

# Procurement Monitoring Report

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

### Key quantitative indicators

#### I.1. The number of procurement procedures



#### Public procurement is regulated by the Directives 2014/24/EU and 2014/25/EU

**Table 1. Number of public procurement notices<sup>1</sup> by procurement value thresholds**

Procurement notices	Number of procurement notices			Percentage		
	2018	2019	2020	2018	2019	2020
<b>Above the threshold procurement</b>	3.279	3.619	3.469	32.4%	34.1%	31.3%
<b>Below the threshold procurement</b>	6.827	6.980	7.624	67.6%	65.9%	68.7%
<b>Total:</b>	10.106	10.599	11.093	100.0%	100.0%	100.0%

**Table 2. Number of public procurement notices for the award of the contract**

Contract award notices	2018	2019	2020
<b>Above the threshold procurement</b>	2 766	3 596	4 293

Official public procurement statistics of Lithuania<sup>2</sup> is prepared by the PPO.

The total volume of procurement (above the threshold and below the threshold (excluding low value procurement)) – number of concluded contracts, number of procurement completed, value of concluded contracts – is determined on the basis of the data of

<sup>1</sup> Excluding low value procurement.

<sup>2</sup> [Ketvirtinės ir metinės ataskaitos | Viešųjų pirkimų tarnyba \(lr.v.lt\)](#)

the procurement procedure reports published by the Public buyers in the CPP IS and the data provided by the central purchasing bodies to the PPO on the procurement performed centrally by the Public buyers (see Tables 3, 4, 7).

The volume of low value procurement is determined on the basis of the data of the annual reports published by the Public buyers in the CPP IS. More than 800 000 low value procurement procedures are conducted annually, of which almost 90% contracts are concluded orally and only about 2% low value procurement is announced (see Table 5).

Detail methodology for determining the scope of public procurement is provided in Annex I to this Report.

**Table 3. Number of implemented public procurement procedures<sup>3</sup> according to the procurement value thresholds**

Implemented procurement procedures	2018	2019	2020	2018	2019	2020
	Number of implemented procurement procedures			Percentage		
Above the threshold procurement	2.647	3.019	3.409	33.1%	35.1%	36.1%
Below the threshold procurement	5.352	5.575	6.032	66.9%	64.9%	63.9%
<b>Total:</b>	<b>7.999</b>	<b>8.594</b>	<b>9.441</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

**Table 4. Number of public procurement contracts<sup>4</sup> according to the procurement value thresholds**

Awarded contracts	2018	2019	2020	2018	2019	2020
	Number of awarded contracts			Percentage		
Above the threshold procurement	30.012	33.836	34.549	77.9%	79.8%	78.5%
Below the threshold procurement	8.529	8.574	9.462	22.1%	20.2%	21.5%
<b>Total:</b>	<b>38.541</b>	<b>42.410</b>	<b>44.011</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>

<sup>3</sup> The same as <sup>1</sup>.

<sup>4</sup> The same as <sup>1</sup>.

**Table 5. Scope of low value procurement (number of notices, number of procurement)**

<b>Low value procurement</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
<b>Number of procurement notices</b>	14.706	15.523	17.325
<b>Number of implemented procurement</b>	880.428	966.461	847.979
<i>Including the number of procurement followed by awarded written contracts</i>	73.777	92.180	105.383
<i>Including procurement followed by awarded written contracts, percent</i>	8.4%	9.5%	12.4%

**Procurement through concessions is governed by Directive 2014/23/EU**

**Table 6. Scope of the above the threshold concessions**

<b>Concession award procedures</b>	<b>Number of notices, pcs.</b>		
	<b>2018</b>	<b>2019</b>	<b>2020</b>
<b>Number of concession notices</b>	0	4	0
<b>Number of concluded concession contracts</b>	0	0	0
<b>Notices of concession award</b>	0	2	0

Notices for the award of concessions was announced during the period 2018–2020, but in none of these cases was the concession contract awarded.

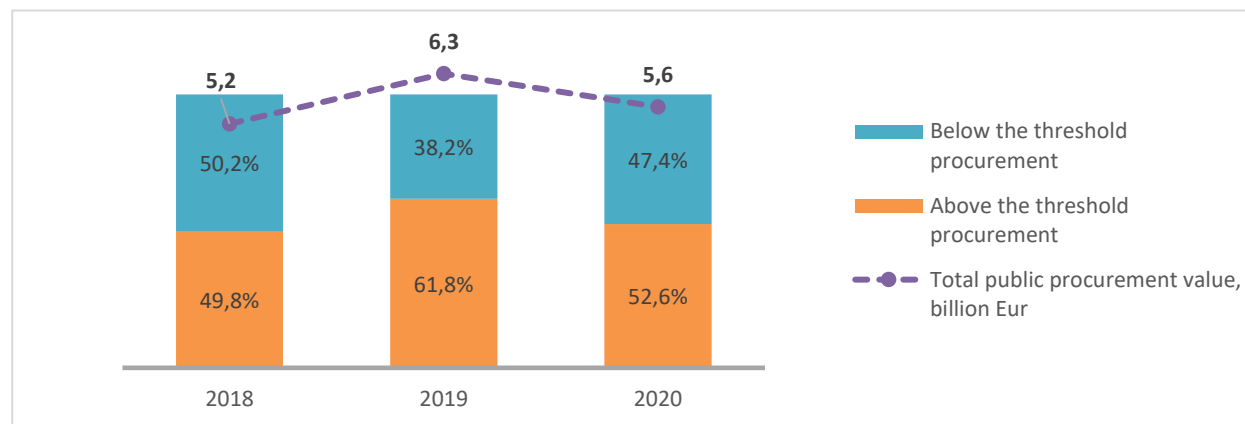
**I.2. The total value of procurement**

The scope of public procurement implemented in Lithuania is determined as the total value of procurement contracts of the above the threshold and below the threshold procurement (including low value procurement) (Table 1). Detail methodology for determining the total value of public procurement is provided in Annex I to this Report

**Table 7. Total public procurement value, EUR (percent)**

Public procurement value	2018	2019	2020	2018	2019	2020
	Value of awarded contracts, EUR			Percentage		
<b>Above the threshold procurement</b>	<b>2.593.671.395,25</b>	<b>3.878.367.575,74</b>	<b>2.928.670.973,58</b>	<b>49.8%</b>	<b>61.8%</b>	<b>52.6%</b>
<b>Below the threshold procurement</b>	<b>2.613.821.835,66</b>	<b>2.399.376.124,41</b>	<b>2.637.224.604,62</b>	<b>50.2%</b>	<b>38.2%</b>	<b>47.4%</b>
<i>Below the threshold procurement (excluding low value procurement)</i>	1.660.734.161,49	1.477.253.678,75	1.622.271.773,64	31.9%	23.5%	29.1%
<i>Other<sup>5</sup> simplified procurement</i>	9.111.567,59	16.010.433,01	19.207.736,91	0.2%	0.3%	0.3%
<i>Low value procurement</i>	943.976.106,58	906.112.012,65	995.745.094,07	18.1%	14.4%	17.9%
<b>Total:</b>	<b>5.207.493.230,91</b>	<b>6.277.743.700,15</b>	<b>5.565.895.578,20</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>


**Fig. 1. Total public procurement value and its distribution by procurement value thresholds**



<sup>5</sup> Procurement of the diplomatic missions of the Republic of Lithuania in foreign countries, missions of the Republic of Lithuania to international organizations, consular offices and special missions <...>, goods, services or works required for the organization of international events of special importance shall be carried out in accordance with paragraph 3 and 4 of Article 25 of the LPP.

<b>Abbreviations used in the Report</b>	<p>Public Procurement Office – <b>PPO</b>.</p> <p>Law on Public Procurement of the Republic of Lithuania – <b>LPP</b>.</p> <p>Law of the Republic of Lithuania Procurement by Contracting Authorities Operating in the Water, Energy, Transport or Postal Services Sectors – <b>LPU</b>.</p> <p>Law on Public Procurement of the Republic of Lithuania and Law of the Republic of Lithuania on Procurement by Contracting Authorities Operating in the Water, Energy, Transport or Postal Services Sectors - <b>the National Law</b>.</p> <p>Contracting authorities and contracting entities – <b>Public buyers</b>.</p> <p>Central Public Procurement Information System – <b>CPP IS</b>.</p>
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**Most frequent sources of wrong application or of legal uncertainty, including possible structural or recurring problems in the application of the rules**

<b>II.1. Qualitative reporting on application of public procurement rules</b>	
<b>Main sources of wrong application or of legal uncertainty</b> 	<p>In the field of public procurement, the most common problems (irregularities) can be divided according to the certain stages of procedures, starting from preparation of procurement documents and ending with conclusion and performance of the procurement contract:</p> <p><b>1. Preparation for procurement</b></p> <p><b>1.1. Procurement value determination:</b></p> <ul style="list-style-type: none"> <li>• the value of the procurement/contract is calculated only after estimating a part of the costs;</li> <li>• the procurement value is calculated incorrectly without a market research and without finding out the relevant circumstances;</li> </ul>

- incorrect calculation of the procurement value, which leads to cases where Public buyers artificially split the procurement in order to avoid the publication procedure applicable to the procurement.

## **2. Preparation of procurement documents**

**2.1. Qualification requirements for Suppliers.** At this stage of the procedure, special attention needs to be paid to the establishment of qualification requirements for suppliers and violations related to the selection criteria of suppliers. Excessive requirements, which are not related to the object of procurement or are disproportionate to it, are established. Qualification requirements that are disproportionate to the objective, are set, they artificially restrict competition between suppliers, and Public buyers fail to justify the necessity of qualification requirements for suppliers:

- discriminatory requirements for suppliers' turnover (abnormally high financial criteria), having turnover funds at the time of submission of tenders;
- experience based on criteria such as the number of contracts awarded, their value or requiring a disproportionate number or value of contracts;
- professional and technical capacity (abnormally precise, extended list of machinery/equipment (for example, a certain number of equipment, machinery requested, specific parameters, technical characteristics));
- the specialists who will perform the contract (*for example, doctor's degree, number of certificates, requirements for the project manager, although design services are not procured*) and their number); specify the specific number of specialists required, unreasonably restricted participation of those specialists in several positions or several competencies are combined and required from one person;
- the minimum capacity requirements set for a particular contract are disproportionate to the subject matter of the contract and there are unjustified barriers to participation in the selection process;
- the establishment and the combined application of qualification requirements justifying the financial, technical and professional capacity of suppliers are excessive, disproportionate and artificially restricting the competition.
- does not lay down all the mandatory requirements for the exclusion of suppliers.

**2.2. The definition of technical specifications** is an area where many mistakes are made, often because:

- there are insufficient skills or experience in drafting such documents;
- specifications are prepared for specific companies and more favourable conditions are created for specific tenderers;
- technical specifications for the supply of equipment are determined by reference to a specific brand and do not allow offering of other equivalent goods;

- or the specifications have been specially designed (intentionally or unintentionally) in favour of specific suppliers. This sometimes happens when inexperienced staff responsible for drafting technical specifications for equipment simply copy the specifications directly from a particular manufacturer's brochure and do not think that this may limit the number of suppliers who can supply this equipment;
- the set of requirements set out in the technical specification is adapted to the equipment of a specific supplier (manufacturer), for example, procurement of a car indicating the combination of engine capacity and power, fuel tank capacity, requirements for the air-conditioning system, etc.;
- inaccurate, differing information about the object of the procurement is specified in the different parts of the procurement documents - which often misleads the suppliers and due to such errors their tenders must be rejected.

**2.3. Division-non-division of the procurement object into lots:**

- dividing tenders into smaller tenders in order to avoid application of the rules for accounting the estimated value of the procurement and, consequently, competitive procedures;
- setting very specific requirements for the procurement object and disproportionately high (excessive) qualification requirements. As a result, competition is restricted, certain suppliers are protected, the market is narrowed and a monopoly is created, which raises the price;
- with the entry into force of the new directives and the rule on mandatory division of the procurement object in the above the threshold procurement, the justification provided by Public buyers for not dividing the procurement object is usually based on contract administration costs, human resources and convenience of the Public buyers.

**2.4. Procedure for setting and evaluating cost - effectiveness criteria for tenders:**

- the established criteria for the assessment of economic advantage are not related to the object of procurement and do not create added value or economic benefits;
- according to the requirements set in the procurement documents, it is difficult for suppliers to assess how the tender should be prepared to obtain the highest score, because the established evaluation descriptions can be interpreted in different ways;
- the procedure for evaluation of tenders is flawed, does not ensure objective and transparent evaluation of tenders (awarding of points), provides the Public buyer with unlimited freedom of choice, opportunities for subjective evaluation of tenders;
- the procurement conditions do not provide for a detailed evaluation system for the most economically advantageous tender, when the evaluation of a particular tender will depend on the evaluator's subjective approach, needs or motives (which does not comply with the transparency obligation established by the LPP).

**2.5. Violations related to pricing**

Pricing rules set by the Public buyers are sometimes inappropriate, disproportionate to the purpose of the procurement:

- the Public buyers often provide lists of services and (or) supplies, but do not set preliminary quantities, or do not indicate preliminary service / supplies ratios when choosing fixed rate pricing, given that the fixed rate pricing is understood as an indicator of the proportional distribution of the components of the object to be purchased and this affects the final price paid to the supplier during the performance of the contract;
- rates for suppliers and works are not related to or the most appropriate for the object of procurement. For example, the payment for the goods (vehicle parts) are delivered and the services (vehicle repair) provided is based on **average** offered rate indicated by the suppliers. However, considering the specific vehicles (the brand, date of production, etc.) it is clear that paying the same average rate in all cases is neither rational nor transparent.

**3. Procedural violations. Errors (irregularities) related to:**

**3.1. Tender evaluation violations:**

- the Public buyers do not evaluate the tenders in accordance with the requirements set out in the procurement documents, for example, tenders do not comply with the technical specification or other requirements set out in the procurement documents, but the tender is declared acceptable;
- the supplier is allowed to adjust the tender so that the tender that did not meet the requirements of the procurement documents becomes compliant with the requirements of the procurement documents and is declared a successful tender;
- public procurement commission rejects the tenders of the suppliers, finishes/terminates the procurement procedures without asking to explain the discrepancies, as established in law;
- the supplier's tender is wrongfully deemed as not meeting the requirements (for example, the public procurement commission evaluates such requirements that have not been determined, or does not evaluate the tender data submitted in a different form or in another part of the tender);
- incomplete minutes of the public procurement commission, no specific reasons and excuses/explanations for the decisions made;
- establishes unclear, ambiguous conditions leading to the exclusion from the procurement procedure of potential suppliers that offer lower prices than the successful tender.

**3.2. Inappropriate public procurement methods (and other related decisions) are selected:**

- choosing procurement without prior publication instead of public procurement with prior publication, while not complying with the established conditions for such choice;
- negotiated procedure without justification (the Public buyer concludes the contract after the negotiations, although there are no grounds for negotiating in accordance with the relevant provisions of law);



- illegal conclusion of additional contracts, agreements for the procurement of additional works, supplies or services with the supplier with whom the framework contract has been concluded;
- additional procurement contracts are concluded for the procurement of works and services, although such works/services according to their nature had to be included in the previous contract;
- the alleged urgency of events “which could not have been foreseen”, when in fact that urgency arose, for example, due to poor planning, negligence or other circumstances while not meeting the conditions of extreme urgency;
- direct procurement from specific supplier based on technical reasons and arguments that there aren't any other suppliers on the market who could provide services, works or supplies, when this is not the case;

**3.3. Illegal further execution of procedures:**

- substantial changes to the procurement conditions are made that may affect the interest of potential suppliers in the procurement, i. e. modifications of the technical specifications and/or qualification requirements (may have attracted a different spectrum of potential tenderers). Substantial changes to the procurement conditions should lead to the termination of the procurement and the publication of a new one, rather than continuing it, as is often the case.

**4. The most common violations identified by the PPO when assessing the performance of procurement contracts** - Public buyers do not perform proper supervision of the contracts (the parties do not comply with the terms of contracts, contracts are modified in breach of the existing regulations or the clauses of the contracts, etc.).

Due to inadequate supervision of the performance of contracts:

- goods that do not comply with the technical specifications (tenders) are accepted;
- the maximum quantities specified in the procurement contract are exceeded, no new public procurement procedures are conducted for their acquisition;
- the procurement contract is performed by economic operators that are not specified in either the supplier's tender or the procurement contract (that are not involved as a counterparty to the supplier);
- non-compliance with the terms of performance of works, provision of services or delivery of supplies specified in the procurement contract;
- non-compliance with the conditions set out in the procurement contract, which the supplier has indicated in the tender and for which the supplier's tender has been recognized as the most economically advantageous (when the competition is not limited to the price). The criteria that have been assessed and for which the supplier got the highest score in the procurement are not included to the contract, which makes it difficult to monitor the performance and the compliance (thus not achieving the purpose of the procurement and not gaining the intended economic benefits);

- wording of the provisions of the procurement contract, which subsequently complicates the performance of the procurement contract and leads to disputes between Public buyers and suppliers:
  - (a) imprecise, ambiguous provisions in procurement contracts;
  - (b) not establishing the conditions for modifications of the procurement contract;
  - (c) insufficient arrangements for ensuring the fulfilment of contractual obligations;
  - (d) no conditions for terminating the procurement contract;
  - (e) essential terms of the procurement contract aren't specified, which makes it difficult to list the supplier as unreliable in case of failure to implement or inappropriate implementation of the contract;
- Public buyers often fail to comply with their legal obligation to make procurement contracts, their modifications and the successful supplier's tender public:
  - (a) the Public buyers enters into a supplementary agreement with the supplier but does not comply with the terms of the contract and does not properly formalize or make public this amendment in accordance with the National Law;
  - (b) in many cases, suppliers make unjustified use of confidentiality and Public buyers apply the concept of confidentiality too widely, which does not make a substantial part of the contract and the supplier's tender public;
  - (c) the Public buyers do not publish modifications to the contract or the termination of the contract, although they must make them public in accordance with the National Law.


The PPO also carries out preventive procurement supervision in order to prevent non-transparent procurements before procurement procedures have been initiated, i.e. that procurements with discriminatory, artificially restrictive conditions would be terminated before the tenders are opened. By strengthening preventive supervision, the PPO seeks to enable Public buyers to remedy themselves, i.e. in addition to the PPO's supervision activities and the decisions of imperative nature, binding on Public buyers.

A preventive review of procurement found that the most common violations are done when:

- setting qualification requirements,
- drawing up the technical specification,
- establishing cost-benefit evaluation criteria and specifying the procedure for assessing them,
- unduly dividing the object of the procurement into separate lots.

All the identified violations lead to an undesirable final result - an artificial reduction of competition, where the terms and conditions of the procurement documents are often applied to one specific supplier, thus making it more difficult for small (or medium-sized) businesses to enter public procurement.

When making analysis of the public procurement system, the PPO faces a variety of models used by both Public buyers and suppliers. For example, a flawed model of limited tender use was prevented. The essence of the model is that the Public buyers, with the help of consultants and suitable suppliers, develop the selection criteria that are best met by only their acceptable suppliers and determine

	<p>that only three suppliers will be invited to the tender, so that in principle only the same three suppliers will win restricted tenders, although there are many suppliers who can do the required work.</p> <p>The predominant schemes could be divided according to procurement stages. At the stage of demand identification and planning procedures, schemes related to corruption, non-declaration of interests, and selection of inappropriate procurement methods prevail. At the stage of public procurement procedures, Public buyers and suppliers use schemes related to corruption, collusion, insider dealing, which leads to different conditions for the participation of suppliers, also the adaptation of specifications, qualification requirements or cost-effectiveness criteria to a single supplier or the non-provision or late provision of information. Moreover, suppliers themselves share markets, falsify tenders or try to increase the contract price through related companies. During the stage of performance of a public procurement contract, suppliers do not comply with the terms of the contract and are tolerated by the Public buyers, goods, services, goods or works are replaced by economic entities other than the parties to the contract, unusually short deadlines are set and then extended, etc.</p>
<p><b>Specific legal provisions (from EU or national law) which appear to raise significant problems of application</b></p> 	<ul style="list-style-type: none"> <li>• <b>Article 57 of Directive 2014/24/EU (exclusion grounds)</b> (the scope of application is difficult to interpret, requires constant guidance) <ul style="list-style-type: none"> <li>➤ Public buyers and economic operators face a high administrative burden in execution of the obligation of <b>Article 57(1)</b> of Directive 2014/24/EC, as this obligation to exclude an economic operator also applies where the person convicted by final judgment is a member of the management or supervisory body of that economic operator or has powers of representation, decision or control. The spectrum of persons to be verified based on this exclusion ground might be extensive and not always self-evident. If those persons are from different EU countries, many documents from different state institutions of those countries are needed for verification whether this exclusion ground exists.</li> <li>➤ Public buyers face a high administrative burden, when they have to make a decision on whether several other exclusion grounds (listed in Article 57) exists, for example: <ul style="list-style-type: none"> <li>○ whether indications are sufficiently plausible to conclude that the economic operator has entered into agreements with other economic operators aimed at distorting competition (Article 57 (4) (d));</li> <li>○ whether measures taken by the economic operator are sufficient to demonstrate its reliability despite the existence of a relevant ground for exclusion (the cases of self- cleaning, Article 57 (6)), etc.</li> </ul> </li> </ul> <p>In practice these decisions are hard to make even for very professional Public buyers due to the limited knowledge in certain areas (e.g. public procurement professional normally will not be an expert on competition issues, on professional conduct standards in different professional areas or other issues that caused the need to use the self-cleaning mechanism) and there is a high risk that these decisions will lead to the disputes and stop the process of acquisition.</p> </li> <li>• <b>Article 35 (5) of Directive 2014/24/EU and Article 53 (5) of Directive 2014/25/EU (e-auctions)</b> (in certain cases defies economic logic) Article 35 of Directive 2014/24/EC allows Public buyers to invite only the tenderers that have submitted admissible tenders</li> </ul>

to participate in the electronic auction. Tenderers whose price exceeds the budget of Public buyers are not considered to be acceptable (and therefore not admissible). This provision needs to be revised in a way to allow for that group of tenderers to participate in the electronic auction, as during the auction their final prices may fall and become acceptable. That change could increase the level of competition, which is considered to be the essential element for the efficiency of this procedure. The same rules are set in Article 53 of Directive 2014/25/EC.

- **Buying from auctions, organized by economic operators.** The Directives do not set the framework for Public buyers to procure supplies from auctions, organized by the economic operators. And in some cases that is the only way in the market to acquire certain supplies. Negotiated procedure without prior publication cannot be used in these cases, due to application of the obligation to check the exclusion grounds and compliance of economic operator to selection criteria as well as obligation to require the submission of a tender by electronic means.
- **Article 32(2) (b) (i) of Directive 2014/24/EU (procurements of museum exhibits)** (does not take into account the nature of the buyer's activity). Museums are facing challenges to acquire the museum exhibits, which are not works of art. Usually, in these cases there is sole source situation. But the Article 32(2) (b) (i) does not include possibility to use this procedure for acquiring the museum exhibits, which are not works of art.


In the cases where it is objectively possible to procure supplies, services or works from the only one economic operator, the requirements to check the mandatory exclusion grounds, compliance to selection criteria or obligation to require the submission of a tender by electronic means create an unreasonable administrative burden and significant problems of application.

- **Articles 33 and 34 of Directive 2014/24/EU and Articles 51 and 52 of Directive 2014/25/EU (limitations of dynamic purchasing systems and framework agreements)** (lacks flexibility). The practice of application of dynamic purchasing system shows that Public buyers face the limitation of this procedure that they have no leverage to request from economic operators to be active and provide the tenders for specific procurements or at least in part of them. So, during the cases of high demand and low supply, no tenders are provided, and the dynamic purchasing system stops working. Framework agreements have superiority in this regard, however, their disadvantage is that they cannot be open to entry of new economic operators once they have been concluded. The practice shows that revision of these provisions is needed to ensure more flexibility in application of these instruments.
- **Article 26 (4) of Directive 2014/24/EU (limited grounds for selecting competitive procedure with negotiations or competitive dialogues)** (lacks flexibility). In some cases, Public buyers could reach higher value for money using competitive procedure with negotiations or competitive dialogues, but the grounds for selecting these procedures are limited.

- **Article 2 (1) (4) of Directive 2014/24/EU (determination whether body is governed by public law)** (difficult to interpret, requires constant guidance). In practice many organizations (especially, NGO, subsidiaries of state-owned companies, etc.) face a huge challenge in determining whether they fall under a category of "bodies governed by public law". The case law of the European Court of Justice regarding this point is so complex, assessment of the set of circumstances is very subjective, that in practise many disputes arise between organisations and controlling institutions, and cases by economic operators are brought on this basis.
  - **Articles 42, 43, 62 of Directive 2014/24/EU (evaluation of equivalence)** (difficult to interpret, requires constant guidance). Contracting authorities do not have the knowledge and skills to evaluate equivalence of certificates for certain standards or labels required. That process is time consuming and brings a high risk of wrong assessment and litigations.
  - **CPV codes** (requires constant guidance). Public buyers face difficulties in selecting the appropriate CPV code for the procedure, since the list in some cases is overlapping and ambiguous. And that might have an impact to correct selection of applicable legislation and procedures, market involvement, etc.
  - **Article 69 of Directive 2014/24/EU (abnormally low tenders)** (requires constant guidance). Checking whether tenders are abnormally low is a very complex procedure. Contracting authorities often lack the skills to verify the data provided. If done formally, that creates a risk of improper implementation of the contracts.
  - **Article 25 of Directive 2014/24/EU (the access of economic operators from third countries and provision of supplies from third countries)** (difficult to interpret the scope of application). In practice, contracting authorities face difficulties in assessing the access rights to the European public procurement market granted under various international agreements. Given the large scale of bilateral and multilateral agreements, the complexity of the text of these documents (for example, numbers of exclusions) it is very difficult to determine to what extent economic operators from third countries can obtain access.
- It should be mentioned that in practice there exists the need for the provision in Directive **2014/24/EU** allowing to reject any tender submitted for the award of a supply contract where the proportion of the products originating in third countries, exceeds 50 % of the total value of the products constituting the tender (as is Article 85 of Directive 2014/25/EU).
- **Article 53 of Directive 2014/24/EU and Article 73 of Directive 2014/25/EU (full access to procurement documents at the time of notice)** (lacks flexibility). Public buyers must offer full access to the procurement documents from the date of publication of the notice. However, in two-phases procedures (such as negotiated procedure, restricted procedure) electronic availability of full procurement documents is not always efficient. It would save some time, if at that time Public buyers could make access to the


information, which is sufficient for economic operators to decide whether to participate in the procedure (but not to full procurement documents).

- **Article 67 (2) of Directive 2014/24/EU (award criteria links to subject-matter of the contract).** Using best price-quality ratio contracting authorities may include qualitative, environmental and/or social aspects, linked to the subject-matter of the public contract in question. Regarding the social aspects the limitation to evaluate only aspects linked to the subject-matter of the contract limits the possibility to evaluate sustainability of social policy of the economic operator, for example, his ability to ensure decent working conditions and decent salaries for employees in the longer period of time (including the past).
- **Article 21 of Directive 2014/24/EU (confidentiality)** (requires constant guidance). Contracting authorities have an obligation not to disclose the information forwarded to it by economic operators which they have designated as confidential. That leads to claims by other economic operators, who argue the confidentiality nature of the protected information, and make the contracting authority to become an arbitration institution regarding the justification of confidentiality. In many of such cases Public buyers are unwilling to take the risk of getting into disagreements with the winning economic operator, even though the confidentiality of certain aspects has only been stated before the publication of the contract and (or) the basis for claims of confidentiality hasn't been evaluated.
- **Article 67 of Directive 2014/24/EU (implementation of provisions on the best price-quality ratio)** (requires constant reminders on the correct application of the norm, strict requirements in the National Law). Due to the national case law and the practice of controlling bodies, contracting authorities are limited in formulating the best price-quality ratio criteria to very objectively assessed criteria, because subjectively assessed criteria are not considered to be suitable. Therefore the trend is to use only price as award criteria too extensively, to avoid any risk of the improperly set price-quality ratio criteria, or to set them very formally (with very little added value).  
Due to the lack of professionalization, Public buyers tend to set unreasonable/ non-fitting criteria due to the lack of understanding of their influence on the outcome of the procedure, and abandon the monitoring of qualitative aspects in the contract implementation phase, which makes the purpose of their application questionable.
- **Article 32 of Directive 2014/24/EU (application of non-competitive procedures, resulting into single bidder procurement)** (requires constant reminders on the correct application of the norm). While the National Law, in accordance with the Directives, allows to apply non-competitive procedures in exhaustive list of cases, Public buyers tend to abstain from evaluation whether such procedure in that particular case is the most effective. Also the choice of the procedure is determined by malpractices in preparation phase, such as lack of planning in terms of allocating adequate time resources to conduct the procedure (which results into rushing and the need to choose the procedure that is faster (which is usually the case with non-competitive ones));

	<ul style="list-style-type: none"> <li>• <b>Application of other norms, allowing for a faster procurement (e. g. framework agreements, centralized procurement, negotiated procedure without prior publication)</b> (requires constant reminders on the correct application of the norm) – the issue became apparent in the wake of the pandemic, and was observed well into the second wave. Even with the guidance on procuring faster being provided very early in the situation (February 2020), the general assumption that non-competitive procedures are the only viable solution continued, partly due to the issues in the preparation phase, mentioned in the previous paragraph;</li> <li>• <b>Article 37 of Directive 2014/24/EU (occasional joint procurement)</b> (is regarded as vague) – the National Law transposes the wording of the Directives. Public buyers usually seek consultations on various practical details of such procurement, such as how to conduct it when partnering buyers need to apply different Directives, formal documentation of their obligations in such process, extent of inclusion of information in the annual procurement plans, etc.</li> </ul>
<p><b>An assessment of patterns and behaviours that are not illegal or non-compliant, but still indicate possible problems</b></p> 	<ul style="list-style-type: none"> <li>• The Parliament of the Republic of Lithuania as a matter of urgency on 17 March 2020 adopted amendments to the National Law to facilitate negotiated procedures without prior publication in both the above the threshold and below the threshold procurement, that allowed conclusion of the contract without applying certain procedural requirements and requirements for the content of the contract. On the basis of this amendment and on the grounds of urgency, in the first half of 2020, Covid-19 related procurement was mostly carried out through a negotiated procedure without prior publication and direct procurement from a selected economic operator. Covid-19 related procurement also has shown the involvement of new, inexperienced suppliers or suppliers that do not normally engage in procurement of medical and other Covid-19 related supplies, which may have a direct impact on the subsequent proper performance of the contract.</li> <li>• Public buyers defining selection criteria have to find a balance between assurance of sufficient capabilities of entities and non-discrimination of the participants. When setting extensive selection criteria, Public buyers are challenged in the courts. When setting minimal selection criteria, Public buyers are facing many challenges during the implementation of the contract (this is particularly challenging in the works contracts, where more and more contracts are terminated due to the fault of the contractors).</li> <li>• There are tendencies of single tender procurement, procurement where no qualification requirements are set and the most economically advantageous tender is selected based on price. The reasons for that can be different, such as lack of knowledge and skills of the Public buyer’s procurement workforce, agreements between Public buyers and suppliers, agreements between suppliers, lack of motivation of suppliers, and etc.</li> </ul>

	<ul style="list-style-type: none"> <li>• Systematic use of price as an award criterion in works contracts, as it is considered to be simpler and more objective in terms of evaluation of the tenders received. The Price-Quality ratio criteria is used in limited cases (usually in the award of services contracts).</li> <li>• It is noted that frequent mistakes are related to poor preparation for the procurement (no qualified market research is carried out, insufficient engagement with the market, too little time is spent preparing the procurement strategy, etc.). That results in non-realistic or outdated specifications and determines the not-so-great final outcome of the procurement procedure.</li> <li>• Public procurement workforce and those responsible for the supervision of procurement contracts lack relevant knowledge and skills. Practice shows that the execution of procurement contracts is oftentimes delegated to the specialists who know the object itself, but have insufficient public procurement knowledge (even though the National law requires to have appropriate knowledge and skills in order to perform the procurement function).</li> </ul>
<b>II.2 Supporting documents</b>	
Please provide any available evidence of the issues identified under section II.1.	<p><i>“Info-tree” of guidance documents, FAQs, court decisions, etc.:</i> <a href="https://klausk.vpt.lt/hc/lt">https://klausk.vpt.lt/hc/lt</a></p> <p><i>PPO assessment conclusions and verification reports are publicly available:</i> <a href="https://vpt.lrv.lt/lt/ukio-subjektu-prieziura/isvados-ataskaitos">https://vpt.lrv.lt/lt/ukio-subjektu-prieziura/isvados-ataskaitos</a></p> <p><i>Reports on state control audits of the Republic of Lithuania for 2018-2020, related to the implementation of the Operational Programme for EU Structural Funds Investments for 2014-2020:</i></p> <ul style="list-style-type: none"> <li>• <a href="https://www.vkontrole.lt/failas.aspx?id=4066">https://www.vkontrole.lt/failas.aspx?id=4066</a></li> <li>• <a href="https://www.vkontrole.lt/failas.aspx?id=3938">https://www.vkontrole.lt/failas.aspx?id=3938</a></li> <li>• <a href="https://www.vkontrole.lt/failas.aspx?id=3814">https://www.vkontrole.lt/failas.aspx?id=3814</a></li> </ul> <p><i>Trainings organised and methodological material provided by the <b>Central Project Management Agency in 2018–2020</b> (which contains information on the most frequently identified problems in the implementation of public procurement and detected violations):</i></p> <ul style="list-style-type: none"> <li>• <b>Procurement supervision</b> <a href="https://www.cpva.lt/data/public/uploads/2021/01/d2_pirkimu-prieziura-v.7.pptx">https://www.cpva.lt/data/public/uploads/2021/01/d2_pirkimu-prieziura-v.7.pptx</a></li> <li>• <b>Construction Contracts</b> <a href="https://www.cpva.lt/data/public/uploads/2018/09/2018-rangos-sutartys-5v.pdf">https://www.cpva.lt/data/public/uploads/2018/09/2018-rangos-sutartys-5v.pdf</a></li> <li>• <b>Violations when implementing projects</b> <a href="https://www.cpva.lt/data/public/uploads/2018/05/pazeidimu-mokymai-galutine-versija_2017-11-07.pdf">https://www.cpva.lt/data/public/uploads/2018/05/pazeidimu-mokymai-galutine-versija_2017-11-07.pdf</a></li> </ul>



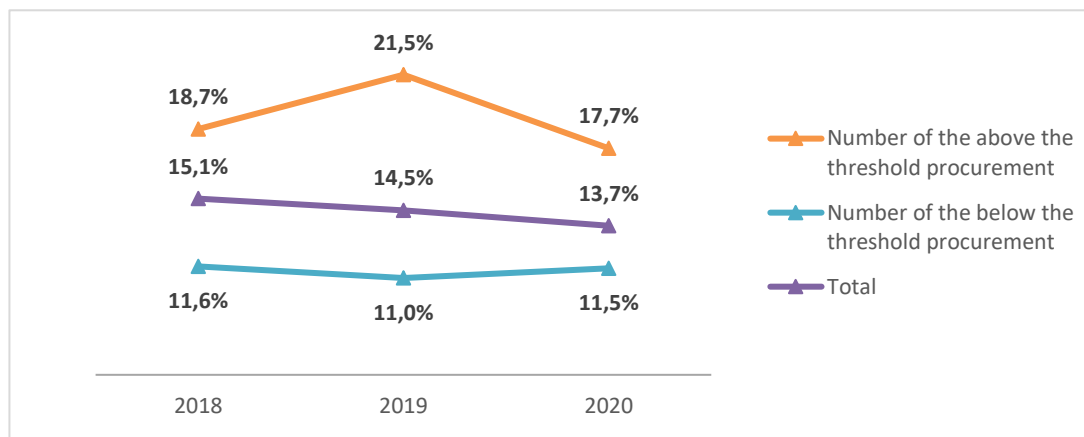
	<ul style="list-style-type: none"> <li>• <b>Public procurement: “What ensures the success of the procurement”</b> <a href="https://www.cpva.lt/data/public/uploads/2018/05/pirkimai_cpva_su-nauju-vpi_2017-07-04.pdf">https://www.cpva.lt/data/public/uploads/2018/05/pirkimai_cpva_su-nauju-vpi_2017-07-04.pdf</a></li> <li>• <b>Cultural sector training for project promoters: “Public procurement of Construction Works and Contracts”</b> <a href="https://www.youtube.com/watch?v=yEC5FNGHGJY&amp;t=91s">https://www.youtube.com/watch?v=yEC5FNGHGJY&amp;t=91s</a> <b>Cultural sector training for project promoters: “Practical equipment procurement advice”</b> <a href="https://www.youtube.com/watch?v=xmJXeBwcJ7k">https://www.youtube.com/watch?v=xmJXeBwcJ7k</a></li> </ul>
<b>II.3. Quantitative indicators</b>	
<p>Indicators about the national review system</p> 	<p><b><u>National review system</u></b></p> <p>According to the national regulations, the supplier has the right to submit a claim to the Public buyer: 1) within 10 days (in the case of procurement below the threshold – within 5 business days) from the date of sending a notice of the Public buyer of the decision to the suppliers, and if this notice has not been sent by electronic means, – within 15 days from the date of sending the notice to suppliers; 2) within 10 days (in the case of procurement below the threshold – within 5 business days) from the day of publication of the decision taken by the Public buyer, if there is no requirement in the National Law to inform suppliers in writing about the decisions taken by the Public buyer.</p> <p>Submission of a claim to the Public buyer is a mandatory pre-trial dispute examination stage. If the Public buyer fails to examine the claim submitted to him within the set time limit, the supplier has the right to submit a request or bring an action to court within 15 days from the date on which the Public buyer was required to notify the claimant, interested candidates and interested parties in writing on the decision regarding the claim. The action is brought to a court of general jurisdiction as a court of first instance. The decision made by the court of first instance may be appealed to the Lithuanian Court of Appeal. The decision of the Lithuanian Court of Appeal may be appealed to the Supreme Court of Lithuania. The Supreme Court of Lithuania is the final instance. The supplier shall also have the right to bring an action for annulment of the procurement contract or framework contract within 6 months from the date of conclusion of the procurement contract.</p> <p><b><u>Extent of filing of claims against contractors and complaints to courts</u></b><sup>6</sup></p> <p>Information on whether claims have been filed against the Public buyer<sup>7</sup> and whether a complaint has been filed to the court is collected in the procurement reports published by the Public buyers in the CPP IS. Based on this information, it is possible to determine how many procurement procedures have been challenged by claims or complaints.</p>

<sup>6</sup> Prepared according to the data of the procurement procedure reports published by the PPO and CPP IS.

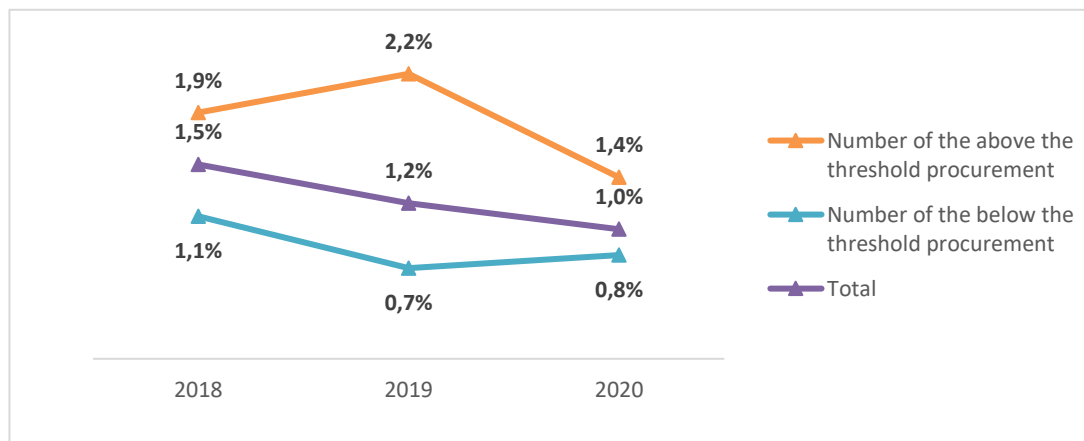
<sup>7</sup> Procurement of Directive and below the Directive value thresholds (excluding low value procurement).

The division of claims about procurement procedures above and below the threshold (see Figures 2 and 3) demonstrates that claims to Public buyers and complaints to courts regarding the above the threshold procurement are more frequent.

**Fig. 2. Division of the number of procurement procedures for which the Public buyers received claims according to the thresholds of procurement values, in percent**



**Fig. 3. Division of the number of procurement procedures brought to the courts by thresholds of procurement values, in percent**

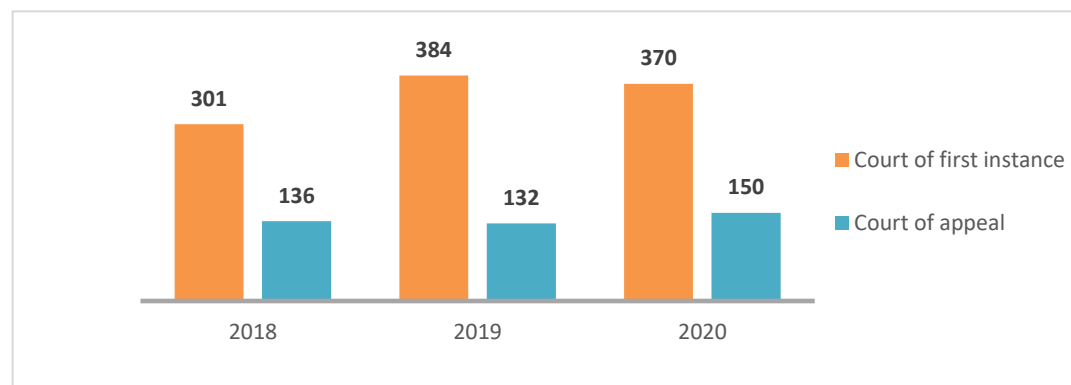


### **Extent of public procurement cases, duration of examination and results**

Information on cases examined in Lithuania is prepared by the PPO according to the data provided by the National Courts Administration (hereinafter referred to as the NCA)<sup>8</sup>. According to the structure of the data stored in the NCA database, it is not possible to distinguish the information on the above the threshold and below the threshold procurement, therefore the values of the indicators together with the NCA data are presented in a way that entails the procurement of above the threshold and below the threshold, without discerning them.

In 2018-2020, the number of cases related to public procurement examined in both first instance and higher courts has increased in Lithuania. In 2018 the courts of first instance examined 301 cases, in 2019 – 384 cases, in 2020 – 370 cases. In 2018 the higher courts examined 136 cases, in 2019 – 132 cases, in 2020 – 150 cases (see Figure 4).

**Fig. 4. The number of cases examined in the courts of first instance and higher courts**



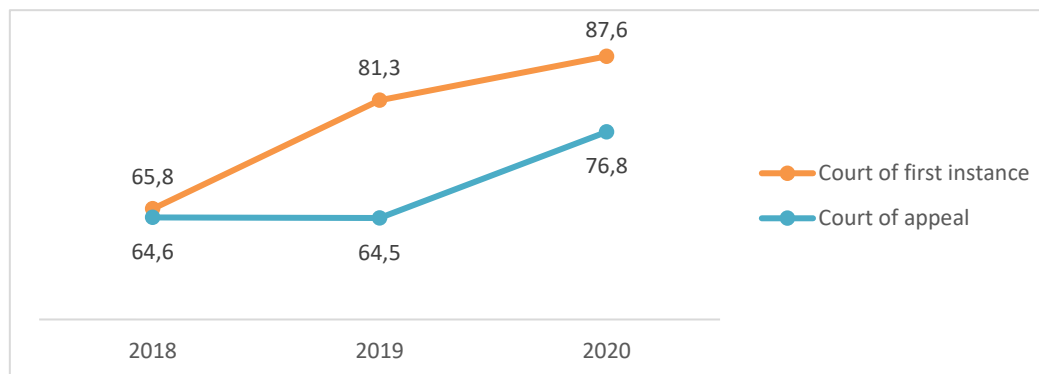
The duration of proceedings in courts of first instance is regulated by Paragraph 4 of Article 423<sup>8</sup> of the Code of Civil Process of the Republic of Lithuania<sup>9</sup> (hereinafter referred to as the CCP): “The decision must be taken no later than within sixty days from the date on which the action was brought to the court.” In courts of appeal - by Paragraph 3 of Article 423<sup>9</sup> of the CCP: “A decision in a case under appeal shall be made no later than within forty five days from the date of receipt of the case in the court of appeal.” The actual duration of the proceedings is calculated from the date of filing the plaint until the date of examination.

<sup>8</sup> NCA web page address: <http://liteko.teismai.lt>

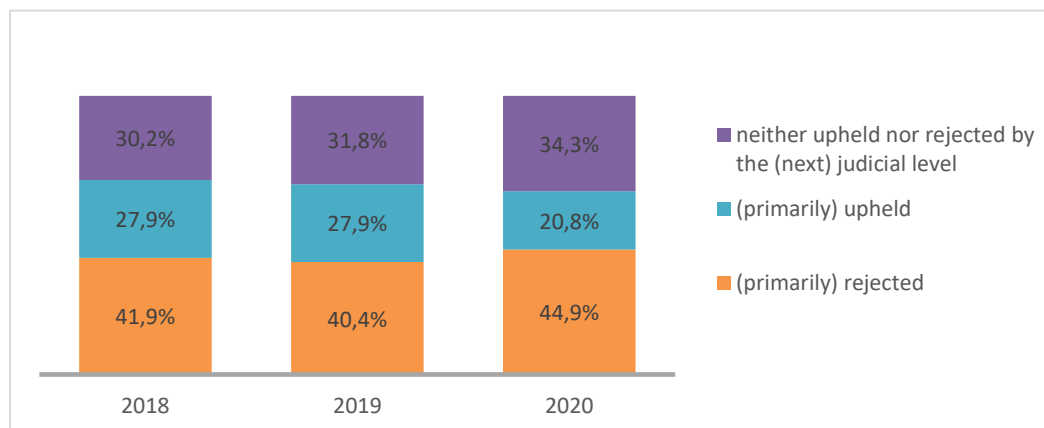
<sup>9</sup> <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.162435/asr>.

The average duration of case examination in both courts of first instance and courts of appeal in 2018–2020 has increased: from 66 to 88 days on average in the courts of first instance and from 65 to 77 days in the courts of appeal (see Figure 5).

**Fig. 5. Average duration of case examination in both courts of first instance and courts of appeal, in days**

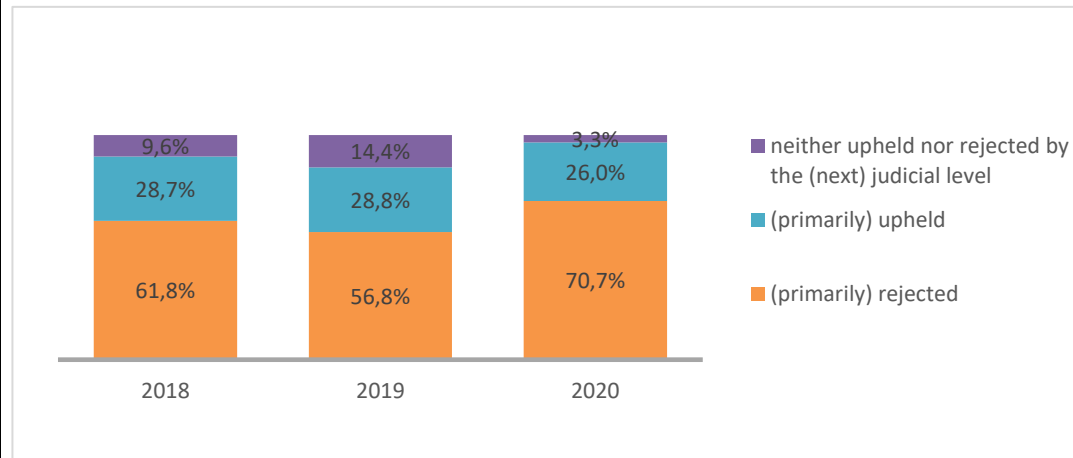


**Fig. 6. Division of the number of cases heard in the courts of first instance according to the results of the examination of cases, in percent**



Analysing the results of the case examination in the courts of first instance, we see that the most common result of the case examination is the rejection of the claim (s). The share of such cases in 2018–2020 increased, and in 2020 accounted for half of all cases heard in the courts of first instance (Figure 6).

**Fig. 7. Division of the number of cases heard in higher courts according to the results of the examination of cases, in percent**



The results of cases heard in higher courts show that the main part of cases examined - more than 70 % - ended with the rejection of the claim (s) (Figure 7).

### **Other indicators**

#### **Lithuanian public procurement system efficiency monitoring indicators**

In order to monitor the efficiency of the Lithuanian public procurement system, the PPO has developed a system of indicators, which is updated annually<sup>10</sup> and published in the appendix to the annual activity report of the PPO by link: [Veiklos metinės ataskaitos | Viešųjų pirkimų tarnyba \(lv.lt\)](#).


#### **“Single supplier” procurement report**

The PPO has developed an analytical tool “Single Supplier” Report, which can be used to analyse the distribution of “Single Supplier” procurement, the average number of tenders, the share of rejected tenders and the reasons for rejection by Public buyers, suppliers, public procurement sectors and in other profiles.

<sup>10</sup> The system for monitoring the efficiency indicators of the public procurement system has been published since 2017 and updated annually, within four months after the end of the reporting year.

	The “Single Supplier” Procurement Monitoring Report is published by link <a href="#">Teminės viešųjų pirkimų analizės   Viešųjų pirkimų tarnyba (lrv.lt)</a> .
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### III. Prevention, detection and adequate reporting of cases of procurement fraud, corruption, conflict of interests and other serious irregularities

<b>III.1. Qualitative reporting on fraud, corruption, conflict of interests etc.</b>	
	<p><b>Strategic documents (programmes, plans).</b> The National Anti-Corruption Programme for 2015-2025<sup>11</sup> (hereinafter – the Programme) is the current anti-corruption strategy in Lithuania, that was approved by the Parliament of the Republic of Lithuania Resolution No. XII-1537 on 10<sup>th</sup> of March 2015 (<a href="https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/e42b7360100211e5b0d3e1beb7dd5516?jfwid=-fxdp8swm">https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/e42b7360100211e5b0d3e1beb7dd5516?jfwid=-fxdp8swm</a>). The Programme lists eight priority sectors with the highest potential for corruption (or spheres most prone to corruption) and public procurement is mentioned among them.</p> <p>On 4<sup>th</sup> of November 2020, the Government of Lithuania approved the Action Plan for 2020-2022<sup>12</sup> (hereinafter – the Action Plan). Action Plan provides for concrete measures and appoints a competent authority for each measure to ensure implementation of the Programme. These actions are planned to be implemented in 2020-2022 to improve anti-corruption system in the area of <i>public procurement</i> by speeding up centralisation and digitalisation of public procurement, modernising public procurement information system, strengthening competences of the purchasing organizations, managing conflicts of interests in public procurement more efficiently.</p> <p><b>Relevant sources of law</b></p> <ul style="list-style-type: none"> <li>• <b>LPP<sup>13</sup> (Art. 21(1))</b>/ establishes an obligation for a wide spectrum of persons (employees, Public Procurement Commission members or experts, observers or of a procurement service provider acting on behalf of the contracting authority, who are involved in the implementation of the procurement procedure or may influence the outcome of that procedure), who have a direct or indirect financial, economic or other personal interest, to sign a declaration of impartiality<sup>14</sup> before starting to perform assigned duties.</li> </ul>

<sup>11</sup> <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/e42b7360100211e5b0d3e1beb7dd5516?jfwid=-fxdp8swm>

<sup>12</sup> <https://www.e-tar.lt/portal/lt/legalAct/1f7c4180227f11eb932eb1ed7f923910>

<sup>13</sup> <https://www.e-tar.lt/portal/lt/legalAct/TAR.C54AFFAA7622/asr>

<sup>14</sup> <https://www.e-tar.lt/portal/lt/legalAct/89e014105a6511e7846ef01bfff9b64/asr>

Declaration form is approved by the Chief Official Ethics Commission and Public Procurement Office of the Republic of Lithuania and it states: 1) an obligation to perform the assigned duties objectively, in a business-like manner, without prejudice, according to the principles of suppliers equality, non-discrimination, proportionality, mutual recognition and transparency, 2) an obligation to inform the head of contracting authority about the probable conflict of public and private interests.

The article also states that if contracting authority receives valid information that the individual listed in the Article 21 (1) appears in the situation of conflict of interest and has not resigned from the decision making or observing process, the head of contracting authority suspends participation of that individual in the public procurement process and starts investigation of his/her activity. Upon establishment of the conflict of interest, the head of contracting authority eliminates that individual from the decision-making or observing process and evaluates whether an exclusion ground of supplier has arisen. Contracting authorities are required to exclude the supplier from participation in a procurement procedure where a conflict of interest within the meaning of Article 21 of LPP cannot be effectively remedied by other less intrusive measures (as established in the Directive 2014/24/EU);

- **Law on the Adjustment Of The Public And Private Interests in the Civil Service<sup>15</sup>, Art. 5(6)**/ establishes an obligation for the members of Public Procurement Commission, experts, initiators or other individuals, assigned to conduct simplified public procurement procedures, to declare their private interests before starting to perform assigned duties. Such declarations have to be renewed no later than 30 days after the change of circumstances that are relevant for ensuring the compliance with this law. Declarations are presented through a dedicated declaration system PINREG, administered by Chief Official Ethics Commission: <https://pinreg.vtek.lt/app/>. Declarations, provided by persons, involved in public procurement, are public, and can be accessed by using the same PINREG system;
- **Criminal code, Art. 227/** establishes criminal liability (restriction of freedom, fine, arrest or imprisonment non-exceeding 2 years) for bribery of civil servant or a person, considered to be in the same position;
- **Administrative misdemeanors code, Art. 184/** establishes administrative liability for infringement of public procurement rules (warning or fine of 250 - 3 000 Eur) for the head of Public buyer or the person, performing as such, public procurement commission members (only those who voted for the unlawful decision), experts, civil servants or employees;
- **Whistleblowing/** Public buyers can inform the Public Procurement Office about detected infringements in public procurement by filling in a notification form (non-anonymous, as otherwise collection of reliable information would be impossible) and about corruption in PPO itself (by dedicated email): <https://vpt.lrv.lt/lt/pranesk-apie-korupcija>

#### **Institutional arrangements made**

<sup>15</sup> <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.41669/KTCyOzfMkg>

- In February 2017 Public Procurement Office has concluded a tri-lateral agreement with the Competition Council and Special Investigations Service, regarding exchange of the relevant information and expertise in investigations of corruption, public procurement infringements and agreements, that distort competition, also with the purpose of improving employees skills;
- In April 2017 Public Procurement Office concluded a multilateral agreement regarding cooperation in disclosing the bribery of foreign officials (exchange of the relevant information, cooperation among institutions). The agreement was concluded in connection to the upcoming membership in OECD. Other parties to the agreement are: Special Investigations Service, Prosecutor General's Office, Financial Crime Investigation Service, State Tax Inspectorate, Customs Department, Police Department.

#### **Soft-law and soft measures**

- Public Procurement Office: Guidelines on ethical conduct in public procurement - [https://vpt.lrv.lt/uploads/vpt/documents/files/mp/etisko\\_elgesio\\_gaires.pdf](https://vpt.lrv.lt/uploads/vpt/documents/files/mp/etisko_elgesio_gaires.pdf) (entails such aspects as gifts, impartiality, conflict of interests, confidentiality, transparency, etc. The guidelines not only state what behaviour is expected, but also provides advice on how to ensure proper practices);
- Chief Official Ethics Commission: Guidelines on various aspects declaration of interests and activities (private and public interests, lobbying activities) - <https://vtek.lt/>;
- Special Investigations Office: Handbooks on bribery of foreign officials, on gifts when performing professional duties, on actions upon reception of illegal remuneration - <https://www.stt.lt/korupcijos-prevencija/mokomoji-ir-metodine-medziaga/antikorupcines-aplinkos-kurimas-privaciame-sektoriuje/7454>

#### **Use of data analysis to perform control such as red-flag systems**

- Public Procurement Office, Open data on combat with Covid-19 related contracts: <https://vpt.lrv.lt/kovai-su-covid-19-sudarytos-sutartys/> / provides freely accessible data on concluded contracts (date of conclusion, type of purchase, contracting parties, price per item) that can be analysed in various “cuts”;
- Public Procurement Office, Open data on single-bidder procurement (“Vieno tiekėjo” pirkimų stebėsenos ataskaita): <https://vpt.lrv.lt/lt/statistika-ir-analize/temines-viesuju-pirkimu-analizes/> / provides freely accessible data on the total percentage of single-bidder procurement, volume of such procurement, competition, prevalent buyers, suppliers and types of purchases (does not provide information on framework agreements, DPS, centralized procurement);
- In 2018 an additional direction of the Special Investigations Service (hereinafter – SIS) activities was established in article 9 of the Law on the Special Investigation Service<sup>16</sup> Analytical anti-corruption intelligence (hereinafter – AAI). AAI can be described as

<sup>16</sup> [https://www.stt.lt/data/public/uploads/2019/11/d1\\_stt\\_istatymas\\_eng\\_2018\\_03.pdf](https://www.stt.lt/data/public/uploads/2019/11/d1_stt_istatymas_eng_2018_03.pdf).



	<p>analytical activity comprised of the collection, processing, integration and analysis of information on corruption and related phenomena, integrating it with data from state registers and information systems, as well as other public or classified information available to the SIS.</p> <p>AAI analyses open data sources and if the red-flags are established in the specific area, analytical reports are provided to the Governmental and municipal institutions, as well as other officials authorised to make decisions relating to the reduction of corruption. Reports may be also used for other lawful objectives of collecting information in line with the competence of the SIS as defined by the Law on the Special Investigation Service and other legislation.</p> <p>When implementing AAI activities, the most common corruption risk factors are identified and proposals how to eliminate corruption risk factors and / or reduce corruption risks are submitted to the Government of the Republic of Lithuania or other institutions. For instance, following certain AAI activities, in order to avoid situations of inadequate planning of public procurement funds, it was recommended to assess the market price of the respective public procurement object, to take into account the experience of planning similar tenders, etc. Moreover, in order to avoid situations where a need for goods, services or works is created artificially with a view to receiving kickback payments from a particular supplier, it was suggested to establish the procedure of a formation of the needs of the Public buyer, which, among other things, would provide for an obligation to substantiate the necessity of each procurement in a motivated (rational) manner. In addition, the SIS recommended to increase the use of innovative, open and competitive purchasing methods in order to strengthen competition among bidders.</p> <p><b>Any specificities of the regime for conflict of interest</b></p> <p>See the part on LPP Art.21(1).</p> <p>The issues, mentioned in the previous report, namely, that the rule to declare the interests did not apply to the utilities sector, had been rectified. Appropriate amendments of the Law on the Adjustment Of The Public And Private Interests in the Civil Service (Art. 4(3)(8)) had been made and came to force in January 1<sup>st</sup>, 2020.</p> <p>As mentioned in a previous report, various connections to political parties, kinship, marriage, etc., that can have influence in public procurement, are not viewed negatively <i>per se</i>, unless the situation of actual conflict occurs.</p>
<p><b>III.2. Supporting documents</b></p>	
<p>Please provide any available evidence on the actions/mechanisms and measures described under section III.1. above demonstrating compliance with the new provisions on</p>	<ul style="list-style-type: none"> <li>• <b><i>Policy or other administrative documents discussing issues in relation to the implementation of the actions/mechanisms</i></b></li> </ul> <p>STT conducted an AAI in the area of the transparency of public procurement in 2018-2020 in order to establish and identify the Red-flags. When the Red-flags are established, AAI provides the analysis of the situation, and informs the decision-makers about the established risks.</p> <ul style="list-style-type: none"> <li>• <b><i>Analysis of public procurement and support in major Lithuanian public health care institutions (2018-2019)</i></b>. AAI allowed to integrate data from different state registers and information systems, and to reveal that a small proportion of the legal entities</li> </ul>


<p>the prevention, detection and adequate reporting of public procurement irregularities and conflicts of interests.</p>	<p>that get awarded public procurement contracts in Lithuanian major hospitals account for most of the value of public procurement. Moreover, contracted companies provided sponsorship to the respective hospitals, which was considered as a corruption risk. When providing sponsorship to the contracting authority legal entities may find themselves in a more favourable position in its organized procurement.</p> <ul style="list-style-type: none"> <li>• <b>Analysis of projects financed by the EU funds organized by the Ministry of Health, mainly the purchase of expensive medical equipment (2018-2019).</b> The study of innovative medical equipment acquisition projects and the data of payment orders of the participating parties revealed corruption risk, which may have caused significant damage to public finances (including EU funds). The risk is that equipment-funding projects are tailor-made for the purchase of equipment from a specific manufacturer, which enables carrying out public procurement with monopolistic suppliers through unannounced negotiations. In turn that allows maximizing the price of equipment sold according to the limits intentionally pre-set in the project, while the actual price of the equipment is significantly lower.</li> <li>• <b>Analysis of public procurement in the municipalities (2019).</b> Integrated data from different state registers and CPP IS disclosed the links between municipal politicians (council members, mayor, director of administration), their relatives and public procurement winners.</li> <li>• <b>Analysis of single bidding in public procurement (2018-2020).</b> The lack of competition in single-bidder procurements increases the prices of procured goods, services or works, reduces the opportunities for rational use of public finances. The highest rates of single-bidders were identified in tenders of software packages and information systems; agricultural, forestry, horticultural, aqua cultural and apicultural services; hotel, restaurant and retail trade services; recreational, cultural and sporting services; postal and communication services; health and social work services; IT services; medical equipment, pharmaceuticals and personal care products. Single bidding was tightly related to negotiated procedure without publication of a contract notice.</li> <li>• <b>Analysis of public procurement related to COVID-19 (2020).</b> In response to the COVID-19 pandemic the STT also has analysed the possible risks in public procurement procedures related to the COVID-19. The results of the analysis were shared with the Government of the Republic of Lithuania. The following shortcomings in ensuring the transparency and accountability of public procurement were identified: <ul style="list-style-type: none"> <li>1) Procurement is organized using method of negotiated procedure without publication of a contract notice.</li> <li>2) Publicity of procurement contracts carried out by negotiated procedure without publication of a contract notice is subject to a general time limit (within 15 calendar days from the signature of contracts) and insufficient general publication of contracts in the CPP IS.</li> <li>3) Suppliers, who should normally be excluded from the public procurement, find ways to participate in the procurement.</li> <li>4) Potentially risky suppliers win high-value tenders.</li> <li>5) Risks of corruption are observed both in the procurement of medical devices and medications, reagents, and equipment:</li> </ul> </li> </ul>
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- a) There is a lack of data on purchases of medications and reagents.
- b) Procurement of medical equipment from unheard suppliers. No information is provided as to why Public buyer chose to award contracts to companies that are unknown to the market.
- c) Support for medical equipment as a way to bind to its supplier. When health care institutions receive medical diagnostic devices (laboratory equipment) in a form of support, there is a risk that the purchase of reagents needed to use that device in the future is tied to specific suppliers.

**In order to strengthen the standards of transparency and accountability of public procurement and after analysis in the area of the transparency of public procurement**, the STT made the following recommendations for the improvement of the publication of public procurement data in 2020:

- 1) Open and regularly update systematic data on all procurement contracts (not just those related to COVID-19).
- 2) Open and regularly centrally update systematic data on all stages of public procurement procedure: planned procurements, announcements, procedures, contracts, execution of contracts.
- 3) Accelerate publicity for contracts, awarded by negotiated procedure without publication of a contract notice, due to extreme urgency.
- 4) Disclose additional data on procurement contracts with indicators signalling high-risk procurement from an anti-corruption point of view (for example, procurement method).
- 5) General proposals for future transparency in public procurement:
  - a) continue proven measures related to the centralization of public procurement, development of electronic catalogues of the Central Contracting Authority, dissemination of methodological assistance and good practice and modernization of CPP IS.
  - b) increase the openness of public procurement data and support received by Public buyers, creating an environment favourable to public control.
  - c) introduce provisions to prevent abusive suppliers from participating in future tenders.
  - d) assess a possibility of establishing an institute of reputational risk of legal persons (understood as the equivalent of a conflict of interest of a natural person) in the legal acts.
  - e) ensure effective control of conflicts of interests in the field of public procurement.
  - f) create preconditions for comparing the prices at which the Public buyer purchases goods, services and works with their prices in the market. To publish the results of this comparison in a “user-friendly” format to the public.

As these recommendations were submitted in 2020, there is no information yet available, whether all recommendations have been implemented.

<b>III.3. Quantitative indicators</b>	
Quantitative assessment of collusion risks	<p>The Competition Council of the Republic of Lithuania (hereinafter – the CC) hasn’t conducted a similar quantitative assessment of collusion risks in public procurements that are organized in the Republic of Lithuania.</p> <p>While carrying out the assessment of collusion risk in public procurements in the individual cases the CC follows the OECD Recommendation on Fighting Bid Rigging in Public Procurement and recommends the Public buyers to follow the principles that are set out in the mentioned recommendation in all stages of organizing public procurement.</p>
Risk of undiscovered conflict of interest  	<p>Pursuant to Article 21(1) of the LPP, conflicts of interest arising in the conduct of procurement procedures shall cover any situation where staff members of the contracting authority or of a provider of ancillary purchasing activity services, members of the Commission or experts, observers who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.</p> <p><b>The Law of the Republic of Lithuania on the Adjustment of Public and Private Interests (hereinafter – the Law)</b> defines a conflict of interest as a situation where a person concerned, when discharging his official duties or carrying out his official assignment, is obliged to make a decision or participate in decision-making or carry out the assignment relating to his private interests (Article 2(2) of the Law). <b>Private interests</b> – interests in private economic or non-economic benefit of a declaring person (or a person close to him), moral debt, moral obligation or another similar interest of a declaring person (or a person close to him) in discharge of the official duties of the p declaring person) (Article 2(3) of the Law). <b>Declaring persons</b> – as defined in Article 2(1) of the Law are persons performing the duties specified in Article 2(5) of the Law (persons in the civil service) as well as other persons specified in Article 4(3) of the Law who are obligated by the Law to declare their private interests.</p> <p>Article 4(3)(8) of the <b>Law establishes the obligation to declare private interests (and avoid conflicts of interest (Article 11))</b> for the heads of the Public buyer, members of procurement commissions of the Public buyers, persons appointed by the head of the Public buyers to carry out simplified procurement, experts participating in the procurement procedures of the Public buyers, and the initiators of the procurement and concession. Members of procurement commissions of the Public buyers, persons appointed by the heads of Public buyers to carry out simplified procurement and experts participating in procurement procedures carried out by Public buyers, initiators of procurement shall submit a declaration (if it has not yet been submitted) prior to the commencement of participation in procurement procedures. Members of procurement commissions of Public buyers, persons appointed by heads of Public buyers to carry out simplified procurement, experts participating in procurement procedures of Public buyers, initiators of</p>

procurement, who have not submitted a declaration, shall not have the right to participate in procurement procedures and must be recalled from their respective duties (Article 5(6) of the Law).

The Law obliges individuals to perform their official duties impartially, honestly and competently, i.e. to avoid conflicts of interest in accordance with the procedure and measures laid down by legal acts, and act in such a way as not to give rise for suspicions about the existence of such conflict (Article 3(1)(1) and (2) of the Law), prohibits the participation in the preparation, consideration or adoption of decisions or from otherwise influencing or attempting to influence decisions or performance of other official duties (hereinafter – the performance of official duties) if the performed official duties are related to his private interests (Article 11(1) of the Law). The aforementioned conflict shall be caused by private interests held by a person in the civil service or persons close to him specified in Article 2(1) of the Law. In a situation of a conflict of interest in which an issue relating to his or his close person's private interests is being addressed the declaring person must inform the head of the institution or body or an authorised person thereof and, where the person concerned is the head of an institution or body, the entity or collegial state or municipal institution employing or appointing the head of the institution and persons who jointly perform official duties, and exclude himself from further participation in performance of the official duties in any form (Article 11(1) of the Law).

In the opinion of the Chief Official Ethics Commission (hereinafter – the COEC), which is also supported by administrative courts, in the event of a real or alleged situation of a conflict of interest, the person's conduct is of particular importance, as well as informing the head of a potential conflict of interest, but not the possibility to implement the obligation to withdraw and in any way not a subjective assessment of the significance of his duties and decision (ruling of the Supreme Administrative Court of Lithuania of 4 April 2011 in administrative case No A662-1121/2011). The Law equates a person's private interest with the interests of his close persons (the declaring person's spouse, cohabitant, partner, where the partnership is registered in accordance with the procedure laid down by laws (hereinafter – the partner), as well as their and the declaring person's parents (adoptive parents), children (adopted children), brothers (adopted brothers), sisters (adopted sisters), grandparents, grandchildren and their spouses, cohabitants or partners). This means that the procurement commission members, persons appointed by the head of the Public buyer to carry out simplified procurement, experts participating in procurement procedures and initiators of procurement would also be in a situation of conflict of interest if, in the performance of their official duties, they have to deal not only with the issue in which not only they, but also any other close person are interested.

In the opinion of the COEC, a person participating in the procurement is likely to be in a conflict of interest situation if he has to deal with a matter relating to the data contained in the declaration of private interests:

- shares held in companies and enterprises (interests, members' contributions);
- work in other enterprises, institutions and organisations, individual employment (authorship contracts), etc;
- membership, relations and positions in enterprises, establishments and organisations or foundations;

- financial or moral obligations (debt) to other persons, other civil relations;
- gifts and services received from (offered to) other persons;
- dispute or competition vis-à-vis other persons or groups;
- work of close persons in the enterprise that participates in the procurement;
- intentions related to looking for a new job, negotiations with a future employer, etc.

This is just an exemplary list of private interests that can lead to conflicts of interest in the civil service. Each situation is individual and should therefore be assessed on a case-by-case basis.

Article 21(2) of the LPP also provides that, in order to prevent conflicts of interest in procurement, the Public buyer must require that each person referred to in paragraph 1 of this Article participate in procurement procedures or take decisions related to procurement only after signing a confidentiality pledge and a declaration of impartiality of the form established by the Public Procurement Office together with the COEC.

In accordance with the provisions of Article 22 of the Law, the heads of Public buyers or authorised persons thereof (in relation to the members of the procurement commission, the persons appointed by the head of the Public buyer for conducting simplified procurements, experts participating in the procurement procedures, initiators of procurement must implement the provisions of this Law.

The procedures for withdrawal of the heads of Public buyers or authorised persons thereof (in relation to the members of the procurement commission, the persons appointed by the head of the Public buyer for conducting simplified procurements, experts participating in the procurement procedures, initiators of procurement are defined in the procedure for withdrawal of those persons approved by the COEC together with the Public Procurement Office (approved by Decision No X-339 of the COEC of 19 December 2019).

**Declaration of private interests**

Declaration of private interests is one of the most effective means of preventing conflicts of interest, allowing both heads of institutions and the public to become aware of a person’s private interests and to prevent situations of conflicts of interest. It is also a control tool for the person himself, who, when filling in a declaration of private interests, “systematises” his private interests accordingly, memorizing them and avoiding the conflicts of interest in the future.

Declaration of private interests is a continuous process. The declaration must be submitted within 30 calendar days from the date of recruitment (election, appointment) to the position, and subsequently updated every time when new data to be declared emerge or when the data already declared change. The time limit for updating declarations is also 30 calendar days. The data of relevant

declarations (except for declarations of the persons whose data is classified under the procedure established in the law and/or who carry out intelligence, counter intelligence or criminal intelligence) are public, available via COEC website.

In accordance with the provisions of Article 6 of the Law, the declaring person must provide the following data in the declaration:

- 1) his name, surname, personal identification number, workplace (workplaces) and position (status) for which they must declare private interests as well as other workplaces and/or positions held;
- 2) the name, surname, personal identification number and workplaces and/or positions held of the spouse, cohabitant, partner;
- 3) data on the legal persons in which the votes at the general meeting of shareholders or the rights of the member of the legal person in persons of other legal forms held by him, his spouse, cohabitant or partner allow exercising a decisive influence on the activities of such legal persons.

The declaring person must specify in the declaration the private interests<sup>17</sup> which exist or may arise:

- 1) by reason that he or a person close to him is a member of the legal person. In this case, the declaration shall contain information on participation of the legal person in public procurement or support projects funded by the European Union, international organisations, foreign states or the Lithuanian development cooperation and democracy promotion projects and implemented by the institution or body in which the person concerned works or the institution or body subordinate to it;
- 2) due to the relationship between him, his spouse, cohabitant, partner and legal and natural persons arising from the transaction the value of which is higher than EUR 3,000 including individual activity transactions. The declaration shall contain information on the transactions concluded during the period of 12 months to the date of submitting the declaration;
- 3) due to his membership and/or positions held in legal persons or the membership and/or positions held of persons close to him, except for membership in political parties and trade unions;
- 4) due to a person close to him or another person or data related to such persons or he himself

It should be noted that the data related to persons close to the declaring person which objectively cannot be known to the declaring person shall not be considered as private interests of the declaring person.

Obligation to declare private interests in public procurement is an important tool for preventing corruption in order to achieve transparent and reasonable use of public finances. Members of the public procurement commission, authorised persons in the procurement organisation and experts involved in procurement procedures must submit declarations of private interests already since 2018. By enhancing control over the declaration of interests in public procurement and interinstitutional cooperation, in February 2019, the COEC signed the agreement with the Public Procurement Office (hereinafter – PPO) allowing for a rapid exchange of information on possible breaches of the declaration of interests and taking appropriate measures. According to the information

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<sup>17</sup> Private interests – interests in private economic or non-economic benefit of a declaring concerned (or a person close to him), moral debt, moral obligation or another similar interest of the declaring person (or a person close to him) in discharge of the official duties of the declaring person.

provided by the PPO, during the year, the COEC verified the declaration of private interests of almost 600 employees of healthcare institutions involved in public procurement procedures. In 2019, with respect to 294 persons, the COEC tasked their managers with conducting the investigations, while investigations with respect to other persons have not been initiated. The Commission did not accept the conclusions of several investigations and, therefore, conducted its own investigations. The PPO also provided information to the COEC on the procurement procedures carried out by the staff of other institutions and bodies (municipal administrations, social care homes, etc.).

The tasks and procedures of supervision and reconciliation of public and private interests carried out by the COEC were significantly changed by the entry into force of the new legal regulation on 1 January 2020, whereby the new powers were conferred on the Commission and its previously exercised powers were revised.

One of the tasks of the COEC is to control and supervise the compliance of declaring persons with the Law, if there is obvious and justified information about a potential violation of the Law provisions, to conduct investigations into compliance of activities of these persons with the provisions of the Law. According to the provisions of the Law, from 2020, the COEC was granted the right when examining notifications to implement new measures which have led to a statistical decrease in the number of investigations carried out by the COEC during the reporting year. That is:

- to send invitations to individuals to submit, clarify or supplement declarations of private interests within a given time limit;
- before deciding whether to open an investigation, to collect additional documents and information or ask the applicant to submit them.

During 2020, COEC sent more than 100 invitations to clarify or supplement declarations of private interests, all persons complied.

After intensive final implementation works, on 4 January 2021, the Register of Private Interests (PINREG) of the COEC was put into service allowing for a more convenient declaration of interests and control of their reconciliation. The system automatically fills in a preliminary declaration with certain data from more than 10 public registers and information systems, and a declaring person has just to check the information and, if necessary, supplement and confirm it. The person also receives an email from the PINREG reminding that it is time to declare. All this facilitates in providing timely and accurate information and implementing the prevention of the conflicts of interest.

RIKKIS – information system for control of risks and conflicts of interests, will function in parallel with the PINREG. The aim is to enable the COEC, heads of institutions and bodies and persons submitting declarations to assess and manage the risks of conflicts of interests in their official activities. The launch of RIKKIS is scheduled for the third quarter of 2021.



### **Chief Official Ethics Commission (COEC)<sup>18</sup>**

COEC is a collegial authority set up by and accountable to the Seimas of the Republic of Lithuania, exercising, within the competence assigned to it by law, the supervision of civil servants and lobbyists, as well as the prevention of corruption.

The mission of the COEC is to assist persons in the civil service and other persons who are bound by provisions of the Law to act in a way which generates greater public confidence in the performance of their official duties, as well as to ensure the publicity and transparency of the lobbying activities carried out. The Commission's strategic objective is the perfect implementation of requirements for the balancing of interests and more transparent lobbying activities. The COEC bases their activities on the principles of respect for the individual and the State, legality, impartiality, political neutrality, independence, transparency, publicity and accountability. The Commission's chairperson and members may not participate in the activities of political parties or compromise the political neutrality principle in any other way. In its activities, the Commission observes the following legal acts:

- Law on the Chief Official Ethics Commission
- Law on the Adjustment of Public and Private Interests
- Code of Conduct for State Politicians
- Law on Lobbying Activities

The COEC is independent in the exercise of their functions and in taking decisions in the remit of their powers. State politicians, officials, political parties, associations, other legal or natural persons are prohibited from exercising influence over the decision-making procedure and content of decisions.

The activities of the COEC in the implementation of the tasks are serviced by the Secretariat of the Commission. It consists of the Prevention, Lobbying Supervision, Investigations, Administration Units and staff not belonging to them.

**The Information System of Legal Entities Participants (JADIS)** is the measure applied for registration of beneficial ownership information under the 4th Anti-Money Laundering Directive.


Pursuant to Article 25(1) of the Law of the Republic of Lithuania on the Prevention of Money Laundering and Terrorist Financing all legal persons incorporated in the Republic of Lithuania, must obtain, update and store accurate information on their beneficial owners – their name, surname, date of birth, personal number, the state which issued the personal identity document, place of residence, ownership rights held by them and their scope (the number of shares expressed as a percentage and the number of voting rights expressed as a percentage) or other rights of control (the chair of the board, board member, director, senior manager, other positions

<sup>18</sup> [Titulinis - Vyriausioji tarnybinės etikos komisija \(vtek.lt\)](http://www.vtek.lt)

	<p>and the number of transferred voting rights expressed as a percentage) and must submit such information to the Information System of Legal Entities Participants (JADIS). The Information System of Legal Entities Participants (JADIS) is currently under development with aim to provide more to fully the beneficial ownership information.</p> <p>The Information System of Legal Entities Participants (JADIS) ensures that the information on the beneficial ownership is accessible to: (a) competent authorities and Financial intelligence units, without any restriction; (b) obliged entities, within the framework of customer due diligence; (c) any member of the general public.</p>
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#### **IV. Level of SMEs' participation in public procurement**

SMEs are defined in the Commission Recommendation (2003/361/EC) as having less than 250 persons employed and an annual turnover of up to EUR 50 million or a balance sheet total of no more than EUR 43 million. Further information is available at [http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition\\_en](http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en).

<b>IV.1. Qualitative reporting on SME participation</b>	
<p>New developments</p> 	<p><b><u>The new developments and measures taken in Lithuania regarding the participation of SMEs in public procurement:</u></b></p> <ul style="list-style-type: none"> <li>• <b><i>Policy and legislative initiatives launched to support SMEs participation in public procurement.</i></b> In May 2018 Article 28 of the LPP was amended to include obligation to carry out in parts the procurement of construction works and building design services (separating the purchase of construction works from the purchase of construction design services), each of which is intended to be the subject of a separate procurement contract, defining the scope and subject matter of these parts. The obligation to subdivide the procurement of construction works and construction design services may be waived if the Public buyer justifies in the procurement documents that this would reduce competition between suppliers, make the performance of the procurement contract too expensive or technically complicated, and the organization would have to coordinate the suppliers of these parts, which would run the risk of improper performance of the procurement contract, or indicate other reasonable circumstances why it is not appropriate to divide the procurement of construction works and construction design services into separate parts.</li> <li>• <b><i>Measures targeting SME participation in different techniques for aggregated procurement (framework agreements, dynamic purchasing systems, and centralised procurement activities).</i></b> Central purchasing body “CPO LT”<sup>19</sup> uses different techniques to ensure active participation of SMEs in centralised procurement, including division of purchases into lots to ensure highest level of competition, broad application of dynamic purchasing systems, trainings and sharing of good experiences of the participants.</li> </ul>

<sup>19</sup> [Centrinė perkančioji organizacija - CPO | Paprasta pirkti](#)

	<ul style="list-style-type: none"> <li>• <b>Measures addressing the payments to subcontractors.</b> Paragraph 2 of Article 88 of the LPP establishes the obligation to establish the possibility and procedure of direct payment in the procurement documents, if such payments are possible according to the nature of the contract. In 2020 the PPO carried out a review of procurement document in the construction sector with an intention to verify how often such direct payments are foreseen in procurement documents. In order to remind the Public buyers about the obligation to establish the possibility and procedure of direct payment to subcontractors in the procurement documents, the PPO took additional preventive measures - in 2020 it regularly sent information notices to the Public buyers, that were purchasing the construction works. 2 488 procurement documents were reviewed (146 international and 2 342 simplified procurement) and it was found that as many as 22 % of the Public buyers did not establish the possibility of direct payment. After sending the reminders by the PPO, about 5 percent of the Public buyers modified the procurement documents by including this provision.</li> <li>• <b>Guidelines for Public buyers on the application of 'divide or explain' principle.</b> Public procurement - new opportunities for small and medium businesses (renewed version released on 2020-02-14) <a href="https://vpt.lrv.lt/uploads/vpt/documents/files/mp/sv/gaires.pdf">https://vpt.lrv.lt/uploads/vpt/documents/files/mp/sv/gaires.pdf</a></li> </ul>
<b>IV.2. Quantitative indicators</b>	
Please provide, when available, any quantitative data (statistics, etc.) regarding SMEs' participation in public procurement	<p><b>Indicators of SMEs' participation in public procurement<sup>20</sup></b></p> <p><b>Data sources, calculation method</b></p> <p>The following data sources were used to compile the indicators on SME participation in public procurement<sup>21</sup>: data of procurement procedure reports published by Public buyers in CPP IS and centralized procurement data submitted to the PPO by the central purchasing bodies.</p> <p>When developing indicators of SME participation in public procurement the PPO cooperates with Lithuanian Department of Statistics<sup>22</sup>, which provides the PPO with the data on the characteristics of companies that have participated and won public procurement in Lithuania (companies being classified as very small, small, medium and large). The values of the indicators are determined by combining the characteristics of companies with the public procurement data collected from CPP IS. The indicators are calculated separately for above the threshold and below the threshold procurement (excluding low value procurement), including both individual suppliers and suppliers participating as groups of economic operators.</p> <p><b>Number of SMEs winning public procurement</b></p>

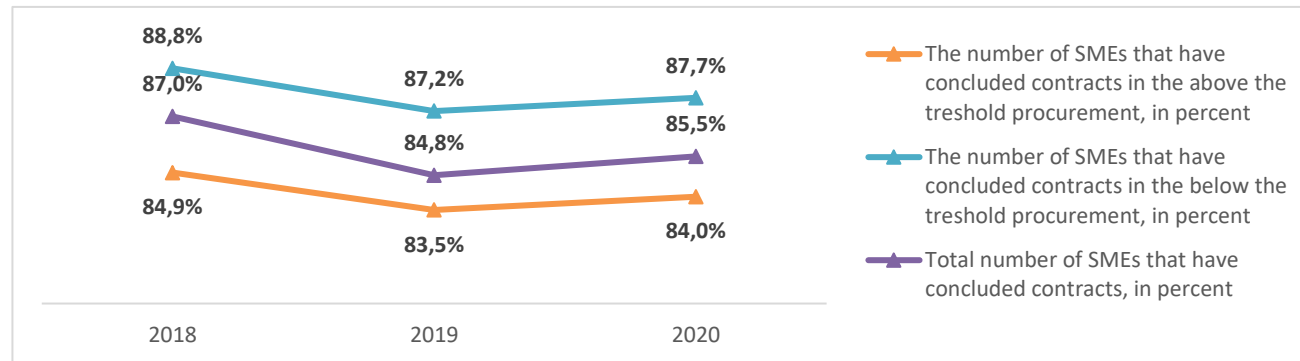
<sup>20</sup> SME indicators are calculated by the PPO.

<sup>21</sup> The data sources are described in detail in Annex I to this report.

<sup>22</sup> [Naujienos - Lietuvos statistikos departamentas - Oficialiosios statistikos portalas](http://naujienos-statistikos-departamentas-officialiosios-statistikos-portalas)

The majority of companies winning in Lithuanian public procurement are SMEs, which accounts for about 86 % of all contracting companies. Part of SMEs that have concluded contracts in the above the threshold procurement 2018–2020 varied from 85 to 84 %, in the below the threshold procurement – from 89 to 88 % (see Figure 8, Annex IV, Table 10).

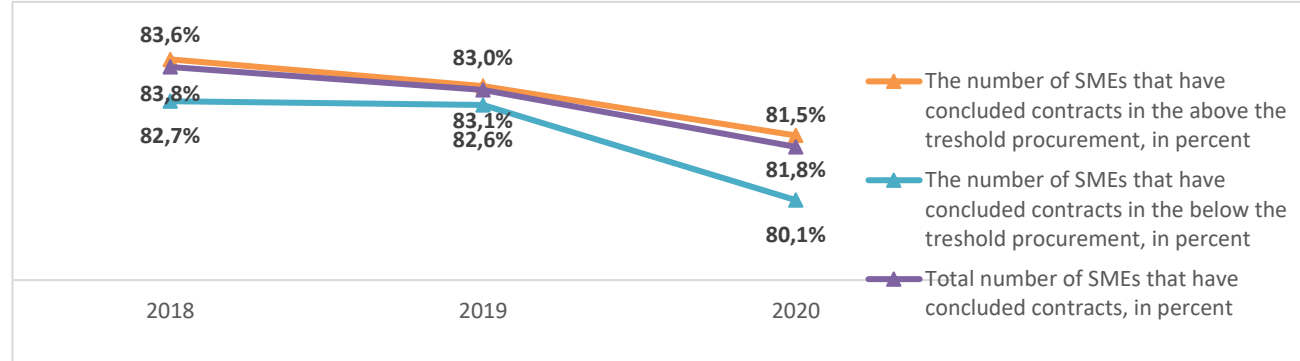
**Fig. 8. Number of SMEs that have won public procurement by procurement value thresholds, in percent**



**Number of contracts awarded to SMEs**

The number of contracts concluded with SMEs from the total number of contracts concluded in public procurement in 2018–2020 slightly decreased: from 84 to 82 % in the above the threshold procurement, from 83 to 80 % – in the below the threshold procurement (see Fig. 9, Annex IV, Table 11).

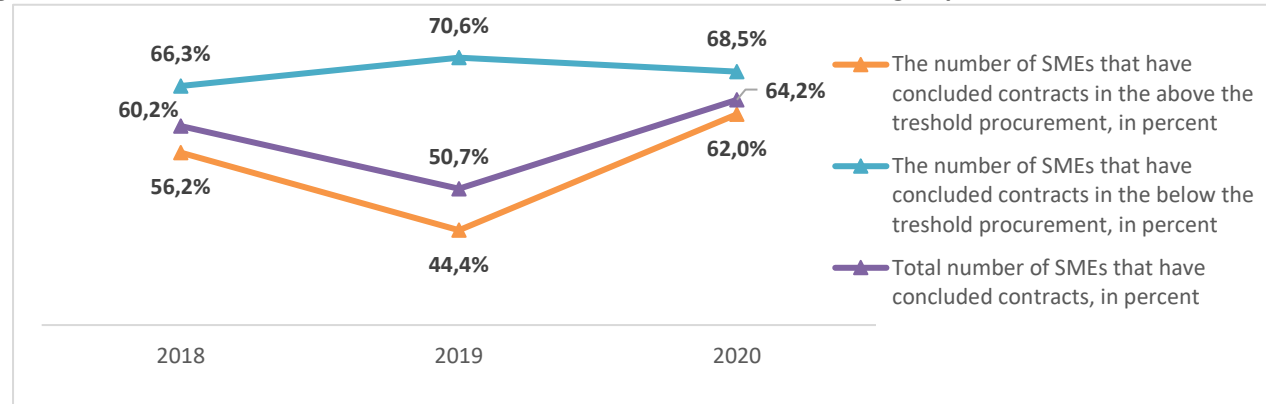
**Fig. 9. Distribution of the number of contracts concluded with SMEs according to procurement value thresholds, in percent**



### Value of contracts awarded to SMEs

Although in 2018–2020 the number of contracts concluded with SMEs decreased in regards to the total number of contracts, the value of concluded contracts increased: the value of contracts concluded with SMEs increased from 56 to 62% in the above the threshold procurement, and from 66 to 69 % in the below the threshold procurement (see Fig. 10).

**Fig. 10. Distribution of the value of contracts concluded with SMEs according to procurement value thresholds, in percent**



Detailed statistics on the participation of SMEs in Lithuanian public procurement are provided in Annex IV to this report.

## V. 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."<sup>23</sup> A voluntary target of 50 % GPP per Member State in number and value of relevant procedures was proposed by the Commission and welcomed by the Council in 2008.

<sup>23</sup> Commission Communication (COM (2008) 400) "Public procurement for a better environment".

<b>V.1.1 Qualitative reporting</b>	
Key challenges encountered	<p>According to the Government's National Green Procurement Implementation Program, Lithuania had a target of 50% of GPP by 2019. However, at the moment, these goals are not achieved.</p> <p>The absence of progress (the share of GPP in value from public procurement for which environmental criteria have been established: 2018 – 9.3 %; 2019 – 7.2 %; 2020 – 9,6 % (see Fig. 12 )) provides clear evidence of insufficient policy implementation actions concerning GPP. The key barriers are:</p> <ul style="list-style-type: none"> <li>- Complex GPP criteria and strict requirements regarding their application;</li> <li>- Discrepancies between GPP criteria and rapidly evolving market supply;</li> <li>- Insufficient competence and lack of motivation of Public buyers.</li> </ul> <p>In 2021, Ministry of Environment aims to revise GPP legislation by broadening GPP definition, updating GPP criteria and GPP implementation procedures as well as extending the list of product groups to which the GPP criteria can be applied. From 1 July 2021 GPP competence centre is planned to be established in the PPO in order to strengthen competences of Public buyers to conduct GPP. Moreover, by the end of 2022, GPP requirements are planned to be integrated into national and EU financing programmes.</p>
<b>V.1.2. Supporting documents</b>	
	<p><b><u>National definition of green public procurement (GPP)</u></b></p> <p>GPP is regulated by Order of the Minister of Environment, which provides definition of GPP, GPP criteria, list of supplies and services that can be covered by GPP.<sup>24</sup></p> <p>GPP is defined as “procurement, when the procuring entity establishes all the appropriate minimum environmental protection criteria set by the Ministry of Environment in the procurement documents, selecting supplies, services and works not only according to their price and quality, but also to the lower environmental impact in one, several or all phases of the product's life cycle, thus encouraging the development of as many environmentally friendly products as possible.”</p> <p>Minimum environmental criteria must be applied on a mandatory basis (the Public buyer must apply all the Minimum Environmental Criteria when carrying out GPP), while extended environmental criteria are optional (the Public buyer can choose to add some of the criteria from the list of Advanced Environmental Criteria).</p> <p><b><u>Targets for the uptake of GPP and the way they are defined</u></b> <i>i.e. for overall procurement, for specific product groups, by value, by number of contracts;</i></p>

<sup>24</sup> <https://www.e-tar.lt/portal/lt/legalAct/TAR.4B60A8C9678B/asr>

The uptake of GPP is calculated in two ways: (1) the number and value of those contracts for supplies, services or works for which environmental criteria have been established, or (2) comparing the value of GPP made with the value of all purchases made.<sup>25</sup> The indicator of GPP is one of the strategic goals of the Lithuanian National Progress Plan (NPP), which was adopted by the Government on 9 September 2020. The initial value specified in the NPP (2019) for share of GPP in relation to all procurements by value is 3.3 %, the intermediate target (2025) is 50 %, and the final target (2030) is 55 %.<sup>26</sup> Moreover, Programme of Lithuania's Government sets even more ambitious goals – from 2023 GPP would become the dominant type of public procurement in public sector.<sup>27</sup> Annual targets will be adopted when the Resolution No 1133 of Government of the Republic of Lithuania will be updated.

**Any legal obligation to include green or circular requirements in tenders**

According to the Resolution of the Government of the Republic of Lithuania No. 1133, all Public buyers defined in the National Law must reach the threshold of 50% GPP, when purchasing supplies, services and works for which the environmental criteria are set.<sup>28</sup> In 2020 Lithuanian President proposed amendments to LPP, which also entails a wider use of environmental criteria when aiming for best price-quality ratio.

**The national GPP criteria for product groups**

The national GPP criteria are based on EU GPP criteria. There are environmental criteria for 30 products groups: paper; office supplies; tissue paper; products from recycled plastics; publishing and printing related services; event management services; imaging equipment; inks and toners for printers and etc.; mobile phones and mobile phone chargers; TV; domestic equipment; furniture; food and catering; cleaning supplies and services; textile goods; vehicles and transports; goods and services for gardening; building design, construction and building materials; thermal insulation materials; wall panels; hard floor covering; windows and exterior doors; indoor lighting and light bulbs; sanitary tapware; water-based heaters; combined heat and power generation equipment; road construction and traffic signs; street lighting; water-based heaters; medical electrical and electronic equipment, road design, construction and maintenance; office building design, construction and management.<sup>29</sup>

**Activities in the area of capacity-building for procuring 'green'**

In 2018, GPP training programme was adopted by Ministry of Environment.<sup>30</sup> Trainings, seminars are organized by Public Procurement Office and Environmental Projects Management Agency.

<sup>25</sup> <https://www.e-tar.lt/portal/lt/legalAct/TAR.4B60A8C9678B/asr>

<sup>26</sup> <https://www.e-tar.lt/portal/lt/legalAct/d492e050f7dd11eaa12ad7c04a383ca0>

<sup>27</sup> <https://www.e-tar.lt/portal/lt/legalAct/ed22bb703bc311eb8d9fe110e148c770>

<sup>28</sup> <https://www.e-tar.lt/portal/lt/legalAct/TAR.7BD90628EAE1/asr>

<sup>29</sup> <https://www.e-tar.lt/portal/lt/legalAct/TAR.4B60A8C9678B/asr>

<sup>30</sup> <https://www.e-tar.lt/portal/lt/legalAct/3c1fcf000c9811e8a5fc9d9b3a58917b>

	<p>A web page on Frequently Asked Questions for GPP has been created.<sup>31</sup> Consultations by e-mail, telephone are provided by Ministry of Environment (policy issues) and Public Purchasing Office (guidance and consultations on application of GPP criteria for Public buyers).</p> <p>In 2020, through TAIEX-REGIO PEER 2 PEER tool, meetings with the Netherlands, Finland and joint meeting with Latvia and Estonia were organised.</p> <p>From 1 July 2021 GPP competence centre is planned to be established in the Public Procurement Office.</p>
<p><b>V.1.3. Quantitative indicators</b></p>	
	<p><b><u>GPP indicators</u></b></p> <p><b>Data sources, calculation methods<sup>32</sup></b></p> <p>Data sources used to calculate the values of GPP indicators - data of procurement procedure reports published by Public buyers in CPP IS and centralized procurement data submitted to the PPO by the central purchasing bodies<sup>33</sup>.</p> <p>Reports on the results of green procurement are published on the PPO website at <a href="https://vpt.lrv.lt/lt/statistika-ir-analize/temines-viesuju-pirkimu-analizes">https://vpt.lrv.lt/lt/statistika-ir-analize/temines-viesuju-pirkimu-analizes</a>, section “Green Procurement”.</p> <p>Information on GPP carried out in 2018–2020 has been prepared at the national level – together for the above the threshold and below the threshold procurement, except for low value procurement. Not only the total volume of GPP (number and value of procurement procedures) was determined (see Figures 11, 12), but also GPP by product groups<sup>34</sup>, for which environmental criteria are applied (see Figures 13, 14).</p> <p><b>GPP number and value</b></p>

<sup>31</sup> <https://klausk.vpt.lt/hc/lt/sections/360000236189-%C5%BDaliej-i-pirkimai>

<sup>32</sup> The values of GPP indicators are calculated by the PPO.

<sup>33</sup> The data sources are described in detail in Annex I to this report.

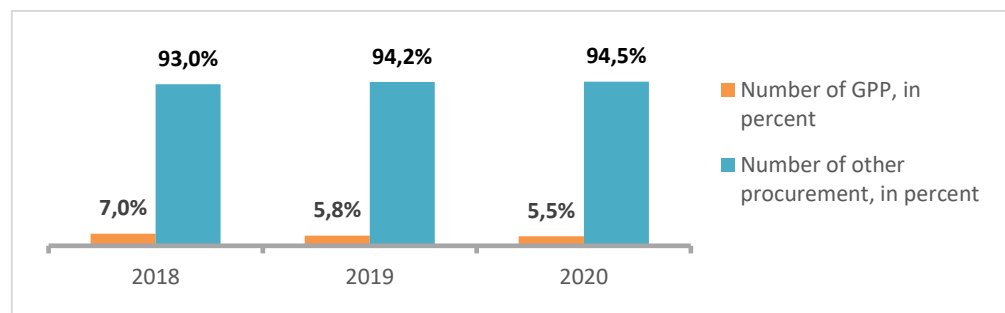
<sup>34</sup> According to the List of Products for which public procurement environmental protection criteria are applicable, approved by Order no. D1-508 of the Minister of Environment of the Republic of Lithuania on 28 June 2011 (wording of Order No. D1-672 of the Minister of Environment of the Republic of Lithuania of 22 August 2017)).



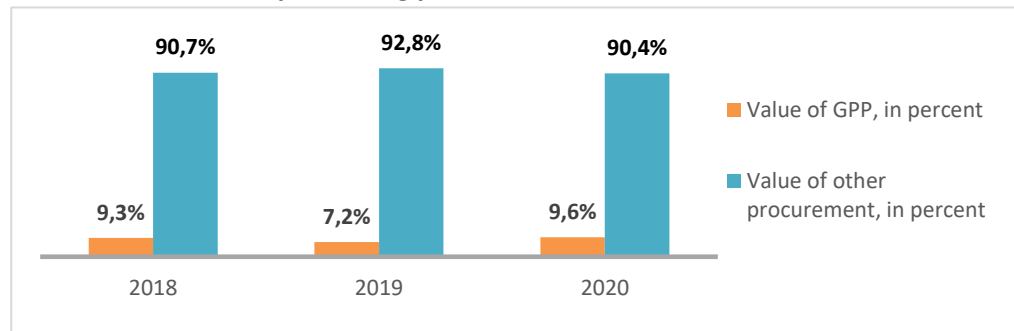
The target value of the indicator for GPP, with applied environmental protection criteria, was set by Resolution No. 828<sup>35</sup> of the Government of the Republic of Lithuania of 11 October 2017 by number and value of procurement: not less than 45 percent in 2018, not less than 50 percent in 2019 and not less than 50 percent in 2020.

In 2020, the share of GPP when purchasing products with environmental criteria from the list was 5.5 percent from the total number of procurement of products subject to environmental criteria from the list, in 2018 respectively - 7.0 percent, in 2019 - 5.8 percent (see Figure 11). In 2020, the share of GPP when purchasing products with environmental criteria from the list was 9.6 % percent from the total value of procurement of products subject to environmental criteria from the list, in 2018, respectively - 9.3 percent, in 2019 - 7.2 percent (see Figure 12).

**Fig. 11. Number of GPP when purchasing products with environmental criteria from the list, in percent**

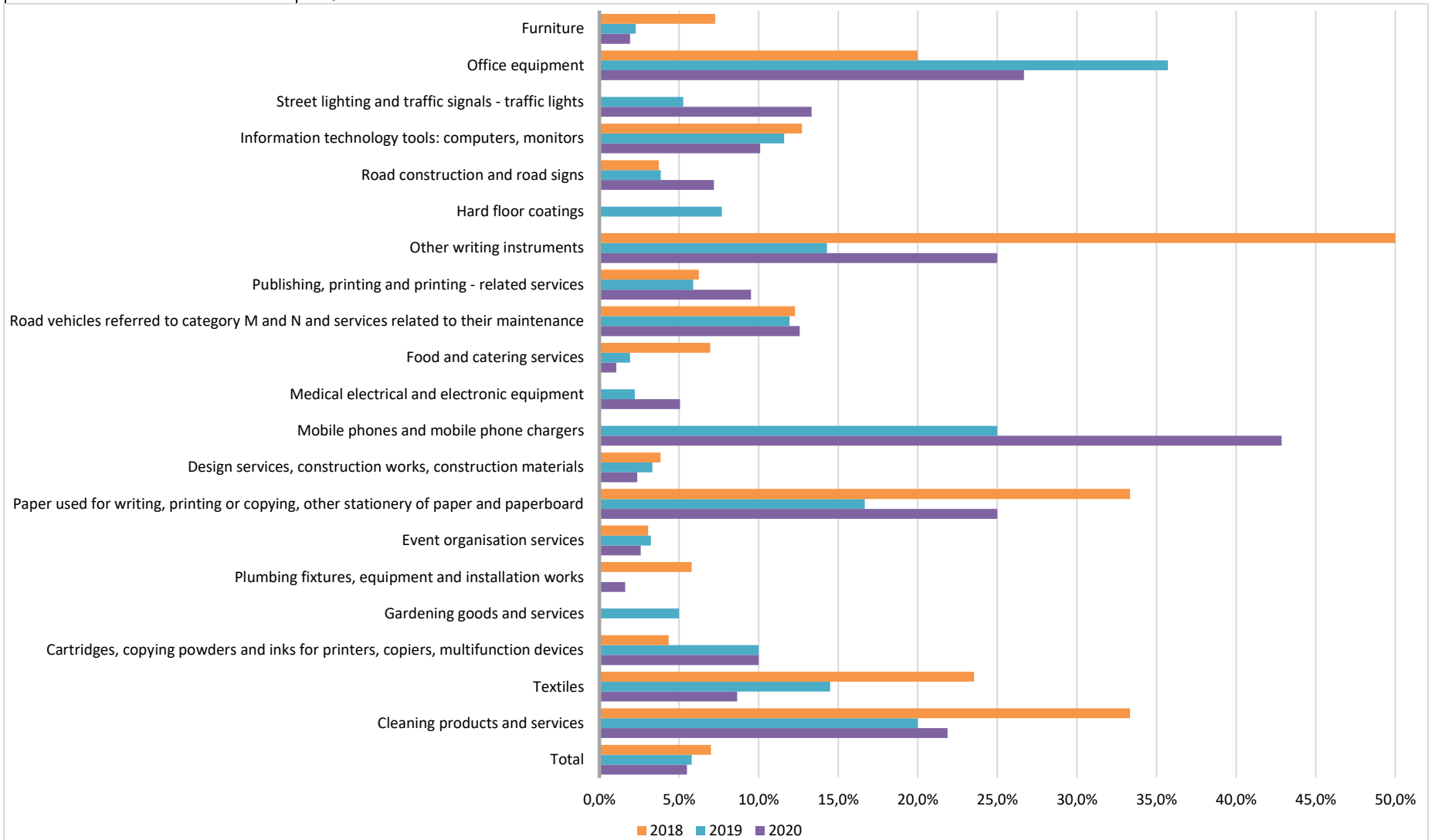


**Fig. 12. Value of GPP when purchasing products with environmental criteria from the list, in percent**

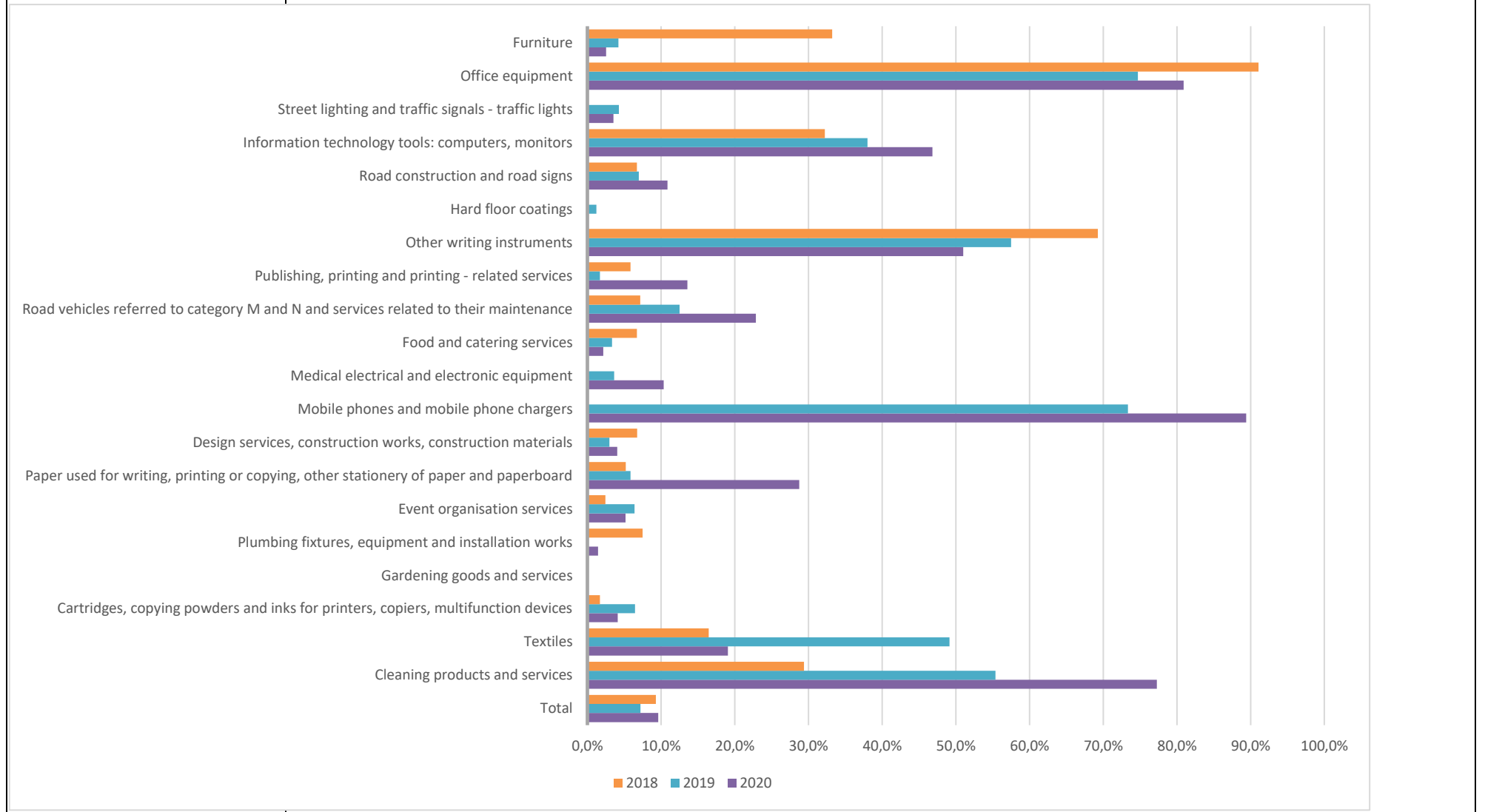



<sup>35</sup> [828 Dėl Lietuvos Respublikos Vyriausybės 2010 m. liepos 21 d. nutarimo Nr. 1133 "Dėl Lietuvos Respubl... \(e-tar.lt\)](#).

**Fig. 13. Division of the number of GPP products by product, which procurement is subject to environmental criteria from the list, in percent**



**Fig. 14. Division of the value of GPP products by product, which procurement is subject to environmental criteria from the list, in percent**



<p><b>V.2 Socially responsible public procurement ('SRPP')</b></p> 	<p>Socially Responsible Public Procurement ('SRPP') is defined as procurement that takes into account one or several social considerations for advancing social objectives. SRPP covers a wide spectrum of social considerations, such as for example employment opportunities, decent work conditions, compliance with social and labour rights, social inclusion, equal opportunities and accessibility.</p>
<p><b>V.2.1 Qualitative reporting</b></p>	
<p>Key challenges encountered</p>	<p>The lack of motivation and knowledge how to include social considerations in the procurement might be specified as key challenges encountered.</p> <p>Also, when social criteria are set in the procurement, Public buyers are facing additional administrative burden while controlling whether these requirements are fulfilled in contract management phase.</p> <p>In addition, Article 23 of the LPP requires contracting authorities to reserve no less than 2% of their simplified procurement budget for social undertakings. Some contracting authorities have expressed their concern that the procurement from social enterprises raises the tender price, because the number of social enterprises is limited in some fields.</p>
<p><b>V.2.2. Supporting documents</b></p>	
<p>The available evidence or supporting document for point V.2.1 illustrating the measures, achievements or challenges faced, relating to the promotion of SRPP.</p>	<ul style="list-style-type: none"> <li>• <b>OECD report “Improving Lithuania’s public procurement system”:</b>  <a href="https://www.oecd.org/gov/public-procurement/publications/C1-improving-lithuania-public-procurement-system.pdf">https://www.oecd.org/gov/public-procurement/publications/C1-improving-lithuania-public-procurement-system.pdf</a></li> </ul>
<p><b>V.2.3. Quantitative indicators</b></p>	
<p>Please provide, when available, any quantitative data (statistics, etc.)</p>	<p><u>Reserved procurement</u><sup>36</sup></p>

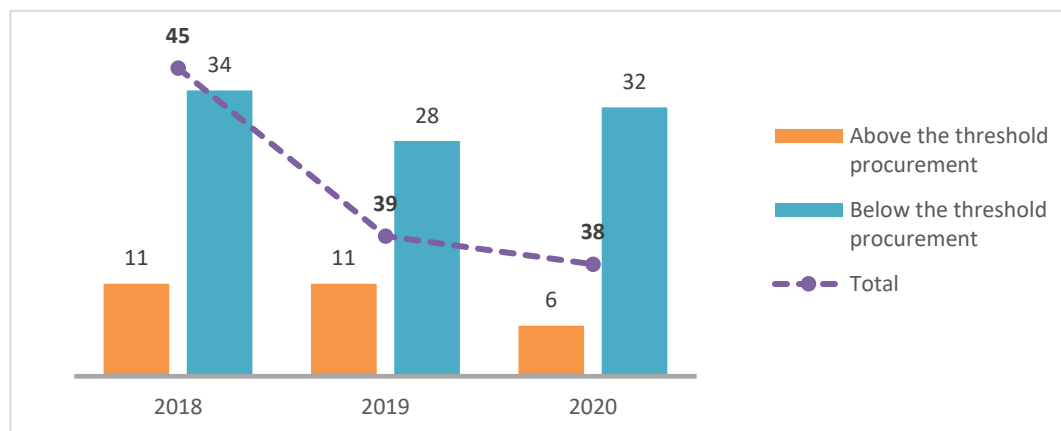
<sup>36</sup> Reserved procurement indicators are calculated by the PPO.

illustrating the achievements and challenges identified under section V.2.1 above.

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

The number of reserved procurement procedures is determined for the above the threshold and below the threshold procurement on the basis of the data of procurement reports published by the Public buyers in the CPP IS and the data provided by the Central Contracting Authorities to the PPO (see Figure 15). The number of low value reserved procurement procedures is not included in the calculations, as such information is not collected in the CPP IS.

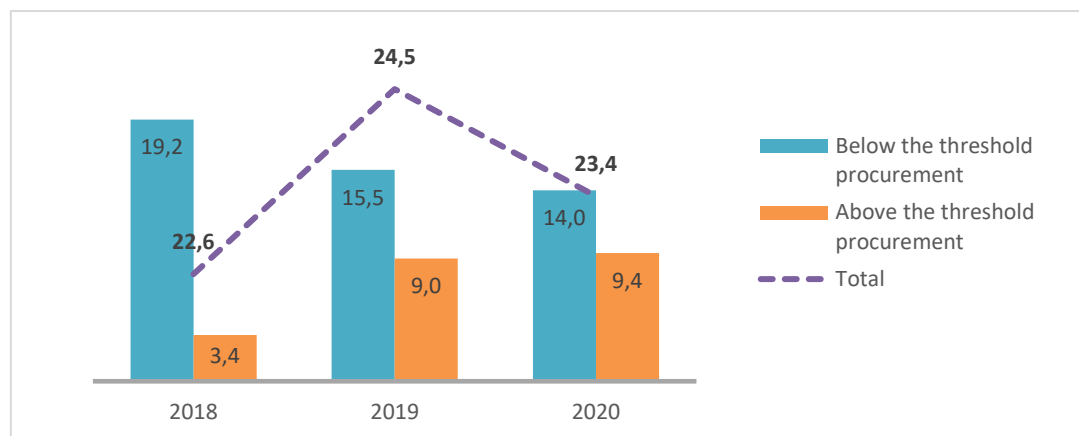
**Fig. 15. The number of procurement procedures<sup>37</sup>, regulated by the provisions of Article 20 of the Directive 2014/24/EU, within procurement value thresholds**



The value of contracts for reserved procurement procedures is determined for the above the threshold and below the threshold procurement, including low value procurement (see Figure 16). In addition to the above-mentioned data sources, the data of the annual procurement report published by the Public buyers in the CPP IS are used for the calculation of this indicator – in accordance with the provisions of the National Public Procurement Law, the Public buyers must indicate in their annual procurement reports the value of the reserved below the threshold procurement, including low value procurement.

<sup>37</sup> Excluding low value procurement.

**Fig. 16. Value of contracts of procurement procedures, regulated by the provisions of Article 20 of the Directive 2014/24/EU within procurement value thresholds**




In 2018-2020 the value of reserved procurement of the Directive value has increased, as more reserved procurement is carried out centrally, by using the electronic catalogue of the central purchasing body CPO LT. In the last three years, the share of the value of reserved above the threshold procurement made by CPO LT was about 80 percent.

In accordance with the provisions of the National Public Procurement Law, the PPO monitors how the Public buyers comply with the requirement of Article 23 of LPP the requirement to reserve at least 2% of the value of all below the threshold procurement, conducting in a particular year, for sheltered work groups and economic operators (currently the value is about 1% ).

The report on reserved procurement under Article 23 of the LPP is updated and published by the PPO annually on its website, in the section **Statistics and Analysis / Thematic Public Procurement Analyses / Procurement from Social Enterprises**, at: [Teminės viešųjų pirkimų analizės | Viešųjų pirkimų tarnyba \(lrv.lt\)](https://www.ppo.lt/temines-viesuju-pirkimu-analizes)

**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**

In 2018–2020 there was only one procurement procedure with the reserved right to participate only for the organisations carrying out a public service mission and meeting the conditions set out in Article 77 (2) of Directive 2014/24/EU. The procurement notice for

	<p>this procurement and the report on procurement procedures are published in CPP IS (the contract was concluded in 2020, contract value – EUR 1.4 million euros)<sup>38</sup>.</p>
<p><b>V.3 Public procurement of innovation</b></p> 	<p>An innovative solution is defined in 2014/24/EU Art.2 (1.22) as "a new or significantly improved product, service or process". This includes not only those solutions resulting from R&amp;D but also those solutions resulting from activities, "including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations." Please report both dimensions of innovation procurement: procurement of R&amp;D and procurement of innovative solutions.</p>
<p><b>V.3.1 Qualitative reporting</b></p>	
<p>Key challenges encountered</p>	<p>Public authorities often lack skilled workforce and, accordingly, face difficulties in identifying the needs where innovative solutions could be used. Thus, additional training or consultations are needed to build these capacities willing that public authorities would play the role of innovation demanders.</p>
<p><b>V.3.2. Supporting documents</b></p>	
<p>Please report any available evidence or supporting document illustrating the measures, achievements or challenges faced, relating to the promotion and implementation of innovation procurement.</p>	<ul style="list-style-type: none"> <li>• In 2009 Strategy for the Improvement and Development of the Lithuanian Public Procurement System for 2009-2013 was adopted. This strategy set the target that no less than 5% of all public procurements should be innovation public procurement ( hereinafter - IPP) by 2013<sup>39</sup>.</li> <li>• In the Lithuanian Innovation Development Program for 2014-2020 an important part is the IPP<sup>40</sup>.</li> <li>• In 2017, in connection to the transposition of the procurement directives, the National Law on Public Procurement was amended and the possibility to use innovation partnership was introduced as one of the ways to implement procurement (as it allows a combination of Pre-commercial procurement (hereinafter - PCP) and PPI).</li> </ul> <p>In 2019 Lithuanian Science, Technology and Innovation Council has set the target for the period of 2021-2030 in regard to IPP. Until the end of it, at least 20% of public procurement in all sectors of the economy should be PPIs, PCPs and research procurements according to the needs<sup>41</sup>.</p>

<sup>38</sup> Notice of procurement: <https://cvpp.eviesiejipirkimai.lt/Notice/Details/2020-687637>; Report on procurement procedures: [CVPP \(eviesiejipirkimai.lt\)](https://www.e-tar.lt/legalAct/TAR.8FC1D8AB86A2)

<sup>39</sup> <https://www.e-tar.lt/legalAct/TAR.8FC1D8AB86A2>

<sup>40</sup> 1281 Dėl Lietuvos inovacijų plėtros 2014-2020 metų programos patvirtinimo (e-tar.lt)

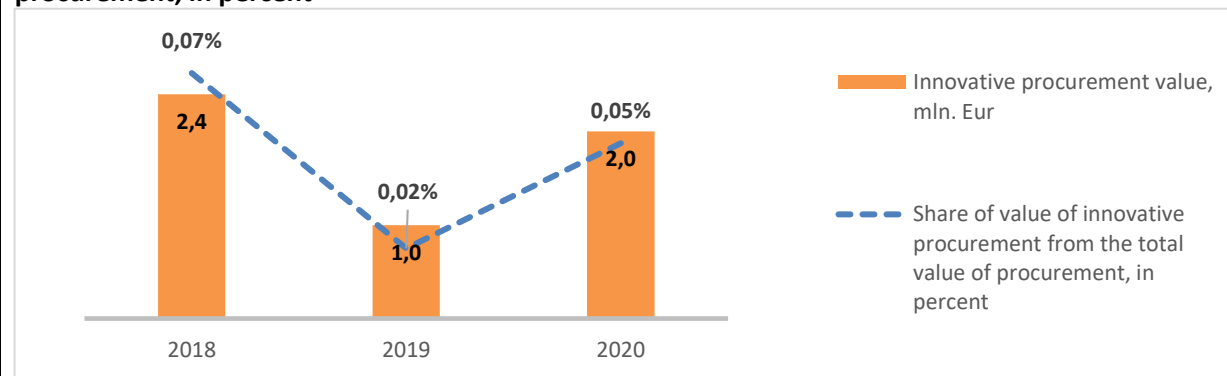
<sup>41</sup> [Inovatyvių viešųjų pirkimų gairės.pdf \(lic.lt\)](https://www.e-tar.lt/legalAct/TAR.8FC1D8AB86A2).

### Statistics on innovative procurement<sup>42</sup>

The value of the indicator is determined for the above the threshold and below the threshold procurement based on the data of the procurement procedure reports published by the Public buyers in the CPP IS and the data provided by the central purchasing bodies to the PPO.

Innovative procurement is rarely carried out in Lithuania: in 2018 there were 2 procurement procedures, in 2019 there was 1 procurement procedure, and in 2020 there were 2 procurement procedures. The value of innovative procurement is less than 1% of total value of public procurement. In 2018-2020 only above the threshold innovative procurement were performed (see Figure 17).

**Fig. 17. Value of the Directive value of innovative procurement (EUR million) and its share from the total value of public procurement, in percent**



*The report on the results of innovative procurement is published on the PPO website at <https://vpt.lrv.lt/lt/statistika-ir-analize/temines-viesuju-pirkimu-analizes>, in the section "Innovative Procurement".*

<sup>42</sup> The value of innovative procurement is identified by the PPO according to the data in CPP IS.



## **VI. Information on monitoring and reporting bodies**

In accordance with the National Law,<sup>43</sup> **procurement monitoring report shall be prepared by the PPO and submitted to the European Commission.**

### **The following institutions have provided information for the procurement monitoring report<sup>44</sup>:**

Ministry of the Economy and Innovation of the Republic of Lithuania;

Ministry of the Environment of the Republic of Lithuania;

Special Investigation Service of the Republic of Lithuania;

Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania;

Chief Official Ethics Commission;

Competition Council of the Republic of Lithuania;

Environmental Projects Management Agency under the Ministry of Environment of the Republic of Lithuania;

Public Institution Lithuanian Business Support Agency;

Public Institution Central Project Management Agency.

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<sup>43</sup> In accordance with the provisions of Article 98(1) of the LPP ([XIII-327 Lietuvos Respublikos viešųjų pirkimų įstatymo Nr. I-1491 pakeitimo įstatymas \(lrs.lt\)](#), Article 104 (1) of the LPU [XIII-328 Lietuvos Respublikos pirkimų, atliekamų vandentvarkos, energetikos, transporto ar pašto paslaugų ... \(lrs.lt\)](#));

<sup>44</sup> In accordance with the provisions of Article 98 (4) of the LPP/ Article 104 (4) of the LPP, upon the request of the PPO, in accordance with Article 92 (3) of the LPP / 100 (4) of LPU, the public procurement legal entities administering the financial support of the European Union or individual states authorized by the resolution of the specified procurement supervision authority and the Government of the Republic of Lithuania shall provide the PPO with information on identified violations of these laws, cases of fraud, corruption in procurement and other available information.

## VII. Replicability

Links to datasets used to prepare the report	The above the threshold and below the threshold <sup>45</sup> procurement data used for preparation of quantitative information provided in this report is published on the PPO website (hereinafter referred to as <b>Open Data Sets</b> ), in the section Statistics and Analysis / Procurement and Contract Data / Procurement Data / LPP / LPU, at: <a href="#">Pirkimų duomenys   Viešųjų pirkimų tarnyba (lrv.lt)</a> .
Files used to obtain the results from the datasets	The <b>description of open data sets</b> is published on the PPO website in the section Statistics and Analysis / Procurement and Contract Data / Procurement Data / LPP / LPU / Methodology for preparation public procurement statistics, at: <a href="#">Pirkimų duomenys   Viešųjų pirkimų tarnyba (lrv.lt)</a>
Other complementary data	Open data on Contracts for above the threshold and below the threshold procurement and their amendments <sup>46</sup> including low value procurement, are published on the PPO website at <a href="#">Sutarčių duomenys   Viešųjų pirkimų tarnyba (lrv.lt)</a> . To make the analysis of contract data simpler, the PPO developed a tool for the search of the contracts, concluded in 2015-2020, which is published on the PPO website in section Statistics and Analysis / Procurement and Contract Data / Procurement Data / Contracts, at <a href="#">Sutarčių duomenys   Viešųjų pirkimų tarnyba (lrv.lt)</a>

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<sup>45</sup> Excluding low value procurement.

<sup>46</sup> In accordance with the provisions of the National Law, contracting authorities since 1 January 2015 have to publish the contracts awarded in the CPP IS contract publication subsystem and any amendments thereto, including low value procurement.

## 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**

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

**[data available under national notice/contract publication requirements] ✓**

- a) [sample-based estimates]
- b) [combined]

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

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

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

The total volume of public procurement in Lithuania is determined by including both the above the threshold and below the threshold procurement (including low value procurement). In accordance with the provisions of the National Law, low value procurement is a simplified procurement where the estimated value of the procurement of goods or services is less than EUR 58,000 (excluding value added tax) and the estimated value of the procurement of works is less than EUR 145,000 (excluding value added tax).

The PPO administers the CPP IS, in which Public buyers publish the data of their procurement (including low value procurement). In accordance with the provisions of the National Law, the Public buyers shall submit a report by the means of CPP IS on each procurement procedure, including procurement procedures leading to or based on a framework contract, a dynamic procurement system or a procurement contract based on it, within 15 days, but not later than the beginning of the first payment under the concluded procurement contract (hereinafter referred to as the report on procurement procedures)<sup>47</sup>, and

<sup>47</sup> Article 96(2)(1) of the LPP / Article 102(2)(1) of the LPU.

submit an annual procurement report within 30 days after the end of the reporting calendar year, including information on low value procurement conducted during the reporting calendar year (hereinafter referred to as the annual procurement report) (hereinafter referred to as the Procurement Procedures Report and the Annual Procurement Report - Reports).

The information to be provided in the Reports, their requirements and standard forms are determined by the PPO<sup>48</sup>.

The reported value of the contracts awarded includes mandatory fees and all provided contract selection options (for example, term, quantities, scope, change of object).

The Public buyers are responsible for the accuracy, correctness and timely submission of the data provided in the Reports. The PPO, having identified the defects and inaccuracies of the data provided in the Reports, contacts the Public buyers for their correction.

The total value of public procurement is determined on the basis of the data of the Reports and the data of centralized public procurement submitted by the central purchasing bodies (hereinafter – CPB) to the PPO. In accordance with the provisions of the National Law, CPB must provide the PPO with information on the centralized procurement, conducted by the Public buyers during the appropriate quarter, within 5 business days, together with information on the green procurement made and their values and the application of energy efficiency requirements.

In order to determine the most accurate annual volume of the public procurement, only the so called factual data - data on centralized procurement, conducted by Public buyers through CPBs - are included (leaving out the procedural reports data for framework agreements, concluded by CPB).

In order to determine the total volume of public procurement, specific data corrections are made for framework contracts. Where more than one framework contract of the same value is awarded for the same subject-matter, only one of those contracts shall be included in the scope of the procurement in order to avoid duplication of contract values.

The components of the total value of public procurement (see Table 6) and the data sources used to determine the scope:

- I. **above the threshold procurement** – data on reports on procurement procedures published by Public buyers in the CPP IS and actual data on centralized procurement provided by the CCA;
- II. **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:**
  - Below the threshold procurement (excluding low value procurement) - data on procurement procedures published by Public buyers in the CPP IS and actual data on centralized procurement provided by the CCA;
  - Other simplified procurement - data of annual procurement reports published by Public buyers in CPP IS;
  - Low value procurement - data on annual procurement reports published by Public buyers in the CPP IS and actual data on centralized low value procurement provided by the CCA.

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<sup>48</sup> [1S-80 Dėl Viešųjų pirkimų ir pirkimų ataskaitų rengimo ir teikimo tvarkos aprašo, viešųjų pirkimų ir pi... \(e-tar.lt\)](#)

**Annex II**

**Table 8. Total volume and value of public procurement according to the procurement value thresholds**

	<b>2018</b>	<b>2019</b>	<b>2020</b>
<b>Number of notices announcing a call for competition above thresholds</b>	3.279	3.619	3.469
<b>Number of notices announcing a call for competition below thresholds<sup>49</sup></b>	6.827	6.980	7.624
<b>Number of awarded contracts above thresholds</b>	30.012	33.836	34.549
<b>Number of awarded contracts below thresholds<sup>50</sup></b>	8.529	8.574	9.462
<b>Total value of procurement above EU thresholds, EUR</b>	2.593.671.395,25	3.878.367.575,74	2.928.670.973,58
<b>Total value of procurement below EU thresholds<sup>51</sup>, EUR</b>	1.660.734.161,49	1.477.253.678,75	1.622.271.773,64

<sup>49</sup> Excluding low value procurement (see Table 1).

<sup>50</sup> Excluding low value procurement (see Table 4).

<sup>51</sup> excluding low value procurement and other simplified procurement (see Table 7).

Annex III:

**Table 9. Extent of public procurement cases, duration of examination and results**

	<b>2018</b>	<b>2019</b>	<b>2020</b>
Public procurement cases <b>examined in the courts of first instance</b>			
<b>Number of decisions</b>	<b>301</b>	<b>384</b>	<b>370</b>
<b>upon a complaint</b>	301	384	370
<i>ex officio</i>	–	–	–
<b>Number of decisions (primarily) upheld</b>	84	107	77
<b>Number of decisions (primarily) rejected</b>	126	155	166
<b>Number of decisions – other</b>	91	122	127
<b>Median length of the review</b>	<b>65,8</b>	<b>81,3</b>	<b>87,6</b>
Public procurement cases <b>examined in the higher courts</b> (court of appeal)			
<b>Number of review decisions challenged</b>	<b>136</b>	<b>132</b>	<b>150</b>
<b>Number of decisions (primarily) upheld</b>	39	38	39
<b>Number of decisions (primarily) rejected</b>	84	75	106
<b>Number of decisions – other</b>	13	19	5
<b>Median length of the review</b>	<b>64,6</b>	<b>64,5</b>	<b>76,8</b>

**Annex IV:**

**Statistics of SMEs participation of the above and below the threshold procurement<sup>52</sup>**

**Table 10. The number of SMEs companies, which concluded contracts (in percent)**

Company size	The above the threshold procurement						The below the threshold procurement						All procurement					
	Number of companies			Percentage			Number of companies			Percentage			Number of companies			Percentage		
	2018	2019	2020	2018	2019	2020	2018	2019	2020	2018	2019	2020	2018	2019	2020	2018	2019	2020
<b>Medium</b>	358	336	410	21,4%	16,7%	19,0%	490	501	511	20,2%	19,4%	19,2%	651	620	680	19,8%	16,7%	17,8%
<b>Small</b>	573	655	692	34,2%	32,5%	32,1%	954	944	967	39,4%	36,6%	36,4%	1211	1278	1297	36,8%	34,5%	33,9%
<b>Very small</b>	489	690	711	29,2%	34,3%	32,9%	707	805	855	29,2%	31,2%	32,2%	1000	1243	1298	30,4%	33,6%	33,9%
<b>Total SMEs:</b>	<b>1420</b>	<b>1681</b>	<b>1813</b>	<b>84,9%</b>	<b>83,5%</b>	<b>84,0%</b>	<b>2151</b>	<b>2250</b>	<b>2333</b>	<b>88,8%</b>	<b>87,2%</b>	<b>87,7%</b>	<b>2862</b>	<b>3141</b>	<b>3275</b>	<b>87,0%</b>	<b>84,8%</b>	<b>85,5%</b>
<b>Other</b>	253	332	345	15,1%	16,5%	16,0%	270	329	326	11,2%	12,8%	12,3%	427	563	555	13,0%	15,2%	14,5%
<b>Total:</b>	<b>1673</b>	<b>2013</b>	<b>2158</b>	<b>100,0%</b>	<b>100,0%</b>	<b>100,0%</b>	<b>2421</b>	<b>2579</b>	<b>2659</b>	<b>100,0%</b>	<b>100,0%</b>	<b>100,0%</b>	<b>3289</b>	<b>3704</b>	<b>3830</b>	<b>100,0%</b>	<b>100,0%</b>	<b>100,0%</b>

**Table 11. The number of contracts concluded with SMEs companies (in percent)**

Company size	The above the threshold procurement						The below the threshold procurement						All procurement					
	Number of contracts			Percentage			Number of contracts			Percentage			Number of contracts			Percentage		
	2018	2019	2020	2018	2019	2020	2018	2019	2020	2018	2019	2020	2018	2019	2020	2018	2019	2020
<b>Medium</b>	9427	10716	9258	31,4%	31,7%	26,8%	2429	2299	2521	28,5%	26,8%	26,6%	11856	13015	11779	30,8%	30,7%	26,8%
<b>Small</b>	11184	12072	12933	37,3%	35,7%	37,4%	3029	3043	3107	35,5%	35,5%	32,8%	14213	15115	16040	36,9%	35,6%	36,4%
<b>Very small</b>	4554	5337	6087	15,2%	15,8%	17,6%	1598	1740	1950	18,7%	20,3%	20,6%	6152	7077	8037	16,0%	16,7%	18,3%
<b>Total SMEs:</b>	<b>25165</b>	<b>28125</b>	<b>28278</b>	<b>83,8%</b>	<b>83,1%</b>	<b>81,8%</b>	<b>7056</b>	<b>7082</b>	<b>7578</b>	<b>82,7%</b>	<b>82,6%</b>	<b>80,1%</b>	<b>32221</b>	<b>35207</b>	<b>35856</b>	<b>83,6%</b>	<b>83,0%</b>	<b>81,5%</b>
<b>Other</b>	4847	5711	6271	16,2%	16,9%	18,2%	1473	1492	1884	17,3%	17,4%	19,9%	6320	7203	8155	16,4%	17,0%	18,5%
<b>Total:</b>	<b>30012</b>	<b>33836</b>	<b>34549</b>	<b>100,0%</b>	<b>100,0%</b>	<b>100,0%</b>	<b>8529</b>	<b>8574</b>	<b>9462</b>	<b>100,0%</b>	<b>100,0%</b>	<b>100,0%</b>	<b>38541</b>	<b>42410</b>	<b>44011</b>	<b>100,0%</b>	<b>100,0%</b>	<b>100,0%</b>

<sup>52</sup> Excluding low value procurement.