpler, we have also made the transition to digitization, etc. Slovenian legislation in the public procurement system have already been providing for some time a high level of transparency and digitization. All public procurements are published on the public procurement portal (all in one place), where the complete public procurement file is seen. We have implemented the ESPD and e-Submission as well. However, the trend of single tender and decline of the SME- is still an issue. As an improvement measure, the European Commission proposes to update the public procurement system, greater digitization, more modern ordering. The issue in question is what other analyses and measures (except blaming public procurement system) were taken to face with low competition?  In practice, we are also faced with the complaints of a social dumping due to the associated abnormally low tenders. While legislation and judicial prudence have already given clarifications and it is already known, what the contracting authority must or should not do. When he determines whether the tender is abnormally low or not, there are no references, when such tender can or must be excluded. It is indisputable, that automatic exclusion and exclusion without proper explanation is not the correct behaviour. But remains an open question, how much discretion the contracting authority has, to judge whether the offered price together with all the explanations is considered as abnormal or not and how much discretion has the contracting authority in accordance with legal protection? In other words, can the provider always explain that his tender is low due to the right to design free price, possibly not covering the cost of labour or material costs because he provides financial flows from other sources in a non-specific business?  The Ministry of Public Administration, Public Procurement Directorate, is preparing a detailed action plan for public procurement professionalization with the aim to raise competencies and improve the status of staff, assist contracting authorities and tenderers to achieve greater legal certainty, promote strategic public procurement and joint public procurement and develop smart process support tools.  By pursuing these goals the Ministry will achieve a reduction of errors in procurement and rise of qualifications for a higher quality, efficiency, cost-effectiveness, and the innovative delivery of public procurement and provide greater legal certainty. For this purpose, the Ministry is planning to execute several educational trainings for both contracting authorities and economic operators, providing trainings also in the field of efficient planning and use of appropriate public procurement procedures. The emphasis will also be on trainings for efficient green, social, and sustainable public procurement.  Regarding the provision of e-procurement we would like to clarify that the Ministry is preparing a public or “state-developed” communication tool, fulfilling all requirements of directives. The newly developed tool will still allow the use and development of other tools used in e-procurement developed by other (private) companies, for which the Ministry is not setting up a certification/approval process at this time. E-procurement in Slovenia is obligatory from 1st April 2018. Upgraded version of eESPD will be developed and will be implemented in the e-procurement solution toll at a later stage.  The Ministry of Public Administration has already provided guidance and interpretations for the provision of public procurement law in form of: preparations of free presentation of new regulations in the field of public procurement, preparation of written responses to the received questions from contracting authorities and economic operators, telephone counseling to contracting authorities and economic operators, establishment of "help desk", preparation and publication of materials on the website of the Public Procurement Directorate (news, DJNovice, systemic points of view, frequent questions and answers, useful information, instructions, manuals, etc.), preparation of guidelines for public procurement in various fields, preparation of sample tender documents and execution of expert coordination meetings with different stakeholders.  Furthermore, in enforcement its audit competence, the Republic of Slovenia, Court of Audit (hereinafter: The Court of Audit), often controls the regularity of operations in accordance with the Court of Audit Act (Official Gazette of the Republic of Slovenia, no. 11/01 and 109/12). These operations relate to expenditure on the purchase of goods, services or works in order to control the operation of users of public funds. The recognized irregularities are reported in the audit reports by Court of Audit, which are presented to the audited user of public funds in the National Assembly of the Republic of Slovenia and published on their website ([www.rs-rs.si](http://www.rs-rs.si)) at the same time.  The most frequent deviations with the regulations detected by the Court of Audit are also reported in the annual reports or in the reports of the activities in the previous year. These reports are publicly available on their website: (<http://www.rs-rs.si/rsrs/rsrs.nsf/I/K90C814F2D512227EC1257155004C0A0F>), where all reports since 1995 are available as well. Since the report on the activities in the previous year is still in the process, a short record of some of the emphasis in the field of public procurement are provided in the text bellow for the time being. |
| An assessment on whether a wrong application of rules might exist, by observing patterns of application of the rules which do not by themselves constitute cases of wrong application of the rules, but nonetheless point at structural or recurring problems yielding a sub-optimal outcome. | The information should focus on:  - the specific type of problems identified, if any  - any possible assessment of the impact of these difficulties on the efficiency of the public procurement process  *Possible relevant (non-exhaustive) elements for consideration may be*   * *bias towards the systematic use of certain award criteria irrespective of the context (e.g. systematic use of lowest price as award criterion)* * *overly frequent use of derogatory procedures or shortest possible deadlines* * *recurrent, particularly low number of bidders or of non-domestic bidders* |
|  | The answer to this scope is included in above Chapter II.1. Qualitative reporting on application of public procurement rules, Specific legal provisions (from EU or national law) which appear to raise significant problems of application. |
| **II.2 Supporting documents** |  |
| Please provide any available evidence of the issues identified under section II.1. | *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):*   * *Audit reports on identified irregularities related to public procurement, including auditors specialising in ESIF irregularities* * *Existing typologies of the most frequent errors in public procurement* * *Reports on the most frequent requests for guidance* * *Additional interpretative guidance documents published in order to clarify legal issues* * *Policy or other administrative documents discussing issues in relation to the implementation of the rules* |
|  | The public procurement Act (PPA) is available at: <http://www.djn.mju.gov.si/resources/files/Predpisi/ZJN-3_ang_prevod.pdf>  Audit reports are available at: <http://www.dkom.si/odlocitve_DKOM/>  Guidance, useful information, frequent questions and answers, instructions and forms (ESPD, taxes, publications) regarding public procurement are available at: <http://www.djn.mju.gov.si/sistem-javnega-narocanja/stalisca-ministrstva>  Sample tender documentation is available at: <http://www.djn.mju.gov.si/sistem-javnega-narocanja/vzorcna-razpisna-dokumentacija>  Guidelines and recommendations are available at: <http://www.djn.mju.gov.si/sistem-javnega-narocanja/smernice>  News (DJNovice) are available at: <http://www.djn.mju.gov.si/direktorat-za-javno-narocanje/djnovice> |
| II.3. Quantitative indicators | *This section contains quantitative indicators related to section II.1. Other indicators can also be included in the report.* |
| Indicators about the national review system | A list of proposed specific indicators will be drafted in the course of 2017, linked to a future remedies scoreboard, a part of the European Commission's Single Market Strategy. The indicators will be defined on the basis of the findings of a study to be commissioned by DG GROW in 2017 and further discussions with Member States, including in the context of the network of first instance administrative review bodies.  A first study commissioned by the Commission services on the subject of procurement remedies is already available at <http://bookshop.europa.eu/en/economic-efficiency-and-legal-effectiveness-of-review-and-remedies-procedures-for-public-contracts-pbKM0414023/>.  This study, together with other materials (including public and ad-hoc consultations), are the basis for the Commission's report and evaluation on the operation of the Remedies Directives.  Based on all this, indicators such as the numbers of complaints, the number of appealed procurement procedures, the number of resolved complaints, the number of complaints resolved in favor of the complainant, or the average length of the review procedure could be considered. |
|  | In 2017, the National Review Commission for Reviewing Public Procurement Award Procedures (hereinafter: National Review Commission) decided on a total of 296 review claims. These comprise 49 review claims (16.55 %) concerning the stage of the procedure prior to the contract award decision by the contracting authority (review claims against the content of the announcement, the invitation to a tender and the tender documentation or the documentation related to the award of the public procurement) and 247 review claims (83.45 %) on the phase after the contract award decision by the contracting authority. In 2017, the National Review Commission decided on 263 review claims (88.85 %) invested by [complainant](https://sl.pons.com/prevod/angle%C5%A1%C4%8Dina-sloven%C5%A1%C4%8Dina/complainant)s in procurement procedures that were not co-financed by EU funds, and 33 review claims were related to award of public contracts co-financed by EU funds (11.15 %). In 2017, the National Review Commission decided at least partially for the benefit of the [complainant](https://sl.pons.com/prevod/angle%C5%A1%C4%8Dina-sloven%C5%A1%C4%8Dina/complainant)s (partial consent, consent and revocation of public procurement award procedures) on the basis of 146 review claims (a share of 49.32 %of all resolved review claims in 2017), which is slightly more than in 2016. The National Review Commission thus presents a substantial analysis of all decisions that have been partly or fully accepted in the past year in respect of review claims and other considered applications. The analysis contains information on established violation in procedures, and it is primarily meant for contracting authorities who can familiarize themselves with the essential elements of public procurement procedures, in which the most common violations occur. With an appropriate approach to treatment of these violations, the possibility of irregularities in procedures award of public contracts can be reduce.  These data represent the information contained in the annual report of The National Review Commission for 2017, which is currently in the process of preparation. The data will be available on the website: <http://www.dkom.si/>. |
| Histogram of values of procedures, covering also procedures below the thresholds | Please include histograms of values of procedures (i.e. calls for competition). These should be split at least to one for works and one for supplies and services, ideally also further by types of EU threshold.  The aim is to find "spikes" in the distribution of values, indicating a bunching of procedures below the EU threshold.  To improve comparability, please use histogram bins with a breadth of EUR 10 000 (or the national currency equivalent).  For more information on bunching analysis methodology, please see the Swedish Competition Authority’s report <http://www.konkurrensverket.se/globalassets/publikationer/uppdragsforskning/forsk_rap_2015_3.pdf>, in particular section 3.4.2., or the recent article from the American Economic Association available at [*https://www.aeaweb.org/articles?id=10.1257%2Fpol.20150511&&from=f*](https://www.aeaweb.org/articles?id=10.1257%2Fpol.20150511&&from=f)*.* |
|  | Values of procedures:  The total value of procurement procedures above the EU threshold: 2.211.781.947,03 EUR   * works: 448.401.789 EUR * supplies: 875.351.496 EUR * services: 894.590.488 EUR   The total value of procurement procedures below the EU threshold (beginning from 20.000 EUR): 812.579.772,5 EUR   * works: 518.299.177 EUR * supplies: 151.891.049 EUR * services: 145.120.766 EUR   The total value of procurement procedures below the EU threshold (below 20.000 EUR): 984.290.788 EUR   * works: 115.886.337 EUR * supplies: 373.266.166 EUR * services: 495.138.285 EUR   Figure 1: Contract award notices by type of subject-matter and the EU threshold displayed in stacked column  Figure 2: Contract award notices by type of subject-matter and the EU threshold displayed in clustered columns  Figures 3 – 11 depict the data of values of procedures above and below (beginning from 20.000 EUR) the EU threshold. The data of values of procedures below the EU threshold (below 20.000 EUR) in these figures are not shown. The values of procedures in this scope likewise do not include lots, as in this case values of procedures would not reflect the actual values, comprising values above and below EU threshold (see attachment 3). |

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

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| III.1. Qualitative reporting on fraud, corruption, conflict of interests etc. |  |
| Describe the actions undertaken and/or mechanisms put in place to ensure compliance with the new provisions on the prevention, detection and adequate reporting of public procurement irregularities including fraud and corruption | The information should focus on:  - how these actions/mechanisms have been implemented  - the key measures that have been put in place  *Possible elements for consideration may be as follows:*   * *The main assumptions and objectives of the underlying actions* * *Institutional arrangements made* * *Existing links between the prevention, detection and remedial actions aspect* |
|  | With the increased activities in the field of professionalization in public procurement we will therefore continue to assure legal certainty. The latter is achieved and improved by PPA in the combination with continued execution of already established measures for improvement of professionalization in public procurement (as mentioned above in Chapter II.1. Qualitative reporting on application of public procurement rules, Specific legal provisions (from EU or national law) which appear to raise significant problems of application).  The transparency of a public procurement procedure is also assured with the use of a public procurement portal, where all public procurement notices have to be published by contracting authorities, including notification to tenderers and candidates of all decisions made regarding the decisions reached concerning the awarding of a contract (i.e. contract award decisions) and contracts, with legal protection being guaranteed in line with the provisions of the Act on legal protection in public procurement procedures.  Figure 12: Example of dossier of procurement on public procurement portal    When approached by an economic operator (i.e. a potential tenderer) with the proposition of a wrongful doing in executing public procurement by a certain contracting authority, the Public Procurement Directorate often acts within its jurisdiction by trying to communicate with that contracting authority about the alleged irregularities, and if there is such a case, propose a solution or an amendment that would remedy the error.  In case such action is necessary and greater misconducts at the expense of the public interest are detected the Ministry can also (and it already has in a few cases) exercise legal protection of public interest as one of the representatives of the public interest. |
| Describe the actions undertaken and/or mechanisms put in place to ensure compliance with the new provisions on the prevention, detection and adequate reporting of conflicts of interests | The information should focus on:  - how these actions/mechanisms have been implemented  - the key measures that have been put in place  - presenting the definition of Conflict of interest, if it differs from the definition in the Directives  - explaining the reasons for choosing the elements that have been added to the definition of Conflict of interest set out in the Directives  - how the Directive requirement of effectiveness of the measures is fulfilled in practice  *Possible elements for consideration may be as follows:*   * *The main assumptions and objectives of the underlying actions* * *Institutional arrangements made* * *Legislative framework* * *Existing links between the prevention, detection and remedial actions aspect* |
|  | Article 24 of the Directive 2014/24/EU under the chapter “Conflicts of interest” defines, that Member States shall ensure that contracting authorities take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures to avoid any distortion of competition and to ensure equal treatment of all economic operators.  Furthermore is explained, that the concept of conflicts of interest shall at least cover any situation where staff members 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 Slovenian legislation “Preventing conflicts of interest” is defined in Article 91 of the PPA and is even stricter comparing to the above mention Article 24 of the Directive 2014/24/EU:  (1) Contracting authorities shall effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all economic operators.  (2) Before awarding the contract, the person conducting the procurement procedure shall notify in writing all persons involved in the preparation of the procurement documents or parts thereof or in the decision-making at any stage of the procurement procedure of which tenderer is to be awarded the contract.  (3) When the person who is conducting the procurement procedure and is involved in the preparation of the procurement documents or parts thereof or in the decision-making at any stage of the procurement procedure is directly or indirectly associated with the selected tenderer in such a way that this person’s relationship with the successful tenderer or its private, financial or economic interests could affect the impartial and objective performance of his or her contract-related tasks or cast doubt on his or her objectivity and impartiality, he or she shall, as soon as circumstances allow but no later than before the contract is awarded, notify in writing his or her superior or the contracting authority for which he or she performs activities or in any other way participates in the procurement procedure thereof and act in accordance with their instructions. In this case, the head of the contracting authority shall ensure that the tasks are carried out in a lawful and impartial manner.  (4) A direct or indirect relationship with a tenderer referred to in the preceding paragraph shall be deemed to exist if the person referred to in the preceding paragraph is the spouse or extra-marital partner of the tenderer, is its partner with more than a 5% ownership share, is its legal representative or procurator, lives in a registered same-sex civil partnership or shares a home with any of those persons, is related lineally or related collaterally up to three times removed to any of those persons, is a relative by marriage up to twice removed of any of those persons, is the adopter, adoptee, foster carer, foster child of any of those persons, or is in a private business or employment relationship with any of those persons.  (5) When a relationship referred to in paragraph 3 of this Article exists between the selected tenderer and the contracting authority’s legal representative, the legal representative shall notify the contracting authority’s supervisory body thereof in writing as soon as circumstances allow, but no later than before the award of the contract. In this case, the supervisory body shall ensure that the tasks are carried out in a lawful and impartial manner.  (6) The selected tenderer shall, within eight days of receipt of the contracting authority’s invitation, submit information on:  – its founders, partners, shareholders, limited partners or other owners and on their equity interests;  – economic operators which are considered to be its associated companies in accordance with the provisions of the law governing companies. |
| III.2. Supporting documents |  |
| Please provide any available evidence on the actions/mechanisms and measures described under section III.1. above demonstrating compliance with the new provisions on the prevention, detection and adequate reporting of public procurement irregularities and conflicts of interests | *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):*   * *Policy or other administrative documents discussing issues in relation to the implementation of the actions/mechanisms* |
|  | The Commission for the Prevention of Corruption of the Republic of Slovenia (hereinafter: CPC) is an independent state body with a mandate in the field of prevention and investigation of corruption, violation of ethics and integrity of public function. The CPC has been established with the adoption of the **Prevention of corruption Act (ZPKor)** and fulfils the requirement of an independent anti-corruption body as required by the UN Convention against Corruption (UNCAC) which Slovenia ratified. The **integrity and prevention of corruption Act of 2010 (ZIntPK)** (with later amendments), which came into force in June 5, 2010, significantly expanded its mandate, functions and powers. Within the framework of expanded powers, the CPC has also become a misdemeanor body, among which it is responsible for protecting of whistleblowers, monitoring of lobbying and assisting public institutions in development of integrity plans.  According to the data of the CPC 535 reports of the suspicion of corruption were solved in the year 2017, for the first time. Out of these, 43 resolved reports were related to the field of public procurement. During the same period, the CPC made public one of the findings in the actual case concerning non-performance of public procurement and accepted the principle opinion on the unlawful conduct of the contracting authority during the negotiation phase. In these cases, the report, together with the findings of the CPC, was withdrew to the National Review Commission for further consideration. The CPC is also a representative of public interest. In the year 2017 no review claim was filed by the CPC.  Since the powers of the CPC and law enforcement and prosecutorial bodies (police, public prosecutors, courts and other state authorities) are intertwined in certain areas, the CPC, in cases in which it detects the suspicion of officially prosecutable offense (eg. damaging of public funds, taking and giving bribe for unlawful interference) in accordance with Article 23(3) of the ZintPK, resigns report to the police or the prosecution. In 2017, the CPC withdrew a total of 63 applications to the police and the prosecution. CPC have no information about the number of cases in which the application was made in the field of public procurement.  Acts like the case of an obligatory proceeding of officials and responsible person in the public or private sector, as well as in cuts of persons, who are the initiators of violations or persons, who can have [benefit](https://sl.pons.com/prevod/angle%C5%A1%C4%8Dina-sloven%C5%A1%C4%8Dina/benefit) [from](https://sl.pons.com/prevod/angle%C5%A1%C4%8Dina-sloven%C5%A1%C4%8Dina/from) the [violation](https://sl.pons.com/prevod/angle%C5%A1%C4%8Dina-sloven%C5%A1%C4%8Dina/violation) of a direct or indirect pledged, offered, given or required, accepted or expected benefits for itself or for anyone else in public procurement procedures corresponds to the definition of corruption defined in first point of Article 4 in the ZIntPK. These cases were not defined by the CPC.  A tool of the CPC that provides an overview of all transactions of public institutions and companies owned by the state and communes relating to supplies and services, salaries, social benefits, pensions, subsidies, pundits, etc., needs to be highlighted, when it comes to ensure traceability and transparency of decision-making, including effective prevention of corruption and fraud in the field of public procurement. This is the ERAR application, which is available on the website: <https://erar.si/>. Other information regarding the activities of CPC are available on the website: <https://www.kpk-rs.si/en>. |
| III.3. Quantitative indicators | *This section contains examples of quantitative indicators related to section III.1. Other indicators can also be included in the report.* |
| Statistical distribution of buyers by frequency of actual competition | For each contracting authority or entity:  1) Calculate the total number of contract awards.  2) Calculate the number of contract awards which received only one bid.  3) Divide the second number by the first number.  In the report, in a table, please include the number of contracting authorities or entities whose result from 3) above falls within each of the following intervals: <0%, 10%>, (10%, 20%>, (20%, 30%>, … , (90%,100%>[[1]](#footnote-2).  Please include only buyers with at least three contract awards over the reporting period and exclude all framework agreements as well as contracts based on framework agreements, as their number of bidders may be misleading (e.g. when multiple contract awards are based on the same framework agreement or for framework agreements with reopening of competition).  For more information about this indicator please see the following article from the European Journal on Criminal Policy and Research: <http://link.springer.com/article/10.1007%2Fs10610-016-9308-z>. |
|  | Table 1: Percentage of the number of contract awards which received only one bid comparing to the total number of contract awards including only buyers who ran at least three procurement procedures over the reporting period above EU threshold   |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | | 0% - 10% | 10% - 20% | 20% - 30% | 30% - 40% | 40% - 50% | 50% - 60% | 60% - 70% | 70% -80% | 80% -90% | 90% - 100% | | 29 | 24 | 18 | 28 | 18 | 10 | 12 | 13 | 4 | 12 |   Table 2: Percentage of the number of contract awards which received only one bid comparing to the total number of contract awards including only buyers who ran at least three procurement procedures over the reporting period below EU threshold (beginning from 20.000 EUR)   |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | | 0% - 10% | 10% - 20% | 20% - 30% | 30% - 40% | 40% - 50% | 50% - 60% | 60% - 70% | 70% -80% | 80% -90% | 90% - 100% | | 71 | 50 | 42 | 82 | 40 | 28 | 37 | 24 | 8 | 18 | |
| Statistical distribution of buyers by frequency of using a negotiated procedure without the prior publication of a call of competition | For each contracting authority or entity:  1) Calculate the total number of procedures.  2) Calculate the number of negotiated procedures without the prior publication of a call for competition.  3) Divide the second number by the first number.  In the report, in a table, please include the number of contracting authorities or entities whose result from 3) above falls within each of the following intervals: <0%,10%>, (10%, 20%>, (20%, 30%>, … , (90%,100%>.  Please include only procurement procedures which resulted in at least one contract award and include only buyers who ran at least three procurement procedures over the reporting period.  For more information about this indicator please see the following article from the European Journal on Criminal Policy and Research: <http://link.springer.com/article/10.1007%2Fs10610-016-9308-z>. |
|  | Table 3: Percentage of the number of negotiated procedures without the prior publication of a call for competition comparing to the total number of contract awards including only procurement procedures which resulted in at least one contract award and including only buyers who ran at least three procurement procedures over the reporting period above EU threshold   |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | | 0% - 10% | 10% - 20% | 20% - 30% | 30% - 40% | 40% - 50% | 50% - 60% | 60% - 70% | 70% -80% | 80% -90% | 90% - 100% | | 22 | 10 | 7 | 9 | 1 | 0 | 0 | 2 | 2 | 0 |   Table 4: Percentage of the number of negotiated procedures without the prior publication of a call for competition comparing to the total number of contract awards including only procurement procedures which resulted in at least one contract award and including only buyers who ran at least three procurement procedures over the reporting period below EU threshold (beginning from 20.000 EUR)   |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | | 0% - 10% | 10% - 20% | 20% - 30% | 30% - 40% | 40% - 50% | 50% - 60% | 60% - 70% | 70% -80% | 80% -90% | 90% - 100% | | 49 | 38 | 22 | 13 | 4 | 1 | 4 | 1 | 0 | 1 | |
| Quantitative assessment of collusion risks | This analysis should be based on a country-specific methodology reflecting the business environment, data available from e-procurement and other platforms, etc. National competition authorities may have information relevant for this analysis.  For an example of a collusion analysis methodology, see the following toolkit from the Government Transparency Institute: <http://www.govtransparency.eu/index.php/2015/11/13/toolkit-for-detecting-collusive-bidding-in-public-procurement/>. |
|  | No data available. |
| Risk of undiscovered conflict of interest | Percent of contracts awarded to companies with concealed ownership structure (i.e. whose ultimate beneficiary owner cannot be verified).  Information for this indicator should be available in central registers of beneficial ownership, which are to be established by all Member States under the 4th Anti-Money Laundering Directive (2015/849 Art. 30) by June 2017.  For more context for this indicator, please see the Commission's Anticorruption Report available at <http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/index_en.htm> |
|  | No data available. |

## 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>.

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| **IV.1. Qualitative reporting on SME participation** |  |
| Key challenges encountered | The information should focus on:  - key challenges encountered in facilitating the participation of SMEs in public procurement, if any  - measures taken to overcome them  - difficulties still existing in the Member State |
|  | Key challenges encountered in facilitating the participation of SMEs in public procurement are:   * Quality and understanding of the information provided; * Administrative burden too high; * Difficulties relating to the size of contracts; * Difficulties relating to proportionality of qualification levels and financial requirements; * Emphasis on price only rather than value for money; * Too short time to draw up tenders.   PPA contains several measures to improve the access of SMEs to public procurements:   * Low national thresholds for publication of contract notices on the national procurement platform;   National thresholds for public procurement in the classical sector: 20.000 EUR for goods, services and design contest, 40.000 EUR for works, 750.000 EUR for social and other specific services. National thresholds for public procurement in the infrastructure sector: 50.000 EUR for goods, services and design contest, 100.000 EUR for works, 1.000.000 for social and other specific services.   * Demanding less evidences in award procedure and instead of different forms European Single Procurement Document (ESPD), e.g. uniform preliminary evidence of fulfilment of the conditions required in public procurement procedures must be used; * In small value, public procurements self-declarations are admissible, * Economic operators shall not be required to submit supporting documents or other documentary evidence as far as the contracting authority has the possibility of obtaining the relevant information directly by accessing them in a database; * In line with principle of short supply chains contracting authority may exclude several lots from the tendering process rather than publishing them within the contract notice with the rest of the lots, provided that the estimated value of the excluded lots is less than 80,000 EUR and the aggregate value of the lots thus awarded without applying public procurement rules shall not exceed 20% of the aggregate value of all the lots into which the proposed acquisition of similar supplies or the proposed provision of services has been divided; * Training and workshops (not carried out exclusively for SMEs) however various educations, trainings and awareness raising events regarding public procurement legislation and related issues, organised periodically by the Ministry of Public Administration - Public Procurement Directorate is beside for contracting authorities also accessible for economic operators. * Help-desk service, providing expert assistance on relevant procurement issues is beside for contracting authorities provided also for economic operators participating in or interested in participating in public procurement procedures.   We still observe some difficulties that restrict participation in public procurement contracts by SMEs:   * Logistical demands of contracting authority; * Short deadlines for delivery of goods and execution of services and works; * Award criteria may not favour an economic operator just because it is an SME, although it must outsource many services, that larger enterprises execute in-house. |
| IV.2. Supporting documents |  |
| Please report any available evidence or supporting document for point IV.1, illustrating the measures, achievements or challenges faced, relating to the facilitation of the participation of SMEs in public procurement | *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):* *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* *Specific measures targeting SME participation in different techniques for aggregated procurement (framework agreements, dynamic purchasing systems, and centralised procurement activities)**Specific measures targeting the participation of start-ups and scale-ups in public procurement* *Specific measures ensuring that payment for public contracts are made on time, especially in the case of SMEs* *Specific measures addressing the payments to subcontractors**Existing guidelines or instructions for contracting authorities on how to treat grouping (e.g. consortia) of SMEs**Existing guidelines for contracting authorities on the application of 'divide or explain' principle* *Existing targets for SME participation in public procurement* |
|  | From 2013 on, the implementation of Small Business Act includes a [Single Collection of Measures](http://www.enotnazbirkaukrepov.gov.si/) (SINGLE DOCUMENT), which contains specific identified measures, commitments, and proposals for solutions, responsible authorities and deadlines of realization. Document itself standardized measures of several strategic documents, which have been logically joined by sixteen areas, which pursues the objective of creating a better business environment and increased competitiveness of the Slovenian economy. Also, there is a unified reporting for all documents, thus the reports to the Government of the Republic of Slovenia will be transmitted three times a year.  Single document is available at: <http://www.stopbirokraciji.si/enotna-zbirka-ukrepov/>  Slovenian public procurement legislation is in coherence with EU acquirements, thus all solution and measures to support SMEs are included in a way not to jeopardise fundamental public procurement principles and rules. SMEs Association usually actively collaborate in preparation process of individual legal document with proposals on how to improve the SMEs position and access to public procurements. In order to ensure comprehensive assessment of impacts on economy especially SMEs for all legislative proposals the use of SME test is mandatory.  As regards the preparation process of Public Procurement legislation (particularly PPA) in drafting phase [panel discussion](http://www.evroterm.gov.si/svez_slovar5.php?jezik=slov&iskanje=1&izpis=3&sourcel=SL&targetl%5b0%5d=all&podrocje%5b0%5d=any&id=101850&beseda=panel%20discussion) with SME Associations was organised, the association itself as well as individual SMEs were actively involved even through public debate of legislative proposal. In order to ensure comprehensive assessment of impacts on economy especially SMEs for all legislative proposals the use of SME test is mandatory (<http://www.stopbirokraciji.si/msp-test/>). SMEs are subject of wider concept; public procurement is only part of it.  Beside PPA several guidelines in various fields were adopted (i.e. Guidelines for the procurement of architectural and engineering services, Guidelines for public procurement of works, Guidelines for public procurement of information solutions, Recommendations concerning the application of financial insurance in public procurement) – all available at: <http://www.djn.mju.gov.si/sistem-javnega-narocanja/smernice> (in Slovenian language only). Currently in preparation are also Guidelines for cleaning and security services.  However, framework agreements and dynamic purchasing systems with participation of SMEs are defined through PPA. Furthermore, the Ministry of Public Administration, Public Procurement Directorate, carries out procedures for bigger contracting authorities (joint for multiple contracting authorities). These even when divided into lots are often too big and too demanding (as regards logistic demands, human and technical resources) for SMEs. Consequently, Some of SME’s are facing problems of staff capacity and knowledge on preparation of the admissible tender documentation, even when the public procurement procedure is simplified.  List of concluded joint public procurements is available at: <http://www.djn.mju.gov.si/narocniki>  At the same time, greater openness of the public procurement market for SME’s is related with low national thresholds for publication of contract notices on the national procurement platform.  The use of e-procurement for SMEs is encouraged by mandatory functionalities provided within National Basic Functional System for electronic public procurement (i.e. e-Notices including e-notification of award, ESPD, e-Dossier, e-reverse auctions, e-Invoicing, e-Payment etc.). Furthermore, The National Basic Functional System for electronic public procurement alongside with its functionalities is promoted on web page of the Ministry of Public Administration, as well as on various presentations events and theme-based educations. Any subcontractor (SMEs and non-SMEs) for the execution of a public service or works contract may also request direct payments from the contracting authority (Article 94 of the PPA). Explained in details in Chapter V.2.2 Socially responsible public procurement ('SRPP'), Supporting documents. As Public finance legislation determines payment periods, the SMEs (or for lower value contracts) are guaranteed timely and efficient payment terms/arrangements.  At the same time the SMEs are encouraged the division of contracts into lots by PPA law, under which the subject-matter of the public contract is permitted, which adds to the economy and efficiency of the performance of the contract. Under the same law the contracting authorities shall award the contract in the form of separate lots, thus making the contract accessible to a wider circle of economic operators.  SME participation in joint bidding/consortia is encouraged by the definition of “economic operator”. This shall mean that any natural or legal person or group of such persons, including any temporary association of undertakings, which offers the execution of works, the supply of products or the provision of services on the market or in procurement procedures, should not be restricted as a possible tenderer by the contracting authorities in a way of prohibiting the joint bidding. Since, according to national public procurement legislation, subcontracting is also allowed, contracting authorities shall not restrict possible tenderers by prohibiting to award a part of the contract to subcontractor. Though in the case of works contracts, service contracts, and siting or installation operations in the context of a supply contract, contracting authorities may require that certain critical tasks are performed directly by the tenderer itself or, where the tender is submitted by a group of economic operators, by a participant in that group. In that view prime contractors are encouraged to subcontract with SMEs Subcontracting arrangements, to facilitate SME participation.  Although, main challenge regarding the support of SMEs is the potential conflict with primary procurement objectives and considerations (principle of equal treatment).  Furthermore, after the adoption of PPA its presentation was carried out in several regions of country, as well as many other theme-based educations were carried out. The Ministry of Public Administration had also established helpdesk service, providing expert assistance on relevant procurement issues is beside for contracting authorities provided also for economic operators participating in or interested in participating in public procurement procedures.  The Public Procurement Act (PPA) is available at: <http://www.djn.mju.gov.si/resources/files/Predpisi/ZJN-3_ang_prevod.pdf> |
| IV.3. Quantitative indicators | *This section contains examples of quantitative indicators related to section IV.1. Other indicators can also be included in the report.* |
| Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section IV.1. above | *Possible relevant (non-exhaustive) documents for consideration may be as follows:*   * *Participation of SMEs in call for tenders above threshold:* 18.067 * *Number of above-threshold contracts awarded to SMEs:* 5.742 * *Total value of contracts above threshold won by SMEs:* 1.390.416.622 EUR * *If additional data is collected in your MS, please report it in order to deepen our understanding about SME participation in public procurement. This might include the number and value of public procurement below threshold won by SMEs:*   Procurement procedures below the EU threshold (beginning from 20.000 EUR):   * *Participation of SMEs in call for tenders:* 18.713 * *Number of contracts awarded to SMEs:* 6.742 * *Total value of contracts won by SMEs:* 616.030.640 EUR * *If applicable, current attainment rate of the target set for SMEs participation: no data available*   In this scope, we want to emphasise that in Slovenia the percentage of participation of SMEs in call for tenders among the whole call for tenders above and below EU threshold is very high.  Participation of SMEs in call for tenders among the whole call for tenders above EU threshold: 81,04 %  Participation of SMEs in call for tenders among the whole call for tenders below EU threshold (beginning from 20.000 EUR): 82,58 %  Percentage of above-EU threshold contracts awarded to SMEs comparing to other tenderers: 77,96 %  Percentage of below-EU threshold (beginning from 20.000 EUR) contracts awarded to SMEs comparing to other tenderers: 80,84 %  Percentage of the total value of contracts comparing to other tenders above EU threshold won by SMEs: 62,68 %  Percentage of the total value of contracts comparing to other tenders below EU threshold (beginning from 20.000 EUR) won by SMEs: 75,56 % |

## Information on the practical implementation of national strategic procurement

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| V.1 Green procurement ('GPP') | Green Public Procurement ('GPP') is defined as "a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured."[[2]](#footnote-3) A voluntary target of 50 % GPP per Member State in number and value of relevant procedures was proposed by the Commission and welcomed by the Council in 2008. |
| V.1.1 Qualitative reporting |  |
| Key challenges encountered | The information should focus on:  - key challenges encountered in promoting green public procurement, if any  - measures taken to overcome them  - difficulties still existing in the Member State |
|  | Green public procurement (hereinafter: GPP) has been recently renewed with the Decree on Green Public Procurement (Official Gazette no. 51/2017, hereinafter: Decree on GPP), which entered into force January 1st, 2018. By the end of 2017 the old Decree on Green Public Procurement (Official Gazette no. 102/11, 18/12, 24/12, 64/12, 2/13, 89/14 in 91/15 – ZJN-3) was in force. The new Green Public Procurement regulation was designed in the light of progress and practices in Slovenia and also by the example of other EU countries.  The purpose of an old Decree on GPP has been:  - to provide environmentally-conscious public consumption of goods, services and works and  - giving an example to the private sector.  In addition to these from 1st January 2018 in line with the new Decree on GPP the purpose is extended to:  - improve the environmental characteristics of an existing offer and  - promote environmental innovation and circular economy.  GPP also promotes the integration of the economy into environmental management systems (ISO 14001, EMAS), the acquisition of environmental certificates (Ecolabel flower, organic food production) and the reduction of carbon footprint by companies and products.  Since the implementation of GPP still presented great challenges for both contracting authorities and economic operators, various educations, trainings and awareness raising events in regard to green public procurement (regarding both the old and new Decree on GPP) were organised periodically by the Ministry of Public Administration, Public Procurement Directorate accessible for both the contracting authorities and economic operators. Also, helpdesk service, providing expert assistance on relevant procurement issues is also at disposal for both contracting authorities and economic operators participating in or interested in participating in green public procurement procedures.  In accordance with the new Decree on GPP, recommendations or examples of environmental conditions and criteria for all 20 green subject matters were prepared and are published on the Public Procurement Directorate’s website.  The Ministry of Public Administration, Public Procurement Directorate actively collaborated with other line ministries in preparation process of the recommendations. Contact points, that provide expert assistance on green public procurement issues related to the area of ​​work of each department or individual subject of green public procurement to contracting authorities and economic operators participating in, or interested in participating in green public procurement procedures, are published on the Public Procurement Directorate’s website.  GPP has been mandatory for all contracting authorities since 2011. Difficulties with the implementation of the Decree on GPP that was in force in 2017 refer to the exact specifications of obligatory environmental requirements, which limited the development of environmentally less burdensome products, services and works and prevented the necessary diversity of public procurement subject matters and/or the performance of public contracts. With the renewed Decree on Green Public Procurement that came into force in 2018 we believe that these short comes will be overcome since the new regulation is more flexible for implementation. Further details regarding the new Decree on GPP are explained in Chapter V.1.2. Supporting documents of this report. |
| V.1.2. Supporting documents |  |
| Please report any available evidence or supporting document for point V.1, illustrating the measures, achievements or challenges faced, relating to the promotion of green public procurement. | *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):*   * *National definition of 'green' and 'green public procurement'* * *Information about National action plans or similar documents on GPP in your Member State and the stage of their implementation. Target for the uptake of GPP and the way it is defined i.e. for overall procurement, for specific product groups, by value, by number of contracts* * *Any obligations to include green requirements in the tender documents and the authorities for which they apply* * *Any recommendations concerning the use of specific selection criteria, technical specifications/award criteria/performance clauses which public authorities or contracting entities wishing to procure green can include in their tender documentation. Categories of products for which these are relevant and the relevant website, if possible* * *Any information on environmental labels, environmental management systems or standards* * *Any recommendations to use the 'green procurement' criteria developed by the European Commission, respectively for which product groups. If different criteria are recommended, please specify whether they are similar to/inspired by the EU criteria* * *Activities in the area of capacity-building for procuring green (institutionalised or ad-hoc training, helpdesks, etc.)* |
|  | In accordance with the regulations of the PPA green public procurement is regulated by the Decree on Green Public Procurement that has been renewed in 2017.  National definition of 'green public procurement' was defined in Article 1(1) in the old Decree on GPP that was in force until the end of 2017 and both in the new Decree on GPP that replaced the old Decree on GPP and came into force in 2018.  The old Decree on GPP is available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED5194> (in Slovenian language only).  The new Decree on GPP is available at: <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2017-01-2381?sop=2017-01-2381> (in Slovenian language only).  Green public procurement, according to recently renewed Decree on GPP, is still mandatory, but is extended to 20 different green subject matters (the old Decree on GPP was mandatory for 12 different green subject matters). The new Decree itself sets the environmental aspects which contracting authorities must consider and goals for individual subject matter to be achieved. In order to facilitate the implementation of the Decree on GPP, recommendations on how to achieve goals, with explicit requirements and criteria for individual subject matters, were prepared and coordinated with ministries and stakeholders. The recommendations are available at the Ministry of public Administration’s webpage at: <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2017-01-2381?sop=2017-01-2381> (in Slovenian language only).  According to the new Decree on GPP, as already mention above, green public procurement is mandatory for 20 subject matters (12 in accordance with the old Decree on GPP).  The Green public procurement is therefore mandatory for (in bold are subject matters that are additionally mandatory in accordance with the new Decree on GPP as regards the old Decree on GPP):   * electricity, * food and catering services, * **textile products**, * office paper and hygienic paper products, * electronic office equipment, * televisions, * refrigerators, freezers and their combinations, washing machines, **dishwasher**, dryers, vacuum cleaners and air conditioners), * furniture, * **water heaters, space heaters and their combinations, and hot water storage,** * **sanitary fittings,** * **toiletry equipment and urinal equipment** * **wall panels,** * design or construction of buildings **(according to the new Decree on GPP only for business and administrative buildings),** * **design or construction of roads,** * road vehicles **(according to the new Decree on GPP also for working vehicle for the collection of waste),** * tires, * electric bulbs and lamps **and indoor lightning systems,** * **road lighting and traffic signalization,** * cleaning products, cleaning and laundry services, * **gardening services, agricultural and other products and gardening equipment and machinery.**   The recommendations, prepared in accordance with the new Decree on GPP are available at: <http://www.djn.mju.gov.si/sistem-javnega-narocanja/zeleno-jn> (in Slovenian language only).  The new green public procurement regulation also sets out the environmental aspects that the contracting authorities should take into consideration when awarding public contracts:  - energy efficiency and the use of renewable or other low or non-carbon alternative energy sources;  - efficient and re-use of water;  - efficient use of resources;  - preventing a threat to health or the environment, in particular air pollution, water and soil, and the reduction of biodiversity;  - the re-use of secondary raw materials and products and the prevention and reduction of waste generation, including due to the longer lifetime of the goods or the construction, the promotion of repairs, the preparation and processing of spent products and waste for reuse and recycling  The Ministry of Public Procurement has (in collaboration with different chambers and other stakeholders) also prepared Guidelines for the procurement of architectural and engineering services, Guidelines for public procurement of works, Guidelines for public procurement of information solutions and Recommendations concerning the application of financial insurance in public procurement – all available at: <http://www.djn.mju.gov.si/sistem-javnega-narocanja/smernice> (in Slovenian language only). Guidelines for cleaning and security services are currently also in preparation.  Regarding the Slovenian legislation’s certification scheme, Article 78 of the PPA defines the use of quality assurance standards and environmental management standards in public procurement procedures. The second paragraph of the same article defines that where contracting authorities require the production of certificates drawn up by independent bodies attesting that an economic operator complies with certain environmental management systems or standards, they shall refer to the European Union’s Eco-Management and Audit Scheme (EMAS) or to other environmental management systems as recognised in accordance with Article 45 of Regulation (EC) No. 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No. 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (OJ L 342, 22.12.2009, p. 1), as amended by Council Regulation (EU) No. 517/2013 of 13 May 2013 adapting certain regulations and decisions in the fields of free movement of goods, freedom of movement for persons, company law, competition policy, agriculture, food safety, veterinary and phytosanitary policy, transport policy, energy, taxation, statistics, trans-European networks, judiciary and fundamental rights, justice, freedom and security, the environment, customs union, external relations, and foreign, security and defence policy and institutions, by reason of the accession of the Republic of Croatia (OJ L 158, 10.6.2013, p. 1), or other environmental management standards based on the relevant European or international standards by accredited bodies. They shall recognise equivalent certificates from bodies established in other Member States.  All measures implemented into national public procurement legislation regarding green public procurement follow and are in accordance with EU's legal framework in that field.  Capacity building activities in the field of green public procurement (institutionalised or ad-hoc trainings, helpdesk, etc.) are explained in answer V.1.1 Qualitative reporting. Activities in regards of green public procurement are described at: <http://www.djn.mju.gov.si/sistem-javnega-narocanja/zeleno-jn> (in Slovenian language only). |
| V.1.3. Quantitative indicators | *This section contains examples of quantitative indicators related to section V.1. Other indicators can also be included in the report.* |
| Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section V.1.1 above. To the extent possible, these indicators should be further grouped by type of legal problem. | *Possible relevant (non-exhaustive) documents for consideration may be as follows:*   * *Percentage of public procurement procedures incorporating green criteria out of the whole volume of procurement at national level and if available, for the GPP product groups (e.g.* [*http://ec.europa.eu/environment/gpp/eu\_gpp\_criteria\_en.htm*](http://ec.europa.eu/environment/gpp/eu_gpp_criteria_en.htm)*) for which monitoring is being done, measured by number and value*   The Green public procurement is therefore mandatory for above written subject matters or product groups.  Percentage of public procurement procedures measured by numberabove the EU threshold: 48,35 %  Percentage of public procurement procedures measured by numberbelow the EU threshold (beginning from 20.000 EUR): 26,22 %  Percentage of public procurement procedures measured by value above the EU threshold: 15,48 %  Percentage of public procurement procedures measured by value below the EU threshold (beginning from 20.000 EUR): 23,95 %  The data above show the sum (in percentage) of all Green public procurement comparing to the whole volume of procurement above and below the EU threshold measured by number and value. The data below show the sum dividing by the GPP product groups (12 subject matters) also measured by number and value.  1. electricity  Percentage of public procurement procedures measured by numberabove the EU threshold: 0,19 %  Percentage of public procurement procedures measured by numberbelow the EU threshold (beginning from 20.000 EUR): 0,41 %  Percentage of public procurement procedures measured by value above the EU threshold: 1,41 %  Percentage of public procurement procedures measured by value below the EU threshold (beginning from 20.000 EUR): 0,29 %  2. food and catering services  Percentage of public procurement procedures measured by numberabove the EU threshold: 42,80 %  Percentage of public procurement procedures measured by numberbelow the EU threshold (beginning from 20.000 EUR): 14,08 %  Percentage of public procurement procedures measured by value above the EU threshold: 4,72 %  Percentage of public procurement procedures measured by value below the EU threshold (beginning from 20.000 EUR): 1,39 %  3. office paper and hygienic paper products,  Percentage of public procurement procedures measured by numberabove the EU threshold: 0 %  Percentage of public procurement procedures measured by numberbelow the EU threshold (beginning from 20.000 EUR): 0,04 %  Percentage of public procurement procedures measured by value above the EU threshold: 0 %  Percentage of public procurement procedures measured by value below the EU threshold (beginning from 20.000 EUR): 0,02 %  4. electronic office equipment  Percentage of public procurement procedures measured by numberabove the EU threshold: 0,57 %  Percentage of public procurement procedures measured by numberbelow the EU threshold (beginning from 20.000 EUR): 0,40 %  Percentage of public procurement procedures measured by value above the EU threshold: 1,25 %  Percentage of public procurement procedures measured by value below the EU threshold (beginning from 20.000 EUR): 0,66 %  5. televisions  Percentage of public procurement procedures measured by numberabove the EU threshold: 0 %  Percentage of public procurement procedures measured by numberbelow the EU threshold (beginning from 20.000 EUR): 0 %  Percentage of public procurement procedures measured by value above the EU threshold: 0 %  Percentage of public procurement procedures measured by value below the EU threshold (beginning from 20.000 EUR): 0 %  6. refrigerators, freezers and their combinations, washing machines, **dishwasher**, dryers, vacuum cleaners and air conditioners)  Percentage of public procurement procedures measured by numberabove the EU threshold: 0 %  Percentage of public procurement procedures measured by numberbelow the EU threshold (beginning from 20.000 EUR): 0,17 %  Percentage of public procurement procedures measured by value above the EU threshold: 0 %  Percentage of public procurement procedures measured by value below the EU threshold (beginning from 20.000 EUR): 0,07 %  7. design or construction of buildings  Percentage of public procurement procedures measured by numberabove the EU threshold: 0,26 %  Percentage of public procurement procedures measured by numberbelow the EU threshold (beginning from 20.000 EUR): 6,75 %  Percentage of public procurement procedures measured by value above the EU threshold: 1,81 %  Percentage of public procurement procedures measured by value below the EU threshold (beginning from 20.000 EUR): 19,56 %  8. furniture  Percentage of public procurement procedures measured by numberabove the EU threshold: 0,24 %  Percentage of public procurement procedures measured by numberbelow the EU threshold (beginning from 20.000 EUR): 0,97 %  Percentage of public procurement procedures measured by value above the EU threshold: 0,16 %  Percentage of public procurement procedures measured by value below the EU threshold (beginning from 20.000 EUR): 0,28 %  9. cleaning products, cleaning and laundry services  Percentage of public procurement procedures measured by numberabove the EU threshold: 1,17 %  Percentage of public procurement procedures measured by numberbelow the EU threshold (beginning from 20.000 EUR): 0,97 %  Percentage of public procurement procedures measured by value above the EU threshold: 1,59 %  Percentage of public procurement procedures measured by value below the EU threshold (beginning from 20.000 EUR): 0,65 %  10. road vehicles  Percentage of public procurement procedures measured by numberabove the EU threshold: 2,95 %  Percentage of public procurement procedures measured by numberbelow the EU threshold (beginning from 20.000 EUR): 2,19 %  Percentage of public procurement procedures measured by value above the EU threshold: 4,48 %  Percentage of public procurement procedures measured by value below the EU threshold (beginning from 20.000 EUR): 0,92 %    11. tires  Percentage of public procurement procedures measured by numberabove the EU threshold: 0,16 %  Percentage of public procurement procedures measured by numberbelow the EU threshold (beginning from 20.000 EUR): 0,04 %  Percentage of public procurement procedures measured by value above the EU threshold: 0,04 %  Percentage of public procurement procedures measured by value below the EU threshold (beginning from 20.000 EUR): 0,03 %  12. electric bulbs and lamps  Percentage of public procurement procedures measured by numberabove the EU threshold: 0,01 %  Percentage of public procurement procedures measured by numberbelow the EU threshold (beginning from 20.000 EUR): 0,22 %  Percentage of public procurement procedures measured by value above the EU threshold: 0,02 %  Percentage of public procurement procedures measured by value below the EU threshold (beginning from 20.000 EUR): 0,09 %  We would like to mention, that data provided are obtained from statistical data at the public enterprise Javno podjetje Uradni list Republike Slovenije, d.o.o.. Data were collected by forwarding the CPV code to the Javno podjetje Uradni list Republike Slovenije, d.o.o.. When the data were [receive](https://sl.pons.com/prevod/angle%C5%A1%C4%8Dina-sloven%C5%A1%C4%8Dina/receive)d, we sorted them by 12 subjects, which were mandatory by the old Decree. New Decree, which entered into the force by January 1st, 2018, is mandatory to fulfil the data about one of the 20 subject. Besides, the new Decree also requests that all data referring to the Green Public Procurement shall be obtained from public procurement formularies (e.g. EU-3). |
| V.2 Socially responsible public procurement ('SRPP') | Socially Responsible Public Procurement ('SRPP') is defined as procurement that takes into account one or several social considerations for advancing social objectives. SRPP covers a wide spectrum of social considerations, such as for example employment opportunities, decent work conditions, compliance with social and labour rights, social inclusion, equal opportunities and accessibility. |
| V.2.1 Qualitative reporting |  |
| Key challenges encountered | The information should focus on:  - key challenges encountered in promoting socially responsible public procurement, if any  - measures taken to overcome them  - difficulties still existing in the Member State |
|  | PPA follows the EU legislation in this field with a special and substantial emphasis on social and environmental policy.  The new rules on public procurement therefore apply principles in the field of environment and social inclusion. However, besides covering the social inclusion, social aspects include also respecting the rights from existing legislation, establishing therefore a new instrument to combat "social dumping".  Often, the requirements of public procurement law for the best quality (the best value for money) are not in accordance with the workers’ rights (social aspects).  To summarize, as regards social public procurement, several provisions in national procurement legislation are in place to support socially responsible procurement (e.g. horizontal social clause is mandatory, thus all economic operators while performing public procurement contract shall comply with applicable obligations in the fields of environmental, social and labour law established by EU law, regulations in force in the Republic of Slovenia, collective agreements, or by international environmental, social and labour law provisions; contracting authorities may reserve the right to participate in public procurement procedures to sheltered workshops and employment centres (reserved contracts); rejection of abnormally low tender; possibility of direct payments to subcontractors; various mandatory social exclusion grounds, selection and award criteria and contract performance clauses). Currently two guidelines - for cleaning and security services are being prepared, since in those kinds of labour-intensive sectors there is an increased risk of violation of worker’s rights.  Since PPA cannot cover all social aspects, these should also be included in sectoral legislation.  Measures taken to overcome these challenges are included in improved legislation of public procurement, as the provisions related to social aspects are more clearly provided in the PPA. Also, renewed version of the law (PPA-3A) that emphases the importance of the social aspect in public procurement has already been accepted and will enter into the force on November 1st, 2018.  Various educations, trainings and awareness raising events regarding public procurement legislation and related issues, organised periodically by the Ministry of Public Administration, Public Procurement Directorate, are accessible for contracting authorities as well as for economic operators.  The same principle refers to the helpdesk service, which an expert assistance on relevant procurement issues is provided for contracting authorities and economic operators participating in or interested in participating in public procurement procedures. |
| **V.2.2. Supporting documents** |  |
| Please report any available evidence or supporting document for point V.2.1 illustrating the measures, achievements or challenges faced, relating to the promotion of SRPP. | *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):*   * *National SRPP definition* * *List and brief description of national policy initiatives launched in the area of SRPP* * *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* * *Any information on social labels in use* |
|  | National SRPP definition is defined uniquely, as it appears in various documents. In accordance with our national policy, socially responsible public procurement is laced by PPA and [promoted](https://sl.pons.com/prevod?l=ensl&q=spodbújati&in=sl) by guidelines, available at: <http://www.djn.mju.gov.si/sistem-javnega-narocanja/smernice> (in Slovenian language only).  PPA already includes the basic principles of public procurement in so called “horizontal social clause”. The clause obligates the economic operators to comply with applicable obligations in the fields of environmental, social and labour law established by EU, regulations in force in the Republic of Slovenia, collective agreements, or by international environmental, social and labour law provisions. A list of international social and environmental conventions is provided in Annex X to Directive 2014/24/EU and Annex XIV to Directive 2014/25/EU (Article 3(2) of the PPA).  In accordance with the PPA, the contract shall include a provision to the effect that the contract shall terminate if the contracting authority becomes aware that the competent government authority or a court, by way of a final decision, has established that the contractor or its sub-contractor is in breach of labour, environmental or social law provisions (Article 67(3) and (4) of the PPA).  In addition to the above-mentioned clause, which relates and is crucial to the implementation phase of the public procurement contract (so called post contract phase, that means when the public contract on the basis of the contract award notice has already been concluded), the social aspects of the new rules also include provisions on the exclusion of economic operators from the very procurement procedure, on the grounds that they violate certain rules or obligations.  PPA in Article 75 under the chapter “Qualitative selection” defines the reasons for the exclusion of economic operators, some of which are defined as obligatory and others as optional. Contracting authorities shall exclude an economic operator from participation in a procurement procedure where they have established, by verifying or are otherwise aware, that that economic operator or a person who is a member of the administrative, management or supervisory body of that economic operator or has powers of representation, decision or control therein has been the subject of a conviction by a final judgment containing elements of the criminal offences defined in national criminal legislation (following the model of European legislation - first paragraph of Article 57 of Directive 2014/24 / EU). In the PPA the criminal offences are listed. One of these criminal offences (there are 43 in total) is also an offense of violating the fundamental rights of workers. Contracting authorities shall exclude an economic operator from participation in a procurement procedure where they have established, by verifying, that the economic operator has not complied with its obligations relating to the payment of compulsory charges or other pecuniary non-tax liabilities under the law governing financial administration, collected by the tax authority in accordance with the regulations of the country in which it is established or with the regulations of the country of the contracting authority, where those unpaid overdue liabilities total EUR 50 or more as at the date of the submission of the tender or request.  Contracting authorities shall exclude an economic operator from a procurement procedure in any of the following situations:  a) if the economic operator is excluded from contract award procedures on the date of the expiry of the time limit for the submission of tenders or requests due to its inclusion in the register of economic operators with negative references;  b) if, in the three years preceding the expiry of the time limit for the submission of tenders, the economic operator was fined twice, by way of a final decision of the competent authority of the Republic of Slovenia or another Member State or a third country, for a minor offence relating to remuneration for work.  Besides the above-mentioned reasons for exclusion, all being mandatory for contracting authorities, the PPA also allows the contracting authority, at its sole discretion, to include a series of optional exclusion reasons in the public procurement procedure, considered reasonable and necessary according to the subject-matter of the public contract, the market situation and other circumstances related to the subject of the ordering. These include the exclusion of economic operators from participating in the public procurement procedure, based on violation of the applicable obligations in the fields of environmental, social and labour laws established by EU law, regulations in force in the Republic of Slovenia, collective agreements, or by international environmental, social and labour law provisions (point a) paragraph 6 of Article 75 of the PPA).  The exclusion of the tender from the public procurement procedure should also be applied in the case of any abnormally low tender, when it does not comply with applicable obligations in the fields of environmental, social and labour law, regulations in force in the Republic of Slovenia, collective agreements and international law (Article 86(4) of the PPA), since an economic entity can achieve a priority position or create unfair competition based on lower prices of the public procurement.  In accordance with the PPA the contracting authority may also include various social criteria in the public procurement procedure (Article 84(2) of the PPA). The most economically advantageous tender shall be identified on the basis of the price or cost, using a cost-effectiveness approach such as life cycle costing, as provided for in this Act, and may include the best price-to-quality ratio, which shall be assessed on the basis of criteria relating to qualitative, environmental or social aspects linked to the subject-matter of the public contract in question.  Other criteria, besides the price, should be considered in cases like the development of computer software, architectural and engineering services, translation and advisory services (Article 84(5) of the PPA).  PPA also [stimulate](https://sl.pons.com/prevod/angle%C5%A1%C4%8Dina-sloven%C5%A1%C4%8Dina/stimulate)s social [integration](https://sl.pons.com/prevod?l=ensl&q=integration&in=en)**.** The contracting authorities may reserve the right to participate in public procurement procedures referring to sheltered workshops and employment centres as defined by the law on vocational rehabilitation and employment of disabled persons and to social enterprises and enterprises with social content as defined by the law on social entrepreneurship for all types of works, services and goods (Article 31 of the PPA), since under normal conditions of competition, these companies cannot normally get a public procurement.  In the field of public procurement (similar to previous regulations of the PPA (Official Gazette no. 12/13 – official consolidated text, 19/14, 90/14 – ZDU-1I and 91/15 – ZJN-3; v hereinafter: PPA -2)) a special attention is required for subcontractors (Article 94 of the PPA). PPA specifies that transparency in subcontracting chains should be determined. Any subcontractor for the execution of a public service or works contract may also request direct payments from the contracting authority. Where, and only where, direct payment is requested by a subcontractor in accordance with and in the manner set out in paragraphs 2 and 3 of this Article, direct payment to such a subcontractor shall be deemed to be mandatory in accordance with this Act and this obligation shall be binding on the contracting authority and the main contractor (Article 94(5) of the PPA). Where direct payment to a subcontractor is not mandatory in accordance with this Article, the contracting authority shall require the main contractor to submit, no later than 60 days of the payment of the final invoice or interim certificate, its written statement and a written statement by the subcontractor that the subcontractor has received payment for the works performed or the services or products supplied that are directly linked to the subject-matter of the contract (Article 94(5) of the PPA).  Apart from the above mentioned social aspects, the PPA also enables better integration of environmental aspects into public procurement procedures, including calculating life cycle costs (Article 85 of the PPA) and integrating environmental criteria (Article 84(2) of the PPA). Among the latter special attention is required when the food products are the object of public procurement. In that case the tender selection criteria shall give preference to foodstuffs covered by quality schemes (e.g. seasonal integrated food production or seasonal organic food production), foodstuffs produced in conformity with national food quality regulations, and foodstuffs that are sustainably produced and processed and are of high quality in terms of freshness or where their transport causes less environmental impact. (Article 84(8) of the PPA).  Regarding information on social labels in use, some of Slovenian companies, (acting as contracting authorities or economic operators) already have the Family Friendly Enterprise Certificate. The certificate represents a significant novelty in the Slovenian business environment. Sociological research conducted within the scope of the project by the Faculty of Social Sciences (University of Ljubljana) demonstrated that Slovenian managers do not regard balancing work and family as an issue to be discussed in the workplace. Rather, it is treated as something that the employees need to manage by themselves and ought not to raise at work with their supervisors. The goal of introducing the certificate “Family Friendly Enterprise” was:   * to sensitize businesses about negative business impact of discriminating (potential) parents in the workplace as well as in the labour market * to provide businesses with tools for implementation of such HR policies that enable better balancing of work and family for their employees, * to publicly recognize that business with a positive attitude to provide options of balancing work and family of their employees   The certification methodology is based on the system “European work & family audit”, developed by the German organization “Berufundfamilie”. The Slovenian DP adopted the German methodology to the specifics of the Slovenian economic and legislative framework.  Some examples of the Family Friendly Enterprise Certificate are available at:  <http://www.mddsz.gov.si/si/o_ministrstvu/certifikat_druzini_prijazno_podjetje/>  <https://www.skaza.si/novice/certifikat-druzini-prijazno-podjetje?gclid=EAIaIQobChMI-a3Jh8rN2QIVqr_tCh1lYQbmEAAYASAAEgKs8_D_BwE>  <http://www.triglav.eu/sl/zaposlitve/o_zaposlitvi/druzini-prijazno-podjetje>.  The Public Procurement Act (PPA) is available at: <http://www.djn.mju.gov.si/resources/files/Predpisi/ZJN-3_ang_prevod.pdf>.  The Public Procurement Act (PPA-3A) is available at:  <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2018-01-0588/zakon-o-spremembah-in-dopolnitvah-zakona-o-javnem-narocanju-zjn-3a>  (in Slovenian language only) |
| **V.2.3. Quantitative indicators** | *This section contains examples of quantitative indicators related to section V.2. Other indicators can also be included in the report.* |
| Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section V.2.1 above. | *Possible relevant (non-exhaustive) documents for consideration may be as follows:*   * *Number of public procurement procedures incorporating socially responsible award criteria. Please specify how many of those are regulated under the 'light regime' of Title III Chapter I (Articles 74-77 of Directive 2014/24/EU and Articles 91-94 of Directive 2014/25/EU):* 5 * *Number of public procurement procedures reserved to sheltered workshops and economic operators in line with article 20 of the Directive:* 4 * *Number of public procurement procedures for the provision of health, social or cultural services as referred to in article 77.1 reserved to organisations fulfilling the conditions listed in article 77.2.*: 0 * *Number of public procurement procedures incorporating socially responsible contract performance clauses criteria. Please specify how many of those are regulated under the 'light regime' of Title III Chapter I (Articles 74-77 of Directive 2014/24/EU and Articles 91-94 of Directive 2014/25/EU)*   Number of public procurement procedures incorporating socially responsible contract performance clauses criteria above the EU threshold: 1.043  Number of public procurement procedures incorporating socially responsible contract performance clauses criteria below the EU threshold (beginning from 20.000 EUR): 975  This scope includes the data of all public procurement procedures above and below the EU threshold incorporating socially responsible contract performance clauses criteria (technical specifications, award criteria, conditions for participation and contractual terms). |
| V.3 Public procurement of innovation | An innovative solution is defined in 2014/24/EU Art.2 (1.22) as "a new or significantly improved product, service or process". This includes not only those solutions resulting from R&D but also those solutions resulting from activities, "including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations." Please report both dimensions of innovation procurement: procurement of R&D and procurement of innovative solutions. |
|  | In accordance with the PPA "innovation" shall mean the implementation of a new or significantly improved product, service or process, inter alia production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations, with, for example, the purpose of helping to solve societal challenges or to support the Europe 2020 strategy for smart, sustainable and inclusive growth.  Public service contracts for research and development services which are covered by CPV codes 773000000-2 to 73120000-9, 73300000-5, 73420000-2 and 73430000-5, unless both of the following conditions are fulfilled:  – the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs, and  – the service provided is wholly remunerated by the contracting authority  are exempt from the use of the PPA (Article 27(1)(6)).  PPA also sets out the conditions relating to public procurement procedures, and facilitates establishment of innovation partnerships, which means that the development stage and supply of services are combined in one single procedure. The definition of innovative procurement is also incorporated in the provisions of the Innovation Partnership procedure (http://www.djn.mju.gov.si/sistem-javnega-narocanja/koristne-informacije) and also in the strategic documents developed in the field of innovation and innovative public procurement.  In accordance with the data of the published public procurement procedures on the public procurement portal, no contract on the basis of the Innovation Partnership procedure has been awarded.  In 2017 11 contract award notices for the award of contracts on the basis of the Competitive dialogue procedure have been published on the public procurement portal. In accordance with the PPA Competitive dialogue procedure can (also) be used when works, supplies or services can fulfil one or more of the following criteria:   * the needs of the contracting authority cannot be met without the adaptation of readily available solutions; * they include design or innovative solutions; * the contract cannot be awarded without prior negotiations because of specific circumstances related to the nature, the complexity, or the legal and financial make-up or because of the risks attaching to them; * the contracting authority cannot establish with sufficient precision the technical specifications with reference to a standard, European Technical Assessment, common technical specification or technical reference within the meaning of points 24 to 27 of paragraph 1 of Article 2 of this Act.  No Innovation partnerships have been awarded in 2017. |
| V.3.1 Qualitative reporting |  |
| Key challenges encountered | The information should focus on:  - key challenges encountered in promoting innovation procurement, if any  - measures taken to overcome them  - difficulties still existing in the Member State |
|  | Lack of awareness of the importance and usage of innovative public procurement is still present in the public procurement market. Contracting authorities are reluctant to use innovative procurement models because of risk awareness and lack of knowledge in the field.  Public Procurement Directorate at the Ministry of Public Administration has been dispersing Information regarding innovative procurement through telephone and written interpretations, when needed. The information have also been given to the contracting authorities, economic operators and other interested parties through other means, such as information given in the scope of the workshop and presentation of the PPI2Innovate project (<http://www.djn.mju.gov.si/direktorat-za-javno-narocanje/ppi2innovate>), as well as the information on Horizon2020 project (  [http://www.mizs.gov.si/si/obzorje2020/obvestila/novice\_in\_obvestila\_2015/nova\_instru](http://www.mizs.gov.si/si/obzorje2020/obvestila/novice_in_obvestila_2015/nova_instrumenta_obzorja_2020_za_inovativno_javno_narocanje_pre_commercial_procurement_public_procurement_of_innovative_solutions/)  [menta\_obzorja\_2020\_za\_inovativno\_javno\_narocanje\_pre\_commercial\_procurement\_public\_procu](http://www.mizs.gov.si/si/obzorje2020/obvestila/novice_in_obvestila_2015/nova_instrumenta_obzorja_2020_za_inovativno_javno_narocanje_pre_commercial_procurement_public_procurement_of_innovative_solutions/)  [rement\_of\_innovative\_solutions/](http://www.mizs.gov.si/si/obzorje2020/obvestila/novice_in_obvestila_2015/nova_instrumenta_obzorja_2020_za_inovativno_javno_narocanje_pre_commercial_procurement_public_procurement_of_innovative_solutions/)) presentation and activities in the scope of Smart Specialization Strategy and other means of communication, press conferences by different official representatives emphasizing the importance of innovative public procurement and others.  In the scope of the Interreg’s project PPI2Innovative Slovenia is preparing to conduct an Innovation Partnership procedure that will represent a valuable learning exercise in the field of innovative public procurement and will presumably be used as a good practice example that other contracting authorities will be encouraged to follow.  Further trainings in the field of innovative are also envisaged in the scope of public procurement professionalization. |
| V.3.2. Supporting documents |  |
| Please report any available evidence or supporting document illustrating the measures, achievements or challenges faced, relating to the promotion and implementation of innovation procurement. | *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):*   * *National Action Plan and/or targets for innovation procurement and its stage of implementation. Information on how are they defined.* * *Any additional provisions for innovation procurement in your national legislation that go beyond the provisions in the EU public procurement directives (e.g. more detailed definition of innovative solutions and/or R&D, specific provisions on innovation procurement Art 33 of 2014 EU State aid rules on R&D&I)* * *National guidelines on innovation procurement (e.g. on IPR handling, joint procurement to create demand pull for buying innovative solutions, on R&D procurement)* * *National activities on capacity-building on innovation procurement (institutionalised or ad-hoc training, helpdesks, etc.)* * *Information about outcomes e.g. impact on demand side (increase in quality and/or efficiency of public services), impact on the supply side (increase in sales/company growth, intensified investments in R&D/innovation and/or IPRs), wider market impacts (number/value of contracts awarded to SMEs, amount of contracts awarded to non-domestic providers)* |
|  | The Ministry of Public Administration is taking a part in the European Territorial Co-operation programme Interreg CENTRAL EUROPE project. In the scope of the PPI2Innovative project, three tools for easier incorporation and execution of innovative public procurement are being prepared in three fields: Smart Health, Smart Energy and Smart ICT. The aim of the development of these tools is to encourage the use and to give specific tools to contracting authorities on how to better prepare documentation involving innovative solutions (<http://interreg-central.eu/Content.Node/PPI2Innovate.html>). In the scope of the presentation of the project a good practice on innovative public procurement has also been presented. A project “Regional Waste Management Center Ljubljana (RCERO Ljubljana)” has been presented as a good practice in the field of public procurement of innovative solutions.  When considering public procurement in an innovative way, different guidelines, prepared by the Ministry of Public Administration in cooperation with different important chambers and other relevant actors in the field were prepared. The Guidelines in the field of construction, engineering services and ICT were prepared, which also offer some solutions on how to conduct innovative public procurement in those fields. The guidelines are available at <http://www.djn.mju.gov.si/sistem-javnega-narocanja/smernice>.  In Slovenia, many strategic documents, recognizing the importance of innovation have been prepared, such as the Slovenia's development strategy 2005 – 2013 with the strategic development framework 2050 being prepared. Resolution on the Research and Innovation Strategy of Slovenia 2011-2020 (file:///C:/Users/Maja/Downloads/12.4.11\_RISS\_ANG\_nova\_verzija.pdf) states that an action plan and a system for implementation of innovative public procurements on all levels, which will enable development and implementation of innovative solutions on the market will be prepared. Slovenia’s Smart Specialization Strategy S4 ([http://www.svrk.gov.si/fileadmin/svrk.gov.si/pageuploads/Dokumenti\_za\_objavo\_na\_vstopni\_stran](http://www.svrk.gov.si/fileadmin/svrk.gov.si/pageuploads/Dokumenti_za_objavo_na_vstopni_strani/S4_document_2015_ENG.pdf)  [i/S4\_document\_2015\_ENG.pdf](http://www.svrk.gov.si/fileadmin/svrk.gov.si/pageuploads/Dokumenti_za_objavo_na_vstopni_strani/S4_document_2015_ENG.pdf)) also represents an important document in the field of innovative public procurement and innovation on general in Slovenia. In that scope, also specific strategic development and innovation partnerships have been developed ([http://www.svrk.gov.si/si/delovna\_podrocja/strategija\_pametne\_specializacije/strateska\_razvojno\_](http://www.svrk.gov.si/si/delovna_podrocja/strategija_pametne_specializacije/strateska_razvojno_inovacijska_partnerstva_srip/)  [inovacijska\_partnerstva\_srip/](http://www.svrk.gov.si/si/delovna_podrocja/strategija_pametne_specializacije/strateska_razvojno_inovacijska_partnerstva_srip/)), such as for example A strategic development and innovation partnership of a smart building and a home with a wood chain. The Digital Slovenia 2020 - The strategy for the development of the information society by 2020 (<http://www.mju.gov.si/fileadmin/mju.gov.si/pageuploads/DID/Informacijska_druzba/pdf/DSI_2020_3-2016_pic1.pdf>) has also been prepared. The Action plan on Energy Efficiency 2014-2020 has also been prepared (<https://ec.europa.eu/energy/sites/ener/files/documents/NEAPSLOVENIA_en.pdf>).  In 2017 the new Decree on green public procurement has been accepted (and came into force in 2018), giving even more emphasis on the importance of innovation in the environmental field (<http://www.djn.mju.gov.si/sistem-javnega-narocanja/zeleno-jn>). For example, also the Action plan for increasing the competitiveness of forest chains in Slovenia until 2020 ([http://www.mkgp.gov.si/fileadmin/mkgp.gov.si/pageuploads/podrocja/Gozdarstvo/Akcijski\_nacrt\_L](http://www.mkgp.gov.si/fileadmin/mkgp.gov.si/pageuploads/podrocja/Gozdarstvo/Akcijski_nacrt_Les_je_lep.pdf)  [es\_je\_lep.pdf](http://www.mkgp.gov.si/fileadmin/mkgp.gov.si/pageuploads/podrocja/Gozdarstvo/Akcijski_nacrt_Les_je_lep.pdf)), the Action plan for the Implementation of the Resolution on the National Food Program and physical activity for health 2015-2025 ([http://www.mz.gov.si/fileadmin/mz.gov.si/pageuploads/javno\_zdravje\_2015/resolucija\_preh\_gib/\_](http://www.mz.gov.si/fileadmin/mz.gov.si/pageuploads/javno_zdravje_2015/resolucija_preh_gib/_AKCIJSKI_NACRT_2017_2018_pdf_.pdf)  [AKCIJSKI\_NACRT\_2017\_2018\_pdf\_.pdf](http://www.mz.gov.si/fileadmin/mz.gov.si/pageuploads/javno_zdravje_2015/resolucija_preh_gib/_AKCIJSKI_NACRT_2017_2018_pdf_.pdf)) and others have been prepared. |

## Replicability

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

|  |  |
| --- | --- |
| Links to datasets used to prepare the report | The Commission recommends publishing the source data as open data, e.g. as is the case for the Tenders Electronic Daily database at <http://data.europa.eu/euodp/cs/data/dataset/ted-csv>. |
|  | <https://www.enarocanje.si/> |
| Files used to obtain the results from the datasets | This section should include for example the scripts or code for the relevant statistical software or the Excel files used. |
|  | Attachment 4 - 6 |

**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

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

#### 1.1. General approach:

1. **[data available under national publication requirements]**
2. [sample-based estimates]
3. [combined]

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

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

#### 1.2. Source of data:

|  |  |  |
| --- | --- | --- |
| Scope:  Source of data: | above national publication thresholds [✓] | below national publication thresholds [✓] |
| [e-notification platforms] | ✓ | ✓ |
| [e-submission platforms] | ✓ | ✓ |
| [invoices] | no data available | no data available |
| [budgets] | no data available | no data available |
| [other] |  |  |

### 2. Methodology description

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

According to Article 107 of the PPA the data of the contracts awarded in the previous year and communicated by contracting authorities to the public procurement portal pursuant to the preceding Article shall be processed and sent to the Ministry responsible for public procurement by the public enterprise Javno podjetje Uradni list Republike Slovenije, d.o.o., by 31 May of the current year. For this report Javno podjetje Uradni list Republike Slovenije, d.o.o. provided the Ministry the data earlier. Furthermore, the second paragraph of the same Article says, that for the purpose of processing the data referred to in the preceding paragraph, Javno podjetje Uradni list Republike Slovenije, d.o.o., shall be granted free access to an extended range of data, in standardised form, from the database of the Business Register of the Agency of the Republic of Slovenia for Public Legal Records and Related Services, which the Agency also makes available to other users at its rates.

The data that are provided can be divided into two parts by the thresholds (above and below the EU thresholds), the procurement procedures below the EU threshold (regulated by national legislation) divides them even further:

* procurement procedures above the EU threshold (public procurement published in the Official Journal of the European Union as well)
* procurement procedures below the EU threshold
  + public procurement according from Article 40 to Article 46 of the PPA, which are published only on the public procurement portal and not in the Official Journal of the European Union as well
  + low-value contract procedure (public procurement published on the public procurement portal)
  + “evidenčna naročila” (data available under national publication requirements (below 20.000 EUR without VAT) and are not published on the public procurement portal)

As already mention in the General information the national thresholds for public procurement in the classical sector: 20.000 EUR without VAT for goods, services and design contest, 40.000 EUR without VAT for works, 750.000 EUR without VAT for social and other specific services. National thresholds for public procurement in the infrastructure sector: 50.000 EUR without VAT for goods, services and design contest, 100.000 EUR without VAT for works, 1.000.000 EUR without VAT for social and other specific services (explained in Article 21 of the PPA).

In Article 47 of the PPA explains so called low-value contract procedure. It includes public procurements, which are not published in the Official Journal of the European Union. The regulation, as known in Slovenia, is even stricter comparing to Directive 2014/24 / EU. The data on the contracts awarded whose value is less than the values referred to in paragraph one of Article 21 of this Act shall be communicated by contracting authorities via an application established for that purpose on the public procurement portal by 28 February of the current year for the previous year (Article 106(2) of the PPA).

In the above table the data of e-notification platforms corresponds the data of e-submission platforms, due to the fact that formulary of contract notice contains estimated and nonmandatory value.

The Ministry of Public Administration, Public Procurement Directorate is not competent to gather the data of budgets. In the publicly announced formularies (contracts notices and contract award notices) the data on budgets are not required.

The data on invoices are not available, as the Ministry is not competent to gather them.

1. The symbols "<" and "(" indicate whether the endpoint of the interval should be included. For example (40%,50%> approximately means that the interval should contain contracting authorities or entities whose score is larger than 40.001% and smaller than 50.000%. The rest of the intervals are analogous. [↑](#footnote-ref-2)
2. Commission Communication (COM (2008) 400) "Public procurement for a better environment" [↑](#footnote-ref-3)