# 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, * the number of awarded contracts. * the number of contract award notices   The 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).   The number of procedures reported to the BASE portal from 2018 to 2020, totalled 432,746 and their estimated price amounted to EUR 74,732 million. In the same period, the number of contracts concluded and reported to the BASE portal was 413,081, corresponding to EUR 26,910 million  This numbers result from the power BI tool, and are possible by the existence of the BASE portal that is the repository of all public contracts.  The BASE portal is an integral part of the e-procurement model adopted by Portugal in 2009 and plays a significant role in terms of transparency and accountability, namely because it is freely available.  <https://www.base.gov.pt/Base4/en/faq-s/>  In 2018, the total amount of public contracts reported to the BASE portal reached EUR 7,348 million, as a result of the conclusion of 120,956 contracts.  Public Procurement in 2018  !PowerBiTiles Pro Desktop! PLEASE DO NOT REMOVE ANY OF THIS TEXT #%23_%  Source: BASE portal (April 2021)  146,483 launched procedures, corresponding to EUR 15,993 million in terms of estimated price, and 144,227 concluded contracts, corresponding to EUR 8,868.52 million in terms of contractual price were reported to the BASE portal in 2019.  Public Procurement in 2019  !PowerBiTiles Pro Desktop! PLEASE DO NOT REMOVE ANY OF THIS TEXT #%23_%  Source: BASE portal (April 2021)  In 2020, the total amount of public contracts reported to the BASE portal reached EUR 10,694 million resulting of the conclusion of 147,898 contracts.  Public Procurement in 2020  !PowerBiTiles Pro Desktop! PLEASE DO NOT REMOVE ANY OF THIS TEXT #%23_%  Source: BASE portal (April 2021) |
| **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.   The 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).   !PowerBiTiles Pro Desktop! PLEASE DO NOT REMOVE ANY OF THIS TEXT #%23_%  Source: Public Procurement Portal – BASE Portal  !PowerBiTiles Pro Desktop! PLEASE DO NOT REMOVE ANY OF THIS TEXT #%23_%  Source: Public Procurement Portal – BASE Portal  !PowerBiTiles Pro Desktop! PLEASE DO NOT REMOVE ANY OF THIS TEXT #%23_%  Source: Public Procurement Portal – BASE Portal  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?  It is not yet possible to gather the information requested, so the information sent in the previous report remains.  As regards the Public Procurement Code that was in force until the end of 2017 (Decree-Law No 18/20018 of 29 January 2018), the following important legal uncertainties should be highlighted:   * The duty to state reasons, by ensuring that, when launching a procedure, a *de facto* and *de jure* adequate reasoning is provided regarding the type of procedure adopted – “extreme urgency” [**Ac.8/2011-1.ªS/PL**](https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac008-2011-1spl.pdf);      * The duty to state reasons, a *de facto* and *de jure* adequate reasoning is provided regarding the use of an “urgent public tender” as well as the deadline established for the submission of tenders   [**Ac.29/2011-1.ªS/PL**](https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac029-2011-1spl.pdf), [**Ac.33/2011-1.ªS/PL**](https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac033-2011-1spl.pdf); [**Ac.30/2011-1.ªS/PL**](https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac030-2011-1spl.pdf);[**Ac.31/2011-1.ªS/PL**](https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac031-2011-1spl.pdf).   * To match the qualifications necessary to execute the work by requiring a single category/subcategory related to the most significant type of works within the class that convers the overall value of the work, as it is inappropriate to require, in terms of technical qualifications, the possession of a general contractor «alvará», thereby breaching Article 31 of Decree-Law No 12/2004 and Article 8 of Law No 41/2015.   [**Ac.30/2011-1.ªS/PL**](https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac030-2011-1spl.pdf), [**Ac.31/2011-1.ªS/PL**](https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac031-2011-1spl.pdf), [**Ac.37/2011-1.ªS/PL**](https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac037-2011-1spl.pdf) |
| 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.?* * The applicability of the legal provisions that establish the criteria for choosing procedures – Articles 18-33; * Provisions on the applicability of substantive criteria - Articles 24-27; * *De facto* and *de jure* adequate reasoning for using the urgent public tender procedure - Article 155; * Establishment of technical specifications in the procedure documents by the contracting entity – Article 49; * Assessment of the abnormally low price – Article 71. |
| 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*   - 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?*   Taking into account that IMPIC is assisting in the interpretation and application of the rules, as well as that it was only in January 2018 that the transposition of the Directives came into effect in the Portuguese legal system, it is still difficult to answer this question. |
| **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*   See point II.1 :   * The duty to state reasons, by ensuring that, when launching a procedure, a *de facto* and *de jure* adequate reasoning is provided regarding the type of procedure adopted – “extreme urgency” [**Ac.8/2011-1.ªS/PL**](https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac008-2011-1spl.pdf)- <https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac008-2011-1spl.pdf> * The duty to state reasons, a *de facto* and *de jure* adequate reasoning is provided regarding the use of an “urgent public tender” as well as the deadline established for the submission of tenders   [**Ac.29/2011-1.ªS/PL**](https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac029-2011-1spl.pdf), [**Ac.33/2011-1.ªS/PL**](https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac033-2011-1spl.pdf); [**Ac.30/2011-1.ªS/PL**](https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac030-2011-1spl.pdf);[**Ac.31/2011-1.ªS/PL**](https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac031-2011-1spl.pdf).  <https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac029-2011-1spl.pdf>  <https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac033-2011-1spl.pdf>  <https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac030-2011-1spl.pdf>  <https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac031-2011-1spl.pdf>   * To match the qualifications necessary to execute the work by requiring a single category/subcategory related to the most significant type of works within the class that convers the overall value of the work, as it is inappropriate to require, in terms of technical qualifications, the possession of a general contractor «alvará», thereby breaching Article 31 of Decree-Law No 12/2004 and Article 8 of Law No 41/2015.   [**Ac.30/2011-1.ªS/PL**](https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac030-2011-1spl.pdf), [**Ac.31/2011-1.ªS/PL**](https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac031-2011-1spl.pdf), [**Ac.37/2011-1.ªS/PL**](https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac037-2011-1spl.pdf)  <https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac030-2011-1spl.pdf>  <https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac031-2011-1spl.pdf>  <https://www.tcontas.pt/pt/actos/acordaos/2011/1spl/ac037-2011-1spl.pdf>  IMPIC has also issued the following circular letters (circulares informativas):  **2020**  [Circular Informativa nº 02/IMPIC/2020](http://www.impic.pt/impic/assets/misc/img/circulares_informacoes/Circular_2_IMPIC_2020.pdf) - Procedures to be adopted by entities in the real estate sector required to comply with Law no. 83/2017, of 18 August (law to prevent and combat money laundering and terrorist financing) as amended and republished by Law no. 58 / 2020, August 29  [Circular Informativa nº 01/IMPIC/2020](http://www.impic.pt/impic/assets/misc/img/circulares_informacoes/Circular_1_IMPIC_2020.pdf) - Exceptional and temporary measures related to the COVID-19 pandemic disease, in the real estate and construction sectors  **2019**  [Circular Informativa nº 04/IMPIC/2019](http://www.impic.pt/impic/assets/misc/img/circulares_informacoes/Circular_4_IMPIC_2019.pdf) - Deadline for registration of entities on the electronic complaints book platform  [Circular Informativa nº 03/IMPIC/2019](http://www.impic.pt/impic/assets/misc/img/circulares_informacoes/Circular_3_IMPIC_2019.pdf) - Provision of parts of the procedure in the public area of electronic public procurement platforms  [Circular Informativa nº 02/IMPIC/2019](http://www.impic.pt/impic/assets/misc/img/circulares_informacoes/Circular_2_IMPIC_2019.pdf)  - Regulation no. 276/2019, of 26 March - Entry into force and procedures to be adopted by entities obliged with real estate activities ([http://www.impic.pt/impic/assets/misc/img/UK.png](http://www.impic.pt/impic/assets/misc/img/circulares_informacoes/Circular_2_IMPIC_2019_EN.pdf))  [Circular Informativa nº 01/IMPIC/2019](http://www.impic.pt/impic/assets/misc/pdf/Circular_informativa_1_IMPIC_2019.pdf) - [Electronic](https://www.linguee.pt/ingles-portugues/traducao/electronic.html) [complaints book](https://www.linguee.pt/ingles-portugues/traducao/complaints+book.html)  **2018**  [Circular Informativa nº 02/IMPIC/2018](http://www.impic.pt/impic/assets/misc/img/circulares_informacoes/Circular_2_IMPIC_2018.pdf) - [Electronic](https://www.linguee.pt/ingles-portugues/traducao/electronic.html) [complaints book](https://www.linguee.pt/ingles-portugues/traducao/complaints+book.html)  [Circular Informativa nº 01/IMPIC/2018](http://www.impic.pt/impic/assets/misc/img/circulares_informacoes/Circular_1_IMPIC_2018.pdf) - [Complaints book](https://www.linguee.pt/ingles-portugues/traducao/complaints+book.html): Procedures related to the fulfilment of the obligation to send the original claim sheet in the book, in physical format |
| 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. 2. **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. 3. **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).   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).*   Taking into account that IMPIC is assisting in the interpretation and application of the rules, as well as that it was only in January 2018 that the transposition of the Directives came into effect in the Portuguese legal system, it is still difficult to answer this question.  Altought attending the threshold it is included histograms of values of procedures (i.e. calls for competition). Split one for works and one for supplies and services, by types of EU threshold.    !PowerBiTiles Pro Desktop! PLEASE DO NOT REMOVE ANY OF THIS TEXT #%23_%  !PowerBiTiles Pro Desktop! PLEASE DO NOT REMOVE ANY OF THIS TEXT #%23_%  !PowerBiTiles Pro Desktop! PLEASE DO NOT REMOVE ANY OF THIS TEXT #%23_%  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.)* * *Institutional arrangements made* * *Soft-law and soft measures (for example Guidance documents, Codes of conduct, Declarations of absence of conflict of interest, training, awareness raising etc.)* * *Use of data analysis to perform control such as red-flag systems.* * *Any specificities of the regime for conflict of interest, such as a broader definition or additional institutions or other measures.*   *AdC toolbox in public procurement and bid-rigging*  Since 2016, the Portuguese Competition Authority (Autoridade da Concorrência – AdC) has been implementing its strategic action plan for public procurement. This plan relies on three cornerstones that entail a policy mix: advocacy and enforcement; *ex-post* and *ex-ante* action on cartels; reactive and proactive detection tools.  *AdC advocacy role in combating bid-rigging*  The AdC’s *Fighting Bid-Rigging in Public Procurement* initiative has been ongoing since 2016. This initiative envisages outreach sessions to (i) raise awareness regarding the benefits of competition for public procurement efficiency by engaging stakeholders, (ii) align the goals of public procurement related entities with those of competition by engaging public procurement officials, (iii) foster the role of contracting agencies as first line in detecting indicia of bid rigging, by increasing skills to detect suspicious bidding patterns; and (iv) designing and implementing more efficient, competition-friendly and “collusion-proof” tenders (*i.e.,* less prone to bid-rigging).  The outreach strategy is based a combination of in-house and open outreach sessions with public and private stakeholders, with training and distribution of hands-on leaflets and best practices guidance for procurement officials. These outreach sessions aim at training public procurement officials in designing more efficient and competition-friendly procedures and in detecting signs of collusion in public procurement procedures.  Contracting authorities, procurement officials and other procurement related entities (*e.g*., with monitoring powers) are the targets of the campaign. In order to foster an informal network of exchange of information, and achieve the effective communication of the main messages to the target audience, the AdC opted for an interactive approach, reaching out to public stakeholders and hands on public procurement officials directly through outreach sessions organised across Portugal as well as in-house in contracting agencies, and allowing them to receive information from case-handlers which have first-hand experience on the issue. Presentations are always followed by a Q&A session to promote informal dialogue.  So far, the AdC has reached over 2600 public procurement officials and others with responsibilities in public procurement, in a variety of sessions in different stakeholders, namely, the Ministry of Economy, the Court of Auditors, the Shared Services of the ministry of Health, the Public Prosecutor, Parque Escolar (in charge of procuring infrastructure for schools), amongst many others.  In 2020, during the COVID-19 pandemic, the AdC continued reaching out to public stakeholders, namely the Court of Auditors of Madeira Inland, the Regional Government of Madeira, Porto City Council, amongst others. These sessions were undertaken online.  The campaign has brought concrete results for the AdC’s enforcement pipeline: more training for public procurement officials means more eyes on the ground. This creates a greater detection capacity, which is a deterrent for infringing the law and an incentive for leniency.  This campaign has already resulted, via a complaint filed in the context of the campaign, in one sanctioning decision in a cartel case related to railway maintenance.[[2]](#footnote-3) In 2020, the AdC adopted a sanctioning decision with a total fine of €3.4 million imposed on five companies and five board members or directors involved in a cartel in railway maintenance in public tenders launched by Infraestruturas de Portugal, the public company that manage Portuguese railways, in 2014 and 2015. The AdC fined Fergrupo - Construções e Técnica Ferroviárias, SA and Somafel - Engenharia e Obras Ferroviárias, SA, as well as a board member or director of each company, to pay fines amounting to €1.8 million for participating in the cartel. The AdC also applied an accessory sanction that disqualifies these two companies from participating for two years in procurement procedures aimed exclusively at the purchase of maintenance services for track equipment, on the national rail network. The five companies agreed to make the tenders void due to the lack of participants, so that new tenders could be launched with a higher base price, and then share the market in the next tender procedure, with a higher price.  *AdC ex-ante action on fighting bid-rigging*  In 2018, following the revision of the Portuguese Public Procurement Code, the AdC was given access to the e-procurement database – Portal Base database. As of January 2018, the AdC has been working closely with IMPIC in order to put in place the full access to the database. Up until January 2018, the AdC was able to access portions of this database only, and upon request.This dataset is important to conduct analysis on bidding patterns suggestive of collusive behaviour.  *Complaints’ website*  The AdC [complaints’ website](https://extranet.concorrencia.pt/Denuncias/Home.aspx) has a dedicated tip line, which aims to facilitate the job of complainants who want to bring valuable information to the AdC. It also provides information on infringements to competition law, so that complainants are encouraged to make more informative complaints.  This platform can also be relevant in combating collusion in public procurement.  III.2. Supporting documents  The *Fighting Bid-Rigging in Public Procurement* Campaign has been covering the different geographic areas in Portugal, with more than 40 outreach sessions having taken place to date, to promote the exchange of information with stakeholders and allow for more informal discussion.  The materials of the outreach initiative are available at the AdC’s [website](http://www.concorrencia.pt/CombateAoConluionacontratacaopublica/) : the [brochure](http://www.concorrencia.pt/CombateAoConluionacontratacaopublica/files/Brochura%20-%20Combate%20ao%20Conluio%20na%20Contratacao%20Publica.pdf) and the [Guide](http://www.concorrencia.pt/CombateAoConluionacontratacaopublica/files/Guia%20de%20Boas%20Praticas%20-%20Combate%20ao%20Conluio%20na%20Contratacao%20Publica.pdf) of Best Practices for Fighting Bid-Rigging in Public Procurement, the [Q&A](http://www.concorrencia.pt/CombateAoConluionacontratacaopublica/files/Perguntas%20e%20respostas%20-%20Combate%20ao%20Conluio%20na%20Contratacao%20Publica.pdf) and the [checklist](http://www.concorrencia.pt/CombateAoConluionacontratacaopublica/files/Checklist%20-%20Combate%20ao%20Conluio%20na%20Contratacao%20Publica.pdf) of the main indicia of bid-rigging conspiracies. |
| 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*   Quantitative assessment of risks of collusion  The Best Practices Guide for Fighting Bid-Rigging in Public Procurement and the [checklist](http://www.concorrencia.pt/CombateAoConluionacontratacaopublica/files/Checklist%20-%20Combate%20ao%20Conluio%20na%20Contratacao%20Publica.pdf) identify a number of red flags of bid-rigging, and thus aim at capacity building for public procurement officials in assessing the risk of collusion in a public procurement procedure. While these red flags are mainly qualitative, the check list can help the contracting agency in identifying the risk of collusion in a public procurement procedure (for example, if in a procedure a number of the check list red flags are ticked).  For the purpose of enforcing competition law, the AdC applies statistical tools to the e-procurement data base in order to detect patterns of bidding behaviour which suspicious of collusion.  [*http://www.concorrencia.pt/vEN/Estudos\_e\_Publicacoes/Pages/Estudos-e-Publicacoes-vEN.aspx*](http://www.concorrencia.pt/vEN/Estudos_e_Publicacoes/Pages/Estudos-e-Publicacoes-vEN.aspx) |
| 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.* |
|  | For each contracting authority or entity it was calculated:  1) The total number of contract awards.  2) The number of contract awards which received only one bid.  3) Divided the second number by the first number.  And;  1) The total number of procedures.  2) The number of negotiated procedures without the prior publication of a call for competition.  3) Divided the second number by the first number.  !PowerBiTiles Pro Desktop! PLEASE DO NOT REMOVE ANY OF THIS TEXT #%23_%  Source: Public Procurement Portal – BASE Portal  !PowerBiTiles Pro Desktop! PLEASE DO NOT REMOVE ANY OF THIS TEXT #%23_%  Source: Public Procurement Portal – BASE Portal |
| 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). |
| 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>. |

## Level of SMEs' participation in public procurement

SMEs are defined in the Commission Recommendation (2003/361/EC) as having less than 250 persons employed and an annual turnover of up to EUR 50 million or a balance sheet total of no more than EUR 43 million. Further information is available at

<http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en>.

|  |  |
| --- | --- |
| **IV.1. Qualitative reporting on SME participation** |  |
| 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.  The IAPMEI, I.P. - Agência para a Competitividade e Inovação - Agency for Competitiveness and Innovation, promotes competitiveness and business growth, it also ensures support for the design, execution and evaluation of policies. To strengthening innovation, entrepreneurship and business investment in companies, operates in areas under the responsibility of the Ministry of Economy, namely for small and medium-sized companies, with the exception of the tourism sector and the accompanying skills (attributed to the Directorate-General for Economic Activities).  <https://www.iapmei.pt/SOBRE-O-IAPMEI/Missao-Visao-Valores.aspx> |
| 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;* * *SMEs winning in below EU threshold procurement[[3]](#footnote-4):* * *the number of contracts awarded to SMEs over the total number of contracts awarded irrespective of bidder’s size class;* * *the value of contracts awarded to SMEs over the total value of contracts awarded irrespective of bidder’s size class.* * *If available, estimates of indirect participation[[4]](#footnote-5) of SMEs in public procurement above threshold;* * *If available, estimates of indirect participation of SMEs in public procurement below threshold;* * *If applicable, current attainment rate of the target set for SMEs participation.*   *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.*  *!PowerBiTiles Pro Desktop! PLEASE DO NOT REMOVE ANY OF THIS TEXT #%23_%*  Source: Public Procurement Portal – BASE Portal  *!PowerBiTiles Pro Desktop! PLEASE DO NOT REMOVE ANY OF THIS TEXT #%23_%*  Source: Public Procurement Portal – BASE Portal  *!PowerBiTiles Pro Desktop! PLEASE DO NOT REMOVE ANY OF THIS TEXT #%23_%*  Source: Public Procurement Portal – BASE Portal |

## 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."[[5]](#footnote-6) 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 procurement  - measures taken to overcome them  The Portuguese Environment Agency (APA) is a public institute, within the scope of the Portuguese Ministry of the Environment and Energy Transition.  APA mission is to propose, develop and monitor, on an integrated and participated manner, the public policies for the environment and sustainable development, in close cooperation with other sectoral policies and public and private entities.  <https://apambiente.pt/index.php?ref=x178>  Building on the EUROPE 2020 strategy, which sets out the programming principles that express the economic, social and territorial development policy, a program named Portugal 2020 was created to promote those principles in Portugal during the period 2014-2020 in line with that strategy for a smart, sustainable and inclusive growth. To this end, it established Thematic Objectives to stimulate growth and job creation, the necessary measures to achieve them and their outcomes and results, namely the creation of the GAM ENCPE 2020 (a steering group that will monitor the National Strategy for Green Public Procurement) in order to promote sustainability by using environmental criteria in public procurement. This action line also aims to contribute to a better implementation of the strategy, the dissemination of good practices and the development of a procurement model that increasingly contributes to the achievement of those objectives.  Following this same action line, the Coalition for Green Growth (Coligação para o Crescimento Verde) brings together a group of entities for the establishment and operationalization of the Green Growth Commitment (http://www.crescimentoverde.gov.pt/compromisso/). This commitment should result in a green economic growth with national impact and international visibility, by stimulating green economic activities, promoting the efficient use of resources and contributing to sustainability.  The Coalition objectives and targets are grouped in ten thematic areas, including Public Procurement (<http://www.crescimentoverde.gov.pt/compromisso/areas-tematicas/contratacao-publica-2/>). The intention is that public procurement should play a key role in stimulating behavioural changes among citizens and companies, not only through the associated turnover and their contribution to market creation, but also through the promotion of sustainability, thanks to the good example set by the Public Administration, and the contribution to set up a new concept of development. |
| 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';*   For the purposes of the ENCPE 2020, the term «green public procurements» is defined as the procurement of a set of goods and/or services that are considered to be a priority, incorporating environmental technical specifications and requirements in the pre-contractual stages, with an effect on the subsequent stage of contract performance.   * *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;*   Council of Ministers Resolution No 38/2016 of 29 July 2018 established a national strategy for green public procurement (ESTRATÉGIA NACIONAL PARA AS COMPRAS PÚBLICAS ECOLÓGICAS 2020, or ENCPE 2020) setting the following targets:  For direct and indirect Administration:  Obj. 1 — 60 % of the pre-contractual public procedures for the purchase of goods and services covered by the ENCPE 2020 shall include environmental criteria;  Obj. 2 — 60 % of the financial amount associated with pre-contractual public procedures for the purchase of goods and services covered by the ENCPE 2020 have pre-contractual procedures that include environmental criteria.  b) For State-owned Enterprises:  Obj. 1 — 40 % of the pre-contractual public procedures for the purchase of goods and services covered by the ENCPE 2020 shall include environmental criteria;  Obj. 2 — 40 % of the financial amount associated with pre-contractual public procedures for the purchase of goods and services covered by the ENCPE 2020 have pre-contractual procedures that include environmental criteria.   * *Any legal obligation to include green or circular requirements in tenders;*   This obligation was only introduced by the legal text that transposed the Directives - Decree-Law No 111-B/2017 –, which entered into force on 1 January 2018, although in 2017 there were already targets to be met by virtue of Resolution No 38/2016 of the Council of Ministers of 29 July 2016.   * *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;*   *Six Working Groups have been created to develop criteria for the following categories:*   1. *Office Buildings* 2. *Electrical and Electronic Equipment (EEE) in the Health sector* 3. *Public Lighting and Traffic Signalling* 4. *Copying Paper and Paper for Graphic Use* 5. *Food products and catering services* 6. *Transport*   *The current strategy defines, in point 4.1. of the Annex of RCM 38/2016, of 29 July, the following list of priority goods and services:*  *• Office buildings;*  *• Electricity;*  *• Graphic representation equipment;*  *• Electrical and electronic equipment used in healthcare;*  *• Office IT equipment;*  *• Interior lighting;*  *• Public lighting and road signs;*  *• Infrastructure and equipment for the treatment, supply and distribution of water, for the collection and treatment of waste water and urban waste;*  *• Road infrastructure and traffic signaling;*  *• Furniture;*  *• Interior panels;*  *• Copy paper and paper for graphic uses;*  *• Combined production of heat and electricity;*  *• Food products and catering services;*  *• Gardening products and services;*  *• Cleaning products and services;*  *• Heating systems with water circulation;*  *• Flushing systems in toilets and urinals;*  *• Textiles;*  *• Sanitary taps; and*  *• Transport.*  *The list of priority goods and services presented is based on the list published by the European Commission within the scope of the Green Public Procurement (GPP), at the date of writing of the proposal for a legal document that frames ENCPE 2020.*   * *Activities in the area of capacity-building for procuring ‘green’ (institutionalised or ad-hoc training, helpdesks, etc.).*   *Actions to be undertaken:*  *1. To support the ENCPE 2020 promotion actions;*  *2. To organize the annual seminar on Good Practices in Sustainable Public Procurement;*  *3. To promote the preparation of a study on the impact of contracts based on ecological criteria on the efficient use of resources and the circular economy;*  *4. To identify circular economy criteria in the green public procurement criteria (GPP) based on the EU GPP criteria and studying new criteria, if they do not exist;*  *5. To promote and/or monitor pilot projects, or GPP processes including circular economy criteria in public administration;*  *6. To promote improved information in the public procurement indicators, taking into account the monitoring of the performance of the purchased goods and services.*  *1.2. Methodological Approach*  *1.2.1 As part of the works within the scope of the ENCPE 2020, to support the actions it provides for, namely in the setting-up of the working groups for the definition of ecological criteria, by suggesting and recommending public and private entities representing the sector, and in the organization of seminars for promoting the ENCPE and disseminating good practices, both by providing logistical support (provision of facilities and publicity) and by suggesting speakers and practical cases;*  *1.2.2 To organize a seminar to disseminate good practices for sustainable public procurement, in order to address subjects that are not included in the ENCPE 2020 and do not conflict with the activities provided for in the ENCPE 2020;*  *1.2.3 To set out the minimum requirements of the study on public contracts with ecological criteria, by assessing their impact on the efficient use of resources and the circular economy. The aim is to define the requirements the study should consider for subsequent recommendation;*  *1.2.4 Bearing in mind the relevant public contracts, actions should be carried out to identify criteria that take into account the circular economy principles and to propose new criteria that foster the circular economy. A scale should be developed for assessing the relevance of public contracts in terms of their value, size, subject-matter, etc.;*  *1.2.5 To hold a workshop aimed at disseminating circular economy criteria and identifying good practices in circular procurement taking into account the preceding point;*  *1.2.6 To draw up an inventory of the existing tools for collecting public procurement data and indicators and to prepare a proposal for new indicators.*  [*https://encpe.apambiente.pt/*](https://encpe.apambiente.pt/)  *The implementation of the ENCPE 2020 shall be supported by two types of tools:*  *Manuals designed to enable contracting entities to properly apply:*  *•environmental criteria for the qualification of candidates and the assessment of public procurement proposals relating to the provision of goods, services and projects for the execution of public works;*  *•cost estimates of environmental externalities taking into account the most relevant impacts;*  *•the concept of lifetime cost taking into account the estimates and criteria mentioned in the preceding points;*  *Information tools based on:*  *•the development of a specific area for green public procurement on the APA’s Website, as a repository of information, dissemination of green specifications and criteria, both general and adapted ones;*  *•an annual conference designed to disseminate and spread up-to-date knowledge on the various themes, as well as communicate the results relating to the follow-up of the goals and targets pursued during the reporting year;*  *•training activities for the entities covered by the ENCPE 2020 and other stakeholders.*   |  |  |  |  | | --- | --- | --- | --- | | **Actions** | **Entity** | **Timetable / Periodicity** | **Degree of achievement** | | Creation of a specific area for Ecological Public Purchases on the Portal of APA, I. P. | APA | 30 days \* |  | | Creation of procedures and model sheet to systematize environmental criteria. | GAM ENCPE 2020 | 60 days \* |  | | ENCPE 2020 public presentation session | GAM ENCPE 2020 | 60 days \* | * 1) | | Collection and systematization of relevant information to be made available in the specific area of the APA, I. P. portal | GAM ENCPE 2020 | 90 days \* | * 2) | | Results dissemination and presentation conference | GAM ENCPE 2020 | 1st Conference in 2017, with annual frequency | 3) | | Training actions | GAM ENCPE | Starting in 2017 | 4) | | Preparation of the annual report | APA + GAM ENCPE | 1st semester of 2018 (data from 2017)  1st semester of 2020 (data from 2019) | 5) | | Preparation of progress report | GAM ENCPE | 1st semester of 2019 (data from 2017 and 2018) | 5) | | Preparation of final report | GAM ENCPE | 1st semester of 2021 (data from 2017 to 2020) |  | | Preparation of manuals with environmental criteria applicable to priority goods and services | Working subgroups for definition | After defining criteria for a given  good or service | * 6) |   \* Counted from the date of publication of the order  1) Held on February 2, 2018.  2) Continuously updated.  3) GAM considered that the conditions for these events were not met, since there were no results to be presented, due to the complexity and delay in preparing the manuals with ecological criteria, which concentrated the available resources.  4) The training actions focused on aspects related to the use of the Base Portal and on dissemination actions took place in 2020.  5) The difficulties in obtaining data that would reliably translate the use of environmental criteria by contracting entities, in 2018 and 2019, GAM considered that it was not possible to prepare any report, either annually or progressive.  6) For 13 groups of goods or services (organized in 12 manuals). |
| 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.*   The objectives and goals initially proposed were difficult to achieve due essentially to the following factors associated with the contracting entities:  A. Ignorance of ENCPE and consequently of the existence and possibility of applying ecological and circular criteria; and  B. Difficulty in guaranteeing the filling in the essential information for the assessment of ENCPE in the Base Portal.  [*https://encpe.apambiente.pt/*](https://encpe.apambiente.pt/)  The following tables indicate the specific objectives and respective goals established:   1. % of public pre-contractual procedures for the acquisition of goods and services contemplated in ENCPE 2020 that include environmental criteria:  |  |  |  | | --- | --- | --- | |  | 2018/2020 | 2019/2020 | | State direct and indirect administration | 55% | 60% | | State corporate sector | 35% | 40% |  1. % of the financial amount associated with public pre-contractual procedures for the acquisition of goods and services contemplated in ENCPE 2020 that include environmental criteria.  |  |  |  | | --- | --- | --- | |  | 2017-2018 | 2019-2020 | | State direct and indirect administration | 55% | 60% | | State corporate sector | 35% | 40% |   It will be published in the first semester of 2021 the Final Monitoring Report for National Strategy  for Ecological Public Procurement 2020 - ENCPE 2020 |
| 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.  The Commission for Citizenship and Gender Equality (IGC Comissão para a Cidadania e a Igualdade de Género) is the national body responsible for promoting and defending a fundamental principle, equality between women and men, seeking to respond to the profound social and political changes in society in terms of citizenship and gender equality.  Public Policy Instruments  National Strategy for Equality and Non-Discrimination (2018-2030) ENIND - [Estratégia Nacional para a Igualdade e a Não Discriminação](https://www.cig.gov.pt/portugal-mais-igual/)  ENIND introduces a long-term vision. It integrates three Action Plans that define the Strategic and Specific Objectives until 2030 as well as concrete measures to pursue within the scope of these objectives, during the first four-year implementation period.  Action Plan for Equality between Women and Men (2018-2021) (PAIMH - Plano de Ação para a Igualdade entre Mulheres e Homens).  <https://www.cig.gov.pt/area-a-cig/instrumentos-de-politica-publica/> |
| **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.* |
| **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);* * *Number of public procurement procedures reserved to sheltered workshops and economic operators in line with article 20 of the Directive;* * *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.;* * *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).* |
| 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;  - measures taken to overcome them;  - difficulties still existing in the Member State.  The ANI - Agência Nacional de Inovação, SA, aims to develop actions to support technological and business innovation in Portugal, contributing to the consolidation of the National Innovation System (NIS) and to strengthening the competitiveness of the national economy in global markets.  ANI is responsible for pursuing the guidelines for a technological and business innovation strategy for Portugal, 2018-2030 (in accordance with RCM 25/2018). In particular, its remit includes stimulating private investment in research and development (R&D), promoting partnerships between science & technology system and business entities, and increasing international programme participation by the national science & technology system’s companies and entities, specifically Higher Education Institutions and Interface Centres. This is all aimed at promoting their skills & competences, and the results of the innovation support policy.  ANI is also responsible for publicising innovation success stories in Portugal in partnership with other entities, specifically IAPMEI, AICEP and FCT. This will help give the impression of Portugal as an innovative country and will justify increased investment due to returns for the economy and improvements to the population’s welfare and quality of life.  The pursuit of the ANI's mission will be articulated with other public policy objectives such as priorities for the next cycle of Structural Funds, the National Investment Programme 2020-2030, the National Reform Programme and the National Programme for Spatial Planning Policy, as well as the priorities and objectives associated with Portugal's participation in R&D support programmes within the European framework.  <https://www.ani.pt/en>  Public procurement of innovation has still little expression in Portugal. Within the scope of the 2018-2030 Technological and Entrepreneurial Innovation Strategy, an ANI is committed to contributing to boosting sectors of strategic interest such as health, space, biotechnology, agriculture, agribusiness or the sea.  In this sense, ANI formalized, in 2018, a collaboration protocol with IMPIC - Institute of Public Markets, Real Estate and Construction. Supporting the joint work of the two entities is in activities developed within the scope of Interreg Europa iBuy and Procurement2Innovate (Horizonte2020), two ongoing international projects coordinated at national level by ANI, with close monitoring by IMPIC. |
| 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.);*   The first event organized in Portugal on Public Procurement for Innovation took place on 16th October 2019 | LNEC - National Laboratory for Civil Engineering, and intended to discuss the importance of the Competence Centres and other public policy instruments to promote capacity building in the implementation of public procurement of innovation. It was also an opportunity to discuss the role of Public Procurement for Innovation and opportunities for transnational cooperation.  [*https://www.ani.pt/pt/eventos/eventos-passados/combined-seminar-capacity-building-a-driver-for-ipp-transnational-cooperation/*](https://www.ani.pt/pt/eventos/eventos-passados/combined-seminar-capacity-building-a-driver-for-ipp-transnational-cooperation/)  ANI, in partnership with the Institute of Public Procurement, Real Estate and Construction (IMPIC), will organize a new seminar where the participants will have the opportunity to know in more detail the contours of the CPI and benefit from the contributions of some contracting entities. The session will take place on April 29, at 3:30 pm, in digital format.  The Seminar aims to raise awareness of the importance of the subject of Public Procurement of Innovation in Portugal and present the results of a questionnaire, launched in January 2021, to "Contracting Entities within the scope of public procurement of Innovation", which aimed to:  Measure the awareness of contracting entities to CPI;  Assess the ability of contracting entities to engage in CPI contracts;  To assess the interest of the existence of a national Center of competences in CPI.  The seminar is part of the project "Competence Center to Support Public Procurement of Innovation", funded by COMPETE 2020 (SATDAP).   * *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.*   ANI an IMPIC are working on monitoring key innovation indicators and rankings, and the results of innovation programmes. The use of innovation criterion are under analyses for implementation in the BASE portal.  In Portugal in the period under review, no innovation partnership took place. |
| 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). | |

## 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).

• Institute of Public Procurement, Real Estate and Construction (IMPIC from Instituto dos Mercados Públicos do Imobiliário e da Construção, IP)

• Court of Auditors

• Inspectorates (Inspectorate-General of Finance, etc.)

• Competition Authority (AdC)

## 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>. |
| 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.

#### 1.1. General approach: Information is made available according to the legal obligations deriving by the PPC.

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: All the information comes from the Public Procurement Portal – BASE Portal

|  |  |  |  |
| --- | --- | --- | --- |
| 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.

The single source of data used to produce the information needed to fill in the report was extracted for the Portuguese public contract register, the Base portal.

An overall analysis of the data quality was performed and some erroneous data was detected and reported to the concerning contracting authorities for correction.

The only key performance indicators produced resorting to sampling were the ones concerning the level of SMEs' participation in public procurement. All other indicators were a result of working full sets of information.

Thresholds had no influence on the methodologies used to report the information.

**Annex II:**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **2018** | **2019** | **2020** |
| **Number of notices announcing a call for competition above thresholds** |  |  |  |
| **Number of notices announcing a call for competition below thresholds** |  |  |  |
| **Number of awarded contracts above thresholds** |  |  |  |
| **Number of awarded contracts below thresholds** |  |  |  |
| **Total value of procurement above EU thresholds (EUR/National currency)** |  |  |  |
| **Total value of procurement below EU thresholds (EUR/National currency)** |  |  |  |

**Annex III:**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **2018** | **2019** | **2020** |
| **Number of decisions** |  |  |  |
| **upon a complaint** |  |  |  |
| ***ex officio*** |  |  |  |
| **Comments** |  |  |  |
| **Median length of the review** |  |  |  |
| **upon a complaint** |  |  |  |
| ***ex officio*** |  |  |  |
| **Comments** |  |  |  |
| **Number of review decisions challenged** |  |  |  |
| **Number of decisions (primarily) upheld** |  |  |  |
| **Number of decisions (primarily) rejected** |  |  |  |
| **Number of decisions – other** |  |  |  |
| **Comments** |  |  |  |

1. A review initiated upon review body’s own motion. [↑](#footnote-ref-2)
2. See Press Release 02/2020 “[AdC adopts sanctioning decision which concludes proceedings against railway maintenance companies with a total fine of €3.4 M and disqualification of participation in public tenders](http://concorrencia.pt/vEN/News_Events/Comunicados/Pages/PressRelease_202002.aspx?lst=1&Cat=2020)”; and the AdC Decision PRC/2016/6, available [here](http://www.concorrencia.pt/vPT/Praticas_Proibidas/Decisoes_e_Contencioso/Documents/PRC201606-Decis%c3%a3o%20Final%20Ferrovias%20FERGRUPO+SOMAFEL.pdf). [↑](#footnote-ref-3)
3. This request is not mandatory as this type of procurement is not covered by the 2014 Directives. [↑](#footnote-ref-4)
4. 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-5)
5. Commission Communication (COM (2008) 400) "Public procurement for a better environment". [↑](#footnote-ref-6)