# 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 Directives 2014/23/EU, 2014/24/EU and 2014/25/EU (the 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 in order 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 MS, 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 directives.

* The template contains the following types of questions:

 i) qualitative descriptions and assessments,

ii) supporting documents which provide the evidence for the descriptions and assessments 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 the 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.

**Scope of reporting**

The report should cover the period between 1st January 2018 and 31st December 2020. For quantitative data based on procurement notices, this means that the contract award notice should have been published in this period. For each reply to the questions in this template, please indicate if the reply concerns all directives or only specific ones. The Directive 2009/81/EC on defence and sensitive security procurement should be excluded from the reporting.

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 directives and any other information should be presented separately, so that the same information can be compared between the MS.

## Key quantitative indicators

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| **I.1. The number of procurement procedures**  | Information to be provided on a yearly basis:* the number of notices announcing a call for competition and,

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| Year | Below EU thresholds | Above EU thresholds | Total number of notices announcing a call for competition |
| 2018 | 6202 | 1132 | 7334 |
| 2019 | 6394 | 1014 | 7408 |
| 2020 | 6481 | 1120 | 7601 |
| Total | 19077 | 3266 | 22343 |

* the number of awarded contracts.

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| --- | --- | --- | --- |
| Year | Below EU thresholds | Above EU thresholds | Total number of awarded contracts |
| 2018 | 8703 | 4741 | 13444 |
| 2019 | 8832 | 6603 | 15435 |
| 2020 | 7876 | 3700 | 11576 |
| Total | 25411 | 15044 | 40455 |

* the number of contract award notices\*

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| --- | --- | --- | --- |
| Year | Below EU thresholds  | Above EU thresholds | Total number of finished procedures |
| 2018 | 6199 | 1089 | 7288 |
| 2019 | 6418 | 1037 | 7455 |
| 2020 | 6396 | 1040 | 7436 |
| Total | 19013 | 3166 | 22179 |

\* Information is reduced to a procurement procedure level and the number of finished procedures (procurements) is presentedThe numbers should be reported separately for:* above EU thresholds procurement (i.e. procurement covered by the directives) and,
* below EU thresholds (i.e. procurement, which would have been covered by the directives if its value had exceeded the relevant thresholds).
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| **I.2. The total value of procurement** | Information to be provided on a yearly basis (chose one from below, depending on which one will produce the most reliable estimate):* the total value of awarded contracts.

Or* the total value of contract award notices.\*

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| --- | --- | --- | --- |
| Year | Below EU thresholds  | Above EU thresholds | Total value of finished procurements |
| 2018 |  895 111 531  |  1 392 173 857  |  2 287 285 388  |
| 2019 |  905 166 911  |  1 835 617 449  |  2 740 784 361  |
| 2020 |  979 972 916  |  2 093 362 285  |  3 073 335 201  |
| Total |  2 780 251 358  |  5 321 153 591  | 8101 404 950  |

\* Information is reduced to a procurement procedure level and the total value of finished procurements is presentedThe value should be reported separately for:* above EU thresholds procurement (i.e. procurement covered by the directives) and,
* below EU thresholds (i.e. procurement, which would have been covered by the directives if its value had exceeded the relevant thresholds).

If the reported value is an estimate, the methodology used for its computation should be explained in **Annex I**.  |

Annex II provides a suggestion on how to present the above general quantitative indicators. The data and methodologies used to compute quantitative indicators should be clearly indicated in the report or by providing the relevant documents, (this is valid for all quantitative indicators of this template). Whenever relevant, the value of national thresholds and the scope of their application should be provided.

## 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 * *in what phase of the process do the contracting authorities make the most mistakes, in what procedures, what type of contracting authority, what subject matter type etc.*

- 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 * *for example: lack of knowledge/skill, lack of staff, staff retention issues, internal organisation, planning issues etc.*

- what are the persistent patterns, what are the lessons learned?Sample-based *ex post* inspections cover all public procurements of inspected contracting authorities and entities. These proceedings covered 1 338 public procurement procedures registered in the Public Procurement Register and the total value of public procurements of the contracting authorities examined exceeded 282 million euros. Although in result the Ministry of Finance has identified various breaches of public procurement rules, the number of breaches is not very large compared to the total number of public procurements inspected. In general, the breaches of public procurement rules identified in 2018-2020 were mainly due to the ignorance or negligence of the contracting authorities or entities.The main breaches of public procurement rules identified by Ministry of Finance in monitoring of public procurements were following:* 1. Awarding of public contract or framework agreement without using required procurement procedure or dividing the public procurement into lots for the purpose of disregarding the rules or requirements for carrying out public procurement;
	2. Continuance of public procurement procedure with intention to award a public contract or framework agreement after the date of commencement of the contract provided for in the public procurement document, also awarding of public contract on terms and conditions different from those set out in procurement documents (mainly with dates of performance in the contract were different from the procurement documents) or unlawful modification of awarded public contract or framework agreement (unlawful modification after the contract was awarded);
	3. Mandatory (internal) procurement rules or procurement plan are missing or does not comply with the requirements of law, e.g. non-publication of annual procurement plan on contracting authority’s website;
	4. Breaches in drawing up procurement documents, for instance: initially shorter time limit for the submission of tenders than provided by the law; failure to provide an indication of the reasons for decision not to subdivide the public procurement into lots within a single procedure; unlawful condition of qualification, such as discrimination against other non-domestic economic operators, disproportionate and unjustified turnover requirement (net turnover exceeding the estimated value of the public contract more than twice without justification in procurement documents), absolute prohibition for tenderers to reliance on resources of other economic operator, etc.; unclear, non-transparent or contradictory technical specifications; technical specifications referring to trade marks without allowing equivalent supplies to be offered; demanding of tender guarantee extent exceeding one per cent of the estimated value of the public contract; procurement documents establishing the starting date of the public contract without respect to the mandatory standstill period; unlawful award criteria; providing an option for negotiations in procurement documents of open procedure, etc.
	5. Breaches in submission of clarifications of procurement documents, including unequal treatment of economic operators or misleading economic operators when making clarifications electronically available, modification of the procurement documents by clarifications without extending the time limit for submission of tenders or requests to participate;
	6. Various breaches in the verification of qualifications of tenderers and breaches in the verification of suitability of tenders and non-verification of grounds for exclusion of tenderer;
	7. Deficiencies in the formalisation of decisions made in public procurement procedures and failure to notify economic operators of decisions of contracting authority timely or failure to submit the reasons for the decision to the tenderer or deficiencies in notification of termination of procurement procedure, for example contract award notices and data of fulfilled contract is not submitted to the public procurement register or not submitted timely.

More detailed information about breaches, identified in different types of monitoring activities, can be viewed in the attached file.  |
| 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 and how often then occur in practice * *for instance: is it badly worded, is it too strict/vague, is it difficult to interpret, are different interpretations possible, is constant guidance required/given etc.*

- a description of the type of difficulties identified, if any* *i.e. what specific issues arise from such problems? Are certain procedures avoided, are there many appeals, many cancellations of procedure by decision of the contracting authority etc.?*
1. Directive 2014/24/EU art 14 is not worded clearly enough, so different interpretations are possible – it is possible to understand that provision that all research and development services, other than those mentioned in the provision, are always exempted from the scope of the directive. According to the European Commission that is not so. If the contracting authority sees it that way, no procurement procedure is conducted.
2. Directive 2014/24/EU art 33 (3) is very vague and it is difficult to interpret what is meant by supplementing the tender. It is unclear, how specific must the terms of framework agreement be in terms of scope of the agreement and specific terms of governing the provisions of the works, services and supplies concerned. The lack of clarity leaves a possibility for wide interpretation and may cause breach of equal treatment and transparency.
3. Directive 2014/24/EU art 58 (2) provides that in procurement procedures for services, in so far as economic operators have to possess a particular authorisation or to be members of a particular organisation in order to be able to perform in their country of origin the service concerned, the contracting authority may require them to prove that they hold such authorisation or membership. There is no such provision for goods, however, for example in cases of procurements for food, a food handling authorisation is needed. Also, the services directive (2006/123/EC) does not always apply, but the procurement directives do not take that into account. So there is a discord between the services directive and procurement directives, which hinder proper verification of authorisations needed by the tenderer.
4. Directive 2014/24/EU art 71 (5) is unclear in terms of what is meant by services to be provided at a facility under the direct oversight of the contracting authority. There are no examples provided in the preamble of the directive or guidance from European Commission. This lack of clarity may lead to breach of the information acquirement requirement set in the directive.
5. There is no provision in the directives, how the estimated value of procurement should be calculated in the case of contracts for goods without a fixed term or with a long term (there is only a provision for services). This unclarity may cause avoidance of the obligation to conduct certain procurement procedure.
6. There is no guidance from European Commission, how may contract award criteria, if set in decreasing order of importance, be applied in practice. This causes significant problems regarding transparent evaluation of the tenders and equal treatment of the tenderers. It also increases the appeals of the contracting authorities’ decisions. The same problem is when the weightings of the criteria are expressed by providing for a range with an appropriate maximum spread.
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| An assessment of patterns and behaviours that are not illegal or non-compliant, but still indicate possible problems | The information should focus on:- the specific type of problems identified* *for instance: preference for lowest price as award criteria irrespective of the context, overly frequent use of derogatory procedures or shortest possible deadlines, recurrent, particularly low number of bidders or of non-domestic bidders*
* Rejection of tenders due to lack of sufficient funding, which is caused by inadequate preparation of tendering procedure.
* Qualitative award criteria are used only in 13-14% of procedures; it may lead to insufficient quality of procured goods, services or works.
* Although the share of framework agreements with single bidder is decreasing, single bidder framework agreements may cause inefficient use of competition.
* There is uncertainty how to interpret clauses of the law and directives that allow changes to the contracts. If contracting authority does not make needed and justified change to the contract, the contract does not serve the needs of the contracting authorities needs in the best way and may cause waste of resources.

- any possible assessment of the impact of these difficulties on the efficiency of the public procurement process* *for instance: is it difficult to achieve environmental protection policy goals because of low use of green PP criteria? Is there low competition, always the same bidders, market lock-in?*
* Contracting authorities may abuse their wide discretion to reject tenders or cancel public procurement procedures; it is discouraging entrepreneurs and leads to decrease of competition.
* The obligation to provide an indication of the reasons for decision not to subdivide the public procurement into lots within a single procedure may be illusory because the contracting authorities are free to decide autonomously on the basis of any reason it deems relevant to not divide the procurement into lots, without being subject to supervision. In practice the use of stencilled justifications may be observed.
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| **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*

***2018: Ares(2019)3679050 (submitted on 01.03.2019)******2019: Ares(2020)1264792 (submitted on 28.02.2020)******2020: Ares(2021)1543204 (submitted on 01.03.2021)**** *Existing typologies of the most frequent errors in public procurement*

***See Monitoring activities 2018-2020**** *Reports on the most frequent requests for guidance*
* Yearly overviews (statistical and qualitative) of the public procurement field (Estonian language only) are currently available at <https://www.rahandusministeerium.ee/et/eesmargidtegevused/riigihangete-poliitika/kasulik-teave/riigihankemaastiku-kokkuvotted>
* Additional interpretative guidance documents published in order to clarify legal issues
* FAQ (Estonian language only) is available at https://www.rahandusministeerium.ee/et/kkk/870
* Policy or other administrative documents discussing issues in relation to the implementation of the rules
* Various guidance materials (Estonian language only) are currently available at <https://www.rahandusministeerium.ee/et/eesmargidtegevused/riigihangete-poliitika/kasulik-teave/riigihangete-juhised>

Guidance materials drawn up in the last three years:Guidance for procuring audit services 2021Modification of contracts and force majeure 2020Guidance for public procurement in special emergency situation 2020Guidance for setting contract award criteria for minicompetitions in framework agreements 2020Filling in ESPD for contracting authorities and for economic operators 2019Instructions for local municipalities for conducting sustainable public procurement 2019E-course for avoiding corruption and conflict of interest 2019Procedural schemes of public procurement procedures 2018Calculation of life cycle costs in ITC procurement 2018Guidance for procuring spatial planning consultation services 2018Guidance for applying exclusion of research and development services 2018Guidance for receiver of structural funds, who is not contracting authority 2018Note: Due to the transition to a new website, above indicated links shall not be available starting from May 2021. New links may be provided upon request.  |
| 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  | The following three indicators have been defined based on the findings of a study commissioned by DG GROW in 2017 and further discussed with the Member States in the framework of the Network of first instance public procurement review bodies.1. **Number of first instance review decisions** - It shall include all the first instance review decisions.

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| --- | --- | --- | --- |
| Year | Below EU thresholds | Above EU thresholds | Total |
| 2018 | 114 | 154 | 268 |
| 2019 | 109 | 92 | 201 |
| 2020 | 143 | 144 | 287 |

1. **Median length of first instance reviews** - It shall be the median length of all the first instance reviews. Length is defined as the number of calendar days between a starting date and an end date. The starting date is when the complaint is registered or an *ex officio* proceeding initiated. The end date is when the review decision is issued.

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| Year | Median length of first instance reviews |
| 2018 | 21 |
| 2019 | 20 |
| 2020 | 20 |

1. **Number of first instance review decisions that were appealed to the (next) judicial level and its results** - It shall include all the first instance review decisions that were appealed to the (next) judicial level, both on merit or procedural reasons. For first instance judicial review bodies, “next judicial level” refers to the second judicial level; for first instance administrative review bodies, “next judicial level” refers to the first judicial review. Furthermore, it shall include the number of first instance review decisions that were a) (primarily) upheld; b) (primarily) rejected; or c) neither upheld nor rejected by the (next) judicial level (e.g. because they were not yet decided, retracted).

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| --- | --- | --- | --- | --- |
| Year | Number of review decisions appealed | Number of decisions (primarily) upheld | Number of decisions (primarily) rejected | Number of decisions – other |
| 2018 | 39 | 26 | 9 | 4 |
| 2019 | 25 | 18 | 4 | 3 |
| 2020 | 29 | 17 | 2 | 3 |

  The following definitions will help with the understanding of the key elements for the above indicators:* *Public procurement procedures falling under the EU public procurement directives (i.e. above EU thresholds, including exemptions and exceptions). For those Member States that cannot disaggregate the data based on the EU thresholds or have only a part of the data available (e.g. no information on post-contractual review, regional information not shared), if possible, please give your “best guess” estimate of the additional/missing information in the relevant comments section.*
* *Reviews made both before and after contract signature.*
* *Review of all relevant bodies, regardless of whether they are administrative or judicial; regardless of whether they are national, regional or local. In case of multiple level administrative review, it shall only include the data from the first instance.*
* *The data on reviews started following a complaint and ex officio*[[1]](#footnote-2) *shall be collected separately.*
* *Figures are requested per year. Decisions should be included in the calculation for the calendar year in which they were issued (i.e. dates relating to years where the complaint was submitted, or where decisions were appealed to a higher instance should be excluded/ignored).*
* *“Decision” means a binding outcome of the review (be it started following a complaint or ex officio). It includes decisions to reject a complaint decision on interim measures containing an assessment of the case and not followed by any other decision, and decisions regardless of whether multiple decisions are linked to the same procedure. Decisions not on the merits, i.e. “procedural” or “technical” decisions should not be included (e.g. decisions on nomination of experts to provide expert view).*

Annex III provides a suggestion on how to present the indicators about the national review system.  |

## 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 and conflicts of interests.  | The information should focus on:- how these actions/mechanisms have been implemented including key measures that have been put in place* *what are the relevant sources of law (i.e. legal provisions in PP law, general anti-corruption rules, whistle-blower protection, criminal law, guidance, codes, declarations etc.)*
* There are no changes made in legal system during years 2018-2020.
* When organizing public procurement, the official must follow the anti-corruption rules which are described in the Anti-Corruption Act (ACA). ACA primarily determines the general framework, but it specifies who are the connected persons (§ 7) and which rules procedural restrictions apply.

Currently The Ministry of Justice is drafting the law on the protection of persons who report breaches on law. The draft law is related to the transposition of the directive of the European Parliament and of the council on the protection of persons who report breaches of Union law. Estonia has an obligation to transpose the directive no later than 17.12.2021.With this draft Estonia has taken a broader approach than directive, the new law will regulate the protection of all the whistleblowers. The draft establishes the personal and material scope of the protection of the person who report breaches, the conditions for obtaining protection and the channels of reporting. In order to obtain protection, it is important that the person have reasonable grounds to believe that information is correct. In the case of anonymous reporting, the protection must be ensured if the reporting has been made correctly and the reporter’s identity is revealed.* *Institutional arrangements made*
* There are no changes made during last three years.
* *Soft-law and soft measures (for example Guidance documents, Codes of conduct, Declarations of absence of conflict of interest, training, awareness raising etc.)*
* Guidance on the subject of conflicts of interests provided by the Ministry of Justice. https://www.korruptsioon.ee/en/conflict-interests
* E-course on Prevention of Corruption and Conflict of Interest in the Public Sector provided by the Ministry of Justice. <https://www.korruptsioon.ee/en/conflict-interests/e-course-prevention-corruption-and-conflict-interest-public-sector>
* *Use of data analysis to perform control such as red-flag systems.*

Non-profit organization Transparency International Estonia provides platform [opener.ee](http://opener.ee). This platform uses a selection of indicators in order to assess the integrity of public procurements. It enables to connect public procurement data with the data of company ownership of buyers and sellers from the Estonian Business Register.* *Any specificities of the regime for conflict of interest, such as a broader definition or additional institutions or other measures.*

Measures applied in the central e-procurement system:1. Implementation of ESPD v 2.0 extended in Procurement Register together with automatic controls to verify criminal offences and frauds from the Criminal Records Register.
2. Possibility to confirm absence of conflicts of interest in Procurement Register. Each member of the procurement team has the option. Definition is given for better understanding according to Anti-Corruption Act: (English version available <https://www.riigiteataja.ee/en/eli/515072020012/consolide>)
 |
| 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*

Central e-procurement system (Procurement Register website, incl user guides): <https://riigihanked.riik.ee>Anti-corruption Act (English version): <https://www.riigiteataja.ee/en/eli/515072020012/consolide>In addition, the new Anti-Corruption Action Plan 2021-2025 also includes activities in public procurement to reduce the risk of corruption:1. The Public Procurement Register is being developed to allow indicating the absence of conflict of interest.2. The Public Procurement Act will be analysed and, if necessary, an amendment will be made, establishing the obligation to register the personal identification codes of people making decisions in evaluation committees etc. of procurements in the Public Procurement Register and to publish this data, use it as metadata. If necessary, corresponding developments will also be made in the Public Procurement Register.3. The awareness of contracting authorities will be increased to encourage making small purchases also with the use of the Public Procurement Register (e.g. a proposal to change procurement procedures).4. An independent legal analysis will be commissioned on whether and how it would be possible to assess adherence to principles of ethical and transparent business conduct of different tenderers during public procurements. |
| 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.* |
| Quantitative assessment of collusion risks | Please elaborate on the methods or tools put in place at national level enabling central procurement authorities or contracting authorities to detect and assess the collusion risks, and on the relevant data on which they are based upon. Please mention the impact of the above measures, especially as regards how many cases were detected and pursued further by the competent national authorities (central procurement authority, competition authority or individual contracting authorities).Estonian Competition Authority has tested various methodologies for identifying cartel agreements in the context of public procurement. The most important data for the competition authority are information about different tenderers and their prices (also whose tender was the best) to find patterns which could indicate suspicious of cartels. Purpose is to significally increase the analytical ability during this year. Estonian Competition Authority started criminal case in the October of 2018 under the analysis of the procurement data which were gathered from the Estonian Agricultural Registers and Information Board. These procurement data were related to the one specific sector of agriculture, the so called grain dryers.   **The most important values were:** * Call for applications (round)
* Application file number
* Procurement number (object no) – every procurement was related with concrete object. Some application files consists many objects (grain dryers in diferent places, also construction)
* Type of object (f.e works or supplies)
* Purchaser`s name – there was 3 offers rule
* Tenderer`s names (three tenderers)
* Whose bid was the cheapest and it means potentially successful
* The cost of tenders, sums

It is important to mark that in Estonia there are some registers automatized so that undertakings only have to fulfil the forms and system automatically generates the final documents. It means that investigative bodies have less and less documents with individual characteristics or identifiers (i.e. metadata, structure of tenders). But these individual characteristics have big potential to confirm hypotheses. |
| Risk of undiscovered conflict of interest  | Please elaborate on the methods or tools used to detect undiscovered conflict of interest, and on the relevant data on which they are based upon. Discuss the results of the above analysis or provide links to studies or other documents related to the quantitative analysis of undiscovered conflict of interest.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>. The register of beneficial owners was created at the commercial register with an amendment to the MLTFPA (Money Laundering and Terrorist Financing Prevention Act) to transpose the so-called Fourth Anti-Money Laundering Directive (AMLD IV). The Directive requires companies or other legal entities to collect and maintain relevant, accurate and up-to-date information on their beneficial owners, and the obligation to provide information under the Money Laundering and Terrorist Financing Act was implemented in autumn 2018.According to § 79 (1) of the MLTFPA: A legal person in private law gathers and retains data on its beneficial owner, including information on its right of ownership or manners of exercising control. The data of the beneficial owner are kept in the commercial register by the management board of the private legal person.MLTFPA § 78 regulates the requirements for the publication of data:(1) The data of the beneficial owner are made public in the commercial register information system.(2) The fees for issuing the data of a beneficial owner are established by a regulation of the minister responsible for the field.(3) The data of the beneficial owner are issued free of charge to the obliged entity, a government agency, the Financial Supervision Authority and to a court.According to § 79 of the MLTFPA:§ 79.  Beneficial owner’s right to demand correction of submitted data (1) The person indicated as the beneficial owner or their legal or contractual representative has the right to request that the management board of the legal person correct incorrect data. (2) Where the management board of the legal person has without reason refused to correct the incorrect data as requested on the basis of subsection 1 of this section, the person indicated as the beneficial owner may demand that the legal person compensate for damage caused by making incorrect data public.MLTFPA § 95 sets the sanctions for the failure to submit data of beneficial owner or submission of false data:(1) The penalty for failure by a shareholder or member of a private legal person or a trustee to submit the details of the beneficial owner or for failure to report on a change of the details or for knowingly submitting false information, where it has caused a situation where the obliged entity cannot apply the due diligence measure provided for in clause 3 of subsection 1 of § 20 of this Act has been caused, is a fine of up to 300 fine units. |

## 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** |  |
| New developments  | The information should focus on the new developments regarding the participation of SMEs in public procurement since the previous reporting exercise, and especially on the new measures taken in the respective Member State in order to support the participation of SMEs in public procurement. These measures could include: * *policy and legislative initiatives launched to support SMEs participation in public procurement;*
* *measures targeting SME participation in different techniques for aggregated procurement (framework agreements, dynamic purchasing systems, and centralised procurement activities);*
* *measures targeting the participation of start-ups and scale-ups in public procurement;*
* *measures ensuring that payment for public contracts are made on time, especially in the case of SMEs;*
* *measures addressing the payments to subcontractors;*
* *guidelines or instructions for contracting authorities on how to treat grouping (e.g. consortia) of SMEs;*
* *guidelines for contracting authorities on the application of 'divide or explain' principle;*
* *targets for SME participation in public procurement.*

The information could also include the difficulties still existing in the Member State, concerning SMEs’ participation in public procurement.Central public procurement register provides the following new developments to enhance SME participation:* functionalities to carry out dynamic purchasing systems;
* improved e-solution for carrying out minicompetitions within framework agreements and concluding contracts within centralised procurements;
* integrated ESPD solution to facilitate submitting prefilled self-declarations on joint tenderers and persons to be relied on;
* automatic control in the system obliging the buyer to explain why the procurement is not divided into lots;
* better and user-centric search options and subscription possibilities for procurements, contracts and requests for reviews.
 |
| IV.2. Quantitative indicators  | *This section contains examples of quantitative indicators related to section IV.1. Other related indicators can also be included in the report.* |
| Please provide, when available, any quantitative data (statistics, etc.) regarding SMEs’ participation in public procurement | *The following list includes suggested indicators for the participation of SMEs in public procurement (acting as a unique bidder or in a consortium):** *SMEs winning in above EU threshold procurement:*
* *the value of contracts awarded to SMEs over the total value of contracts awarded irrespective of bidder’s size class;*

|  |  |
| --- | --- |
|  | % of the value of awarded contracts to SMEs over total value of awarded contracts in procurements above EU thresholds \* |
| 2018 | 77% |
| 2019 | 77% |
| 2020 | 86% |

\* information from procurement register database as of 16.04.2021* *SMEs winning in below EU threshold procurement[[2]](#footnote-3):*
* *the number of contracts awarded to SMEs over the total number of contracts awarded irrespective of bidder’s size class;*

|  |  |
| --- | --- |
|  | % of the number of contracts awarded to SMEs over total number of contracts awarded in procurements below EU thresholds\* |
| 2018 | 89% |
| 2019 | 90% |
| 2020 | 90% |

\* information from procurement register database as of 16.04.2021* *the value of contracts awarded to SMEs over the total value of contracts awarded irrespective of bidder’s size class.*

|  |  |
| --- | --- |
|  | % of the value of contracts awarded to SMEs over total value of contracts awarded in procurements below EU thresholds\* |
| 2018 | 82% |
| 2019 | 83% |
| 2020 | 83% |

\* information from procurement register database as of 16.04.2021* *If available, estimates of indirect participation[[3]](#footnote-4) of SMEs in public procurement above threshold;*

*N/A** *If available, estimates of indirect participation of SMEs in public procurement below threshold;*

*N/A** *If applicable, current attainment rate of the target set for SMEs participation.*

*N/A**This list is not exhaustive. In case your Member State collect other indicators that you may find useful to track and measures the achievements in this area, please include them in the reporting.* |

## Information on the practical implementation of national strategic procurement

|  |  |
| --- | --- |
| V.1 Green procurement ('GPP') | Green Public Procurement ('GPP') is defined as "a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured."[[4]](#footnote-5) 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 using green public procurementA number of key challenges to the implementation of GPP have been identified in the 2020 GPP study (<https://www.envir.ee/sites/default/files/khrh_uuringu_aruanne_0.pdf>):1. Green products are perceived to cost more and there is a fear that no suitable tenders will be received;
2. Lack of knowledge and experiences;
3. Lack of practical information and examples;
4. Lack of legal expertise in applying environmental criteria andfear of procurement challenges;
5. Voluntary legislative framework on GPP.

- measures taken to overcome them Estonia has encouraged procurers to use more green criteria through different trainings. National criteria have been developed for 4 categories (furniture, computers and monitors, coping and graphic paper and cleaning products and services). The green requirements developed for these categories are based on the EU GPP Criteria – adapted to the Estonian context. These criteria have been integrated in the Public Procurement Register as predefined criteria. 2020 study contained legal analyses, goods, services and works market analysis, also identified next categories that are suitable to make mandatory in Estonia. Proposed categories were road lighting and traffic signals, road transport, toilets and urinals, sanitary tapware. |
| 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 use of green public procurement. | *Possible relevant (non-exhaustive) documents 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 public procurement';*

Same as EU definition (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.)* *Targets for the uptake of GPP and the way they are defined i.e. for overall procurement, for specific product groups, by value, by number of contracts;*

Estonian environmental strategy has target for GPP. For the year 2023 there should be 30% GPP.<https://www.envir.ee/sites/default/files/ESO/keskkonnakaitse_ja_-kasutuse_programm_2020_2023.pdf>* *Any legal obligation to include green or circular requirements in tenders;*

In Public Procurement Act social considerations, implementation of innovation and environmentally friendly solutions are taken into account upon planning and carrying out public procurement.* *Any recommendations to use the GPP 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;*

Solutions to use more construction and demolition waste, biodegradable waste and waste from thermal processing (including pyrolysis) of oil shale.* *Activities in the area of capacity-building for procuring ‘green’ (institutionalised or ad-hoc training, helpdesks, etc.).*

At the end of 2021 Estonia should have “Estonian Circular Economy Strategic Document and Action Plan”. In 2020, the Minister of Environment established an advisory lead group. The purpose is to multilaterally agree upon a strategic approach and targets for the transition to circular economy in Estonia. It will compile different actions that can be implemented in few years’ time with a long-term strategic vision complementing the more specific medium-term actions as well. Based on the strategic document, an action plan will be developed together with setting specific measures and targets. (<https://ringmajandus.envir.ee/et/eesti-ringmajanduse-arengudokument-ja-tegevuskava>)We are planning GPP awareness raising and trainings under EEA funding (waiting for final agreement). |
| 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 or circular criteria out of the whole volume of procurement at national level and if available, for the GPP product groups (e.g.* <http://ec.europa.eu/environment/gpp/eu_gpp_criteria_en.htm>*) for which monitoring is being done, measured by number and value.*

Environmentally sustainable procurements by number

|  |  |  |  |
| --- | --- | --- | --- |
| Year | Below EU thresholds | Above EU thresholds | Total percentage of environmentally sustainable procurements out of total number of procurements |
| 2018 | 3,4% | 4,5% | 3,6% |
| 2019 | 0,7% | 1,6% | 0,8% |
| 2020 | 3,9% | 4,5% | 4,0% |

Environmentally sustainable procurements by value

|  |  |  |  |
| --- | --- | --- | --- |
| Year | Below EU thresholds | Above EU thresholds | Total percentage of the value of environmentally sustainable procurements out of total value of contract award notices |
| 2018 | 6,2% | 10,6% | 8,9% |
| 2019 | 1,4% | 1,9% | 1,7% |
| 2020 | 12,8% | 13,1% | 13,0% |

Estonia has one central Public Procurement Register that enables a central approach to green public procurement and the requirements. GPP is also periodically monitored through the Public Procurement Register. At the end of the year 2018 Estonian central Public Procurement Register was moved to a new platform and also new user interface was launched. As a result, a new methodology of declaring environmentally sustainable public procurements was applied. Therefore, we see a decline in percentage of green public procurement in 2019 as the users were getting used to a new user interface and the methodology of declaring environmentally sustainable procurements. The new methodology promotes more on selecting predefined criteria instead of just free text additions. |
| 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 anyThe awareness of socially responsible procurement as a tool to improve national social policy is still low, therefore it is difficult to find appropriate institution to lead and promote SRPP. Practical experience in conducting socially responsible public procurement is insufficient and there is lack of good practices and examples. Using socially responsible clauses in procurements raise practical problems with collecting and processing delicate personal data.- measures taken to overcome them It is being discussed in national strategy and cooperation documents to find an institution to lead the policy of socially responsible procurements. Currently the responsibility of leading the SRPP policy is unclear. Public Procurement Register collects information on social criteria used in procurements. By selecting or non-selecting this option the attention of buyers is drawn on this issue. Link to guidance is provided for further information.- difficulties still existing in the Member State.Raising awareness of the possibility to use public procurement as a tool to improve national social policy and achieving its goals.Finding appropriate institution to lead SRPP policy.Solving the questions and practical problems arising with collecting and processing delicate personal data.  |
| **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;*

It is defined in Public Procurement Act as a public procurement incorporating socially responsible award criteria.* *List and brief description of national policy initiatives launched in the area of SRPP;*

There is no national policy.* *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;*

There is no obligation to include socially responsible criteria. However, the possibility is provided in the Public Procurement Register together with the link to the guidance documents (https://riigihanked.riik.ee/rhr-web/#/). * *Any information on social labels in use.*

FairTrade label is used in some socially responsible procurements. |
| **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);*

The information concerned is collected in central public procurement register. Contracting authorities and entities have to mark the procurement they initiate to be socially responsible. The information inserted is on the responsibility of the contracting authority and it is monitored during the supervision activities by the Ministry of Finance on sample basis.

|  |  |  |  |
| --- | --- | --- | --- |
| Year | Below EU thresholds | Above EU thresholds | Total number of procedures incorporating socially responsible award criteria |
| 2018 | 24  | 6  | 30  |
| 2019 | 6  | 4  | 10  |
| 2020 | 2  | 1  | 3  |

* *Number of public procurement procedures reserved to sheltered workshops and economic operators in line with article 20 of the Directive;*

|  |  |  |  |
| --- | --- | --- | --- |
| Year | Below EU thresholds | Above EU thresholds | Total number of procurements reserved to sheltered workshops and economic operators |
| 2018 | 4 | 1 | 5 |
| 2019 | 2 | 0 | 2 |
| 2020 | 2 | 0 | 2 |

* *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.;*

One procurement in the year 2019, which was below EU thresholds* *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).*

N/A |
| V.3 Public procurement of innovation | An innovative solution is defined in 2014/24/EU Art.2 (1.22) as "a new or significantly improved product, service or process". This includes not only those solutions resulting from R&D but also those solutions resulting from activities, "including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations." Please report both dimensions of innovation procurement: procurement of R&D and procurement of innovative solutions. |
| V.3.1 Qualitative reporting |  |
| Key challenges encountered | The information should focus on:- key challenges encountered in promoting innovation procurement, if any;* Low risk tolerance
* Lack of knowledge and experience
* Too strict definition of objects procured
* Lack of time
* Shortage of resources for taking indefinite risks of the outcome

- measures taken to overcome them; * Enterprise Estonia has launched public procurement program which includes legal and innovation expert support to contracting authorities.
* The Government Office leads an innovation team which has a close cooperation with public sector in service design field.
* Ministry of Economic Affairs and Communication runs a program called “Accelerate Estonia” which invites to suggest solutions to different public sector challenges.
* In Public Procurement Register there is a simple 5 yes/no questions questionnaire to contracting authorities and entities when starting a procedure to draw attention to the topic of innovation and monitor the use of innovative aspects.

- difficulties still existing in the Member State.* There is no strategy in place to raise awareness of innovation procurement.
* Hesitance of smaller start-up enterprises to participate in public procurements.
* Lack of knowledge to procure alternatives instead of going for the common solutions.
* Lack of legal courage to go for innovation procurement.
 |
| 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 (or Regional) 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 (or Regional) guidelines on innovation procurement (e.g. on IPR handling, joint procurement to create demand pull for buying innovative solutions, on R&D procurement);*
* *National (or Regional) 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);*
* *Activity report on the follow-up and the evolution of the measures put in place.*

Guidance on innovative public procurement: Innovatsioonihangete juhend-<https://issuu.com/eas-estonia/docs/eas_innohangete_juhend_final>.Startegies: <https://kasvustrateegia.mkm.ee/>.Estonia 2035 strategy includes innovation procurement in general: Estonia is innovative and values knowledge creation and sharing where social life is arranged by new people centered and efficient technologies. Estonia’s governance and people participation is trend-making and an example to other societies. <https://valitsus.ee/strateegia-eesti-2035-arengukavad-ja-planeering/strateegia/materjalid>. |
| For purchases made under the EU thresholds, please report any information or document demonstrating that purchase of innovative solutions have been made (e.g.: innovation partnerships or the use of the innovation criterion).Number of innovation partnerships

|  |  |  |  |
| --- | --- | --- | --- |
| Year | Below EU thresholds | Above EU thresholds | Total number of innovation partnerships |
| 2018 | 0 | 0 | 0 |
| 2019 | 1 | 3 | 4 |
| 2020 | 1 | 0 | 1 |

Number of innovative procurements

|  |  |  |  |
| --- | --- | --- | --- |
| Year | Below EU thresholds | Above EU thresholds | Total number of innovative procurement |
| 2018 | 11 | 5 | 16 |
| 2019 | 10 | 10 | 20 |
| 2020 | 9 | 0 | 9 |

 |

## Information on monitoring and reporting bodies

This section should include a list of the body/bodies performing the public procurement monitoring activities required by the public procurement directives and the entities in charge with the drafting of the report to be provided to the European Commission on the results of the monitoring activities (e.g. review bodies, anti-corruption bodies).

Ministry of Finance exercises state supervision and administrative supervision in the area of public procurement, it is also responsible body for regulation of beneficial owners and auditing ESIF.

First instance review body is Public Procurement Review Committee.

The National Audit Office, Police and Boarder Guard also carries out monitoring of public procurements.

Ministry of Justice coordinates the combat against crime, including corruption; Ministry of Justice is providing guidance on detecting and dealing with the conflict of interests.

Assessment of collusion risks is responsibility of Competition Authority.

## Replicability

This section should provide information allowing anyone to fully replicate the quantitative results presented in the report. The data and methodologies used to compute quantitative indicators should be clearly indicated in the report or by providing the relevant documents, (this is valid for all quantitative indicators of this template).

|  |  |
| --- | --- |
| 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>. Estonian public procurement open data is available in machine readable format at <https://riigihanked.riik.ee/rhr-web/#/open-data>.  |
| 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. |
| Other complementary data | The submission of any other disaggregated datasets (e.g. flat files containing below EU threshold contracts) is encouraged.  |

**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 and for the estimation of the aggregated total value of procurement above EU 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.

#### General approach:

1. [**data available under national notice/contract 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 [✓] | Above EU thresholds [✓] |
| [e-notification platforms] | ✓ | ✓ | ✓ |
| [e-submission platforms] | ✓ | ✓ | ✓ |
| [invoices] |  |  |  |
| [budgets] |  |  |  |
| [other] |  |  |  |

### 2. Methodology description

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

All quantitative information is calculated based on the data available in central Public Procurement Register.

Information is reduced to a procurement procedure level. Database extract on which the calculations are made is set as of 05.02.2021, if not indicated otherwise.

**Annex II:**

|  |  |  |  |
| --- | --- | --- | --- |
|   | **2018** | **2019** | **2020** |
| **Number of notices announcing a call for competition above *national* thresholds \*** | 7217  | 6224  |  6373 |
| **Number of notices announcing a call for competition below *national* thresholds \*\*** | 117  | 1184  |  1206 |
| **Number of awarded contracts above *national* thresholds \*\*\*** |  13 383 |  14 373 |  10 341 |
| **Number of awarded contracts below *national* thresholds \*\*\*\*** | 61  | 1 062  |  1 201 |
|  **Total value of procurement above EU thresholds (EUR/National currency)\*\*\*\*** | 1 392 173 857  | 1 835 617 449  |  2 093 362 285 |
| **Total value of procurement below EU thresholds (EUR/National currency)\*\*\*\*** |  895 111 531 |  905 166 911 |  979 972 916 |

\* Based on the year of announcing a call for competition, incl procurements above EU thresholds

\*\* Based on the year of announcing a call for competition

\*\*\* Based on the year of awarding a contract, incl procurements above EU threshold

\*\*\*\* Based on the year of awarding a contract

**Annex III:**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **2018** | **2019** | **2020** |
| **Number of decisions** |   |   |   |
|  **upon a complaint** | 154 | 92 | 144 |
|  ***ex officio*** | 0 | 0 | 0 |
| **Comments** | Overall number of decisions was 268 (114 below EU Directives’ thresholds, 154 above)Estonian Public Procurement Review Committee does not act ex officio  | Overall number of decisions was 201 (109 below EU Directives’ thresholds, 92 above)Estonian Public Procurement Review Committee does not act ex officio  | Overall number of decisions was 287 (143 below EU Directives’ thresholds, 144 above)Estonian Public Procurement Review Committee does not act ex officio  |
| **Median length of the review** |   |   |   |
|  **upon a complaint** | 21  | 20 | 20 |
|  ***ex officio*** | N/A  | N/A | N/A |
| **Comments** | This number contains all cases, including those where the Review Committee refused to hear a complaint (e.g. complaint was untimely). As reaching a decision to refuse to hear a complaint takes only a couple of days, this median length would be a little higher if only cases that were actually reviewed were to be taken into account. In that case, the number would probably be 23 or 24. (Per Estonian Public Procurement Act, the Review Committee has to resolve a matter within 30 days). Estonian Public Procurement Review Committee does not act ex officio  | This number contains all cases, including those where the Review Committee refused to hear a complaint (e.g. complaint was untimely). As reaching a decision to refuse to hear a complaint takes only a couple of days, this median length would be a little higher if only cases that were actually reviewed were to be taken into account. In that case, the number would probably be 22 or 23. (Per Estonian Public Procurement Act, the Review Committee has to resolve a matter within 30 days). Estonian Public Procurement Review Committee does not act ex officio  | This number contains all cases, including those where the Review Committee refused to hear a complaint (e.g. complaint was untimely). As reaching a decision to refuse to hear a complaint takes only a couple of days, this median length would be a little higher if only cases that were actually reviewed were to be taken into account. In that case, the number would probably be 22 or 23. (Per Estonian Public Procurement Act, the Review Committee has to resolve a matter within 30 days). Estonian Public Procurement Review Committee does not act ex officio  |
| **Number of review decisions challenged** | 39 | 25 | 29 |
| **Number of decisions (primarily) upheld** | 26 | 18 | 17 |
| **Number of decisions (primarily) rejected** | 9 | 4 | 2 |
| **Number of decisions – other**  | 4 | 3 | 3 |
| **Comments** | 1 case ended with a compromise, 2 cases ended with withdrawal of the appellation, 1 case ended with the contracting authority voluntarily nullifying the disputed decision  | 1 case ended with a compromise, 2 cases ended with withdrawal of the appellation  | 1 case ended with a compromise, 2 cases ended with withdrawal of the appellation  |

1. A review initiated upon review body’s own motion. [↑](#footnote-ref-2)
2. This request is not mandatory as this type of procurement is not covered by the 2014 Directives. [↑](#footnote-ref-3)
3. Indirect participation is intended to mean participation of an SME as either a subcontractor or a “significant supplier” (supplying for more than 10% of the contract value) to the company/consortium signing the contract. [↑](#footnote-ref-4)
4. Commission Communication (COM (2008) 400) "Public procurement for a better environment". [↑](#footnote-ref-5)