# Procurement Monitoring Report - SLOVAKIA

**In view of the 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**  |

|  |  |  |  |
| --- | --- | --- | --- |
|   | **2018** | **2019** | **2020** |
| Number of notices announcing a call for competition above thresholds  |  1 835  |  1 582  |  1 696  |
| Number of notices announcing a call for competition below thresholds |  2 907  |  1 825  |  1 578  |
| Number of awarded contracts above thresholds |  1 384  |  1 462  |  1 582  |
| Number of awarded contracts below thresholds  |  1 778  |  1 399  |  1 198  |
| \* w/o concessions and design competitions |  |  |  |
|  | **2018** | **2019** | **2020** |  |
| Number of awarded contracts below thresholds via Electronic contract system |  20 742  |  16 186  |  15 379  |  |
|  |

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

|  |  |  |  |
| --- | --- | --- | --- |
|   | **2018** | **2019** | **2020** |
|  Total value of procurement above EU thresholds (EUR) |  3 964 565 589  |  3 940 341 698  |  4 053 411 245  |
| Total value of procurement below EU thresholds (EUR) |  856 300 669  |  695 104 967  |  575 528 670  |
| \* w/o concessions and design competitions |  |  |  |
|  | **2018** | **2019** | **2020** |
| Total value of procurement via Electronic contract system (EUR) |  364 516 198  |  274 348 467  |  229 319 266  |

 |

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

|  |  |
| --- | --- |
| **II.1.** **Qualitative reporting on application of public procurement rules** |  |
| Main sources of wrong application or of legal uncertainty | As part of the methodological work, intensive work is being done on some challenges, such as:- division of the contract into lots (Article 46 of Directive 2014/24/EU), - conflict of interest (Article 24 of Directive 2014/24/EU), - description of the subject of the contract through performance or functional requirements and acceptance of an equivalent solution (Article 42 of Directive 2014/24/EU), - the adequacy of the evidence of compliance with the conditions for participation (Article 58 of Directive 2014/24/EU in conjunction with Annex XII to Directive 2014/24/EU), - completion of missing documents by tenderers after the deadline for submission of tenders (Article 56 (3) of Directive 2014/24/EU, especially in connection with the formalistic interpretation of Section 40 (4) of Slovak Act No. 343/2015 Coll. on Public Procurement),- non-price / qualitative criteria for the evaluation of tenders (Article 67 of Directive 2014/2 /EU).The harmonization of the interpretation of these provisions is being complicated by uncertainty, and inconsistency in the interpretation of individual provisions by EU and SK inspection bodies respectively. This uncertainty is also a consequence of the dynamically evolving public procurement environment in connection with a larger amount of interested methodological and control bodies. The diversity of interpretation resulting from the various methodological guidelines issued by various bodies is the subject of a national discussion, which is and has been directed towards the centralization of the institutes at the Ministry of Investment, Regional Development and Informatization of the Slovak Republic. A similar solution, in connection with the harmonization of decision-making practice, is planned within the framework of the involvement of Public procurement office (PPO) into the euro fund system and the creation of “SO”, and single inspection body respectively.In the future, it will be necessary to improve the interpretation of the provisions of Directive 2014/24/EU or Slovak Act 343/2015 Coll. on Public Procurement and extend it with practical examples that can bring the participants into the public procurement process closer and explain the issues of individual institutes of the public procurement process. As part of the planning of the agenda, it is envisaged to link the individual practical examples with expert analyzes and discussions with experts within the individual areas concerned. The aim is to achieve a linkage of knowledge and experience between technical specialists, economists, lawyers and experts in the public procurement process.Public Procurement Office (PPO) - division of Structural funds and European agenda published The Analysis of the most common infringements in public procurement. It is focusing on selected parts of public procurement where contracting authority or contracting entity often makes mistakes. The main figures and information that frame the whole analysis came from data compilation collected by this division. The main results are that these subjects (CA/CE) mostly forget to apply an institute of explanation, they make mistakes in a description of the subject of the contract or they wrongly set the selection criteria. This analysis is published on website of PPO. We personally perceive that the mistakes stem from the lack of attention paid to the preparatory phase and the knowledge of the contracting authorities and entities.In 2018, Public Procurement Office (PPO) led and completed: - 35 administrative proceedings concerning the imposition of a fine on the contracting authority / entity for breaching the Public Procurement Act. 15 cases represented the most serious violation of the Public Procurement Act as avoidance of the obligation to proceed under the Public Procurement Act – avoidance of the procedure under the Public Procurement Act (10 sanctioned cases), division of the contract to avoid the procedure under the Public Procurement Act (1 sanctioned case) and breach of the basic principles of public procurement with a possible significant impact on the result of public procurement (4 sanctioned cases). In other cases, the Office identified less serious violations of the  Public Procurement Act, in particular incorrect evaluation of tenders in cases where the criterion for evaluating tenders is the most economically advantageous tender, -10 administrative proceedings (legally terminated) in the matter of imposing a fine or prohibiting participation in public procurement for an economic entity for breaching the obligations arising from the Public Procurement Act, and business conditions of the electronic marketplace respectively.In 2019, Public Procurement Office (PPO) led and completed: - 47 administrative proceedings concerning the imposition of a fine on the contracting authority / entity for breaching the Public Procurement Act. 14 cases represented the most serious violation of the Public Procurement Act as an avoidance of the obligation to proceed according to the Public  Procurement Act (14 sanctioned cases) together with a violation of basic public procurement principles with a possible significant impact on the public procurement result (11 sanctioned cases). In other cases, the Office identified less serious breaches of the Public Procurement Act, in particular non-compliance with the obligation to document the entire course of public procurement, with emphasis on the reviewability of decisions taken at all stages of public procurement, - 8 administrative proceedings (legally terminated) in the matter of imposing a fine or prohibition of participation in public procurement for an economic entity for breaching the obligations arising from the Public Procurement Act, and business conditions of the electronic marketplace respectively.In 2020, Public Procurement Office (PPO) led and completed: - 13 administrative proceedings concerning the imposition of a fine on the contracting authority / entity for breaching the Public Procurement Act, - 5 administrative proceedings (legally terminated) in the matter of imposing a fine or prohibition of participation in public procurement for an economic entity for breaching the obligations arising from the Public Procurement Act, and business conditions of the electronic marketplace respectively- 69 administrative proceedings concerning the imposition of a fine on an economic entity for breaching the obligation to notify.In comparison with previous years, PPO points to the tendency that more serious cases of breaching the obligations arising from the Public Procurement Act are gradually decreasing. In regards to the nature of public procurers, there is a tendency for breaching the basic obligations arising from the Public Procurement Act by state bodies and local government units, especially in the award of below-threshold contracts.  |
| Specific legal provisions (from EU or national law) which appear to raise significant problems of application | Undoubtedly, such a provision or institute of Public Procurement Act can be marked the MEAT criteria, which are very little used by contracting authorities and entities in Slovakia. The reason is little knowledge of the correct application and setting of this type of award criteria. For this reason, the lowest price criteria approach is a simpler application and therefore it is more used.In connection with this issue, the Responsible Public Procurement project was created, financed from the EEA and Norway Funds. Its main goal is to increase awareness of MEAT criteria through methodologies and training, to help competition announcers set all the conditions correctly and thus raise the principle of value for money. |
| An assessment of patterns and behaviours that are not illegal or non-compliant, but still indicate possible problems | Persistent weak planning of the public procurement process itself and associated subsequent breaches of obligations arising from the Public Procurement Act, which results in inefficient use of public funds, e.g. weak consideration of the social criterion in public procurement, or the issue of green public procurement. As part of the elimination of these challenges, in 2020 PPO launched the project "Increasing the efficiency of public procurement in Slovakia", which aims to support sustainable public procurement. As part of strengthening the pre-procurement phase of the above-mentioned "Responsible Public Procurement" project, the project team is also focusing on the pre-procurement phase, in particular the "preparatory market consultation" institute.As mentioned above, one of these problems is the application of the lowest price criterion to a much greater extent than the MEAT criterion (for the years 2018-2020, the ratio is 9: 1). The PPO records number of concluded contracts, where only single – bid was submitted, to minimize the number of single – bid submissions the Office has prepared the change of public procurement act (§ 57 section 2 PPA). Also the European Commission has in 2019 audited Slovakia within the scope of single – bid submissions. Therefore, we are taking certain steps (such as increasing the transparency in the public procurement process, increasing the efficiency of communication between the CA and other control bodies through the signature of bilateral cooperation agreements, increasing the effectiveness of communication is also reflected in public relations through the establishment of regional offices and writing and publishing useful methodology, which also thematically focuses on a non-discriminatory description of the subject of the contract) in order to guide contracting authorities and public authorities and help them to set up public procurement so that such situations occur as little as possible.  |
| **II.2 Supporting documents** |  |
| Please provide any available evidence of the issues identified under section II.1. | In order to assist in the correct application of the law and public procurement institutes (SME, MEAT criteria, responsible public procurement, preliminary market consultations, etc.), Public Procurement Office (PPO) issued specific materials (videos, infographics, etc.) and at the same time answered questions from contracting authorities and economic entities (this is a standard activity of PPO). In 2020, PPO issued 46 educational materials for the announcers of competitions and provided more than 600 methodological guidelines.*The Public Procurement Office (PPO) has published on its website:* *The Analysis of the most common infringements in public procurement -* [*https://www.uvo.gov.sk/extdoc/2452/analyza\_najcastejsich\_poruseni\_vo\_verejnom\_obstaravani*](https://www.uvo.gov.sk/extdoc/2452/analyza_najcastejsich_poruseni_vo_verejnom_obstaravani)*The Analysis of the most common violations of the Public Procurement Act -* [*https://www.uvo.gov.sk/extdoc/2972/Najcastejsie\_porusenia\_zakona\_o\_VO\_I*](https://www.uvo.gov.sk/extdoc/2972/Najcastejsie_porusenia_zakona_o_VO_I)Great methodology , 4th version - <https://www.uvo.gov.sk/extdoc/2641/Metodika%20zad%C3%A1vania%20z%C3%A1kaziek%20-%204_verzia>PPO also publishes on its website methodological guidelines for participants in the public procurement process, including public procurers and procurers \*: [*https://www.uvo.gov.sk/legislativametodika-dohlad/zakon-o-verejnom-obstaravani-c-3432015-z-z-4f8.html*](https://www.uvo.gov.sk/legislativametodika-dohlad/zakon-o-verejnom-obstaravani-c-3432015-z-z-4f8.html)*PPO also publishes on its website decisions on the imposition of fines to public contracting authorities, which ensures that other entities are continuously informed about detected violations of the law* \*: [*https://www.uvo.gov.sk/legislativametodika-dohlad/spravne-delikty/prehlad-rozhodnuti-o-ulozeni-pokuty-pre-verejneho-obstaravatela-a-obstaravatela-49b.html*](https://www.uvo.gov.sk/legislativametodika-dohlad/spravne-delikty/prehlad-rozhodnuti-o-ulozeni-pokuty-pre-verejneho-obstaravatela-a-obstaravatela-49b.html)The Ministry of Investment, Regional Development and Informatization of the Slovak Republic is most often confronted with the findings of the managing authorities (in case of contracts financed from the ESIF funds) and the PPO (ex ante assessment, controls, objection proceedings). Decisions of Public Procurement Office are published on its website, the findings of the managing authorities are not published. However, some managing authorities publish a list of the most common deficiencies on their websites.These most common deficiencies include: * discriminatory and unreasonable conditions of participation (e.g. unreasonable requirements for

 references and key experts responsible for the performance of the contract), - discriminatory description of the subject of the contract, which is not described on the basis of performance and functional characteristics, - the division of contracts into lots, which has the effect of circumventing the procurement procedure, - failure to deal with a possible conflict of interest, - evaluation of tenders in contravention with the rules set out in the tender documents, - the conclusion of an addendum to the contract in breach with the rules laid down by the Public Procurement Act (e.g. substantial changes to the contract, etc.)In the area of EU funds, several methodological guidelines have been issued in the area of public procurement, which regulate specific areas at a level of greater detail, such as:- Methodical instruction CKO no. 5 to determine financial corrections,- Methodical instruction CKO no. 12 to contracts not covered by the Public Procurement Act,- Methodical instruction CKO no. 13 to conflicts of interest in public procurement,- Methodical instruction CKO no. 18 to verify the cost-effectiveness of expenditures,- Methodical instruction CKO no. 35 to cooperation with the Antimonopoly Office of the Slovak Republic (concerns cartel agreements)- Methodological instructions are freely available on the website:  [www.partnerskadohoda.gov.sk](http://www.partnerskadohoda.gov.sk)  <https://www.partnerskadohoda.gov.sk/metodicke-pokyny-cko-a-uv-sr/> Audit reports are not published on web sites.\* PPO does not possess translations of these documents into English. |
| II.3. Quantitative indicators  |  |
| Indicators about the national review system  | Relevant data from the reports on the activities of the PPO:In 2018, 949 requests for review were received• 535 of the submitted complaints concerned contracts before the contract signature • 192 of the submitted complaints concerned contracts after the contract signature• 926 reviews were carried out• The average length of proceedings for those public procurement controls that were financed  from EU funds was on average 73.93 days in 2018In 2019, 842 requests for review were received• 329 of the submitted complaints concerned contracts before the contract signature• 376 of the submitted complaints concerned contracts after the contract signature• 840 reviews were carried out• The average length of proceedings for those public procurement controls that were financed  from EU funds was on average 72.39 days in 2019In 2020, 766 requests for review were received• 414 of the submitted complaints concerned contracts before the contract signature• 265 of the submitted complaints concerned contracts after the contract signature• 864 reviews were carried out• The average length of proceedings for those public procurement controls that were financed  from EU funds was on average 78.72 days in 2020In 2020, 313 initiatives were completed to control public procurement, which were even partially financed by the ESI Funds, in the total amount of funds of EUR 5,234.2 million and 218 initiatives were completed to control below EU thresholds contracts. |
|  |  |

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

|  |  |
| --- | --- |
| III.1. Qualitative reporting on fraud, corruption, conflict of interests etc. |  |
| Describe the actions undertaken and/or mechanisms put in place to ensure compliance with the new provisions on the prevention, detection and adequate reporting of public procurement irregularities including fraud and corruption and conflicts of interests. | Measures that ensure no fraud, corruption or conflict of interest occurs: • general anti-corruption rules in criminal law (starting with Section 328 of Criminal Code no. 300/2005), • Act no. 54/2019 Coll. on the protection of whistle blowers, • a ban on participation in public procurement for a candidate who has been convicted of a criminal offense of corruption in general conditions of participation, • Public Procurement Act no. 343/2015 (PPA) also contains an anti-conflict of interest regulation (§ 23 PPA), • Central Registry of Contracts and Act no. 315/2016 on the register of public sector partners, • the Government of the Slovak Republic by Resolution no. 585/2018 Coll. approved Slovakia's  Anti-Corruption Policy for the years 2019 - 2023. This anti-corruption policy is followed by the national anti-corruption program.Public Procurement Office (PPO) also has its own anti-corruption policy and last year obtained the Certificate of Bribery Management System (ISO 37001: 2016), which includes regular training on how to avoid or solve corruption. Within its competence, Public Procurement Office maintains a list of economic entities and a register of economic entities who have been banned from participation in public procurement and also imposes fines for violations of the Public Procurement Act. The Public Procurement Act stipulates several institutes and regulates procedures and measures for passing conflicts of interest in the public procurement process (and restrictions on competition and corruption respectively).The Public Procurement Act defines a conflict of interest and at the same time establishes the tortious liability of the public procurer as well as the person concerned for the identified conflict of interest, not only at the time when the conflict of interest was detected, but also at the time when the public procurer was obliged to introduce prevention mechanisms and detection of conflicts of interest.PPO states that, under the Public Procurement Act, a conflict of interest includes, in particular, a situation where an interested party who may influence the outcome or course of a public procurement has a direct or indirect financial interest, economic interest or other personal interest that may be considered a threat to their impartiality and independence in public procurement. According to the PPO, the fulfillment of the obligation to notify a conflict of interest by an interested party is crucial for the effective functioning of the legal mechanism designed against conflicts of interest in public procurement, which also acts as a prevention against corruption and machinations in public procurement.Within the monitored period (from 1 January 2018 to 31 December 2020), several amendments to the Public Procurement Act were adopted, which extended the PPO power to sanction liable persons (public contracting authority, contracting authority, economic entities). At the same time, in relation to the conflict of interests, the act introduced a delict and misconduct against the person concerned, who does not report a conflict of interest.If the PPO finds that the detected violations are also a criminal offense (the criminal offense of machinations in public procurement), it shall notify the law enforcement authorities.The Office also cooperates with the Antimonopoly Office. It informs them about suspicions of anti-competitive agreements.In addition to the provisions of the Public Procurement Act (e.g. § 23 regulating conflicts of interest) and other relevant laws (e.g. Criminal Act), the Ministry of Investment, Regional Development and Informatization of the Slovak Republic applies the rules that are the subject of the CKO Methodological Instruction no. 13 to the conflict of interest (affidavit on the absence of a conflict of interests, setting rules for distinguishing between possible and potential conflicts of interest), in the Methodological Instruction CKO no. 35 (risk indicators that could indicate a breach of competition rules), in the ESIF Funds Management System (cooperation with law enforcement authorities). These documents are adequately transposed into the manuals for beneficiaries in the context of contracts financed by EU funds. |
| III.2. Supporting documents |  |
| Please provide any available evidence on the actions/mechanisms and measures described under section III.1. above demonstrating compliance with the new provisions on the prevention, detection and adequate reporting of public procurement irregularities and conflicts of interests.  | Public Procurement Office considers it important and therefore places emphasis on training on the topic of conflict of interest:<https://www.uvo.gov.sk/legislativametodika-dohlad/metodika-zadavania-zakaziek-5ae.html><https://www.uvo.gov.sk/extdoc/2772/Konflikt%20z%C3%A1ujmov>+ link to answers to practical questions: [Metodické usmernenia – zákon č. 343/2015 Z. z. - Úrad pre verejné obstarávanie (gov.sk)](https://www.uvo.gov.sk/legislativametodika-dohlad/metodicke-usmernenia/metodicke-usmernenia-zakon-c-3432015-z-z-51b.html?text=&organizacia=&cisloSpisu=&popis=%C2%B6graf=23&month=&year=&ext=1&sort=datum&sort-dir=DESC)*• Act no. 300/2005 - Criminal Code**• Act no. 54/2019 Coll. on the protection of whistle blowers**• Act no. 343/2015 Coll. on public procurement**• Resolution of the Government of the Slovak Republic no. 585/2018**• ISO certificate - ISO 37001: 2016* (available on: <https://www.uvo.gov.sk/korupcia-61c.html>)Within the reviewed period, the Public Procurement Act was amended, on the basis of which mechanisms were adjusted in order to prevent, detect, process the identification of conflicts of interest, corruption and restriction of competition. Last but not least, the tortious liability for breaching the established obligations was regulated.Such mechanisms may include: - the obligation to publish quarterly summary reports on contracts with a value of more than EUR  1000,* increasing the period of mandatory archiving of public procurement documentation to 10 years to provide control authorities, including law enforcement authorities, sufficient time for the performance of control activities or investigations,

 - the introduction of an obligation to provide details of the person, who prepared the tender and the  imposition of a sanction in case of breaching this obligation,* inferring tort and delict liability against the person concerned who fails to notify

 their conflict of interest (e.g. in relation to the tenderer) to the contracting authority* the statutory liability of the contracting authority for failure to comply with the obligation to publish documents, which should contribute not only to a higher degree of publicity in the public procurement process, but also to the services provided to the contracting authority,
* the introduction of the power of PPO to request from those bodies the information obtained by them on the basis of special regulations and, in particular, to look at the files kept in criminal proceedings, make extracts from files

At the level of EU funds, several methodological guidelines have been adopted in the field of public procurement, e.g. methodological guidelines mentioned above, which are published on the website:<https://www.partnerskadohoda.gov.sk/metodicke-pokyny-cko-a-uv-sr/>  |
| III.3. Quantitative indicators |  |
| Quantitative assessment of collusion risks | For the period from 1 January 2018 to 31 December 2020, Public Procurement Office submitted several suggestions to the Supreme Audit Office and the Antimonopoly Office to verify the economy or review compliance with the competition rules. |
| Risk of undiscovered conflict of interest  | The Public Procurement Act defines, among other things, administrative offenses for violating conflicts of interest. PPO, as an administrative body in administrative proceedings, is obliged to obtain the necessary documents to determine the exact and complete actual situation.PPO obtains data from publicly available sources, such as data from the Commercial Register, the Register of Public Sector Partners, and the list of economic entities. At the same time, PPO, as an administrative body, is entitled to request state bodies, local self-government bodies, physical and legal persons to report facts that are relevant to the proceedings and decisions.The Ministry of Investment, Regional Development and Informatization of the Slovak Republic uses, as an auxiliary tool, the elaboration of an affidavit on the absence of a conflict of interest, which is signed by the persons concerned. At the same time, the Public Procurement Department uses auxiliary tools, such as foaf.sk network, commercial register, mediated information, etc.  |

## Level of SMEs' participation in public procurement

|  |  |
| --- | --- |
| **IV.1. Qualitative reporting on SME participation** |  |
| New developments  | The Public Procurement Office (PPO), as the central body of state administration in the field of public procurement, does not have direct possibilities to provide program assistance and support to small and medium-sized enterprises (SMEs).In line with the economic importance of SMEs and the current pandemic situation related to COVID-19, PPO has prepared two comprehensive documents entitled "What do you need to know about doing business with the state?" and "How to do business with SMEs". These documents were issued in May and June 2020.The aim of first document entitled "What do you need to know about doing business with the state?" is to educate, provide a comprehensive elaboration of possibilities, individual legal institutes of the public procurement process and at the same time to provide guidance to SMEs in order to help them improve, and strengthen their position in the public procurement process. It is a comprehensive document that provides answers to basic questions about how to do business with the state, and seeks to motivate SMEs to participate in public procurement, thus contributing to a wide range of possible competition.Second document, entitled "How to do business with SMEs", focuses on contracting authorities encouraging them to use all legal institutes and opportunities to facilitate SMEs' access to the public procurement process and increase their participation in public procurement. Among all of above mentioned, for example, pre-market consultations, the division of contracts into lots or the method of setting selection criteria, etc. will apply. Through these activities, the Public Procurement Office seeks to help SMEs, which are the most vulnerable group of economic subjects in the current unfavorable situation. SMEs are the backbone of the Slovak economy, and therefore it is essential that they are assisted in public policies.Public Procurement Office trains and emphasizes that SMEs should consider the possibilities of dividing the contract and in 2018 issued an interpretative opinion on the topic:<https://www.uvo.gov.sk/legislativametodika-dohlad/vykladove-stanoviska-uradu/prehlad-vykladovych-stanovisk/prehlad-vykladovych-stanovisk-uradu-zakon-c-3432015-z-z-57f.html><https://www.uvo.gov.sk/app/Lists/file/row/1442/col/col_0>Measures concerning payments to subcontractors are set out in Article 41 (7) of the Public Procurement Act, which allows a contracting authority or entity to stipulate in a draft contract or framework agreement that it will pay for goods, works or services directly to the subcontractor who supplied, performed or provided to the contractor if the subcontractor so requests.Measures to ensure that payments for public contracts are made in a timely manner are set out in Article 340b (1) of the Commercial Code, if the debtor is subject to public law under Article 261 para. 3 and 5, they are obliged to fulfill the monetary obligation from the delivery of goods or provision of services within 30 days from the date of delivery of the document or within 30 days from the date of proper performance by the creditor, whichever occurs later. |
| IV.2. Quantitative indicators  |  |
| Please provide, when available, any quantitative data (statistics, etc.) regarding SMEs’ participation in public procurement |

|  |  |  |  |
| --- | --- | --- | --- |
|  | **2018** | **2019** | **2020** |
| ·    SMEs winning in above EU threshold procurement: |   |
| o   the number of contracts awarded to SMEs over the total number of contracts awarded irrespective of bidder’s size class; | 70% | 77% | 77% |
| o   the value of contracts awarded to SMEs over the total value of contracts awarded irrespective of bidder’s size class; | 43% | 53% | 43% |
|   |
| ·    SMEs winning in below EU threshold procurement: |   |   |   |
| o   the number of contracts awarded to SMEs over the total number of contracts awarded irrespective of bidder’s size class; | 85% | 87% | 87% |
| o the value of contracts awarded to SMEs over the total value of contracts awarded irrespective of bidder’s size class. | 81% | 85% | 85% |

* *Estimates of indirect participation of SMEs in public procurement and current attainment rate of the target set for SMEs participation are not available;*
 |

## Information on the practical implementation of national strategic procurement

|  |  |
| --- | --- |
| V.1 Green procurement ('GPP') | On the national level, the goal was to achieve a 50% share of “green” contracts realized by state administration bodies in 12 certain product groups according to the National Action Plan for GPP in the Slovak Republic for 2016 - 2020, which was adopted in 2016. Current goal, pursuant to the Strategy for environmental policy of the Slovak republic until 2030, which was adopted in 2019, is to achieve 70 % of the total value of public procurement and 70 % of the total number of public procurement contracts. |
| V.1.1 Qualitative reporting  |  |
| Key challenges encountered | Key challenges encountered in using green public procurement:The key challenges of GPP from a long time period are in the field of implementation and creation of tools, which will inspire the use of GPP by contracting authorities/entities.Measures taken to overcome them: As part of the support of the use of GPP, the Public Procurement Office, the Ministry of the Environment of the Slovak Republic and the Slovak Environment Agency plan to focus mainly on creating specific manuals of sample product groups and organizing training for contracting authorities and entities to support the use of GPP in the country. PPO developed a national project entitled: Increasing the efficiency of public procurement in Slovakia with the support of the European Social Fund through the Operational Program Effective Public Administration. The implementation of the national project started in 03/2020 and focuses on providing long-term support to strategic public procurement by increasing professional awareness and by motivating contracting authorities and entities to use strategic public procurement in practice. It focuses on activities that increase proposals for quality, efficiency and implementation of public procurement, but also on the supervision of the Office. To support the use of environmental aspects in practice, methodological manuals will be published, examples of good practice will be collected, workshops will be organized and public procurement experts will be able to find out about the latest news not only from GPP but also from social and innovative public procurement in the magazine.Procurement experts can also find help in the form of a GPP helpdesk, where they are provided with information on GPP also using the GPP criteria managed by the Ministry of the Environment ([www.sazp.sk](http://www.sazp.sk)). |
| V.1.2. Supporting documents |  |
| Please report any available evidence or supporting document for point V.1, illustrating the measures, achievements or challenges faced, relating to the use of green public procurement.  | Public Procurement Office issued comprehensive materials for product groups within the procurement methodology (paper, transport, cleaning products, etc.), what is also linked to concreate trainings:<https://www.uvo.gov.sk/legislativametodika-dohlad/metodika-zadavania-zakaziek-5ae.html>(Preparation of these materials takes place in cooperation with other ministries and Public Procurement Office also consults them with the market - the most interesting materials include, for example: How to buy an electric car)* *National definition of 'green public procurement':*

The Government of Slovak republic has adopted by the resolution No. 590/2016 the National action plan for GPP in Slovak Republic for 2016 – 2020. The main goal of this plan is to determine the direction of green public procurement in the Slovak Republic, it also includes the definition of GPP according to the European Commission. The definition of GPP according to the National action plan for GPP in Slovak Republic for 2016 – 2020 was “A concluded contract between the contracting authority on the one hand and the successful tenderer on the other hand, which meets at least one requirement based on the "core" criteria of uniformed environmental performance characteristics for green public procurement developed by the European Commission as defined in the product sheets available on the Commission's website”. But please take into consideration that this is an expired document nowadays.Link: <https://rokovania.gov.sk/RVL/Material/21622/1>* *Targets for the uptake of GPP and the way they are defined:*

The methodologies for specific product groups, which are prepared in cooperation with Ministry of Environment of Slovak republic, Slovak environment agency and the Public Procurement Office, the state entities shall apply the environmental characteristics included in the specific methodologies, for municipalities it is recommended to use environmental characteristics;Pursuant the Strategy for environmental policy of the Slovak republic until 2030 is to achieve 70 % of the total value of public procurement and 70 % of the total number of public procurement contracts. * *Any legal obligation to include green or circular requirements in tenders:*

*Resolution No. 478/2019 of the Government of Slovak republic on the Concept of development and implementation of GPP in the Slovak Republic. Its four main elements are: the involvement of decision-makers and commitment at all levels, the improvement of skills, the introduction of an efficient and simple procurement method, the constant monitoring and reflection on progress made**link:* [*https://rokovania.gov.sk/RVL/Material/24227/1*](https://rokovania.gov.sk/RVL/Material/24227/1)*Resolution No. 92/2020 of the Government of Slovak republic on Proposal of methodologies for product groups: road transport, copying and graphic paper and computers and monitors with the application of environmental characteristics (GPP criteria) in the framework of green public procurement. The methodologies are prepared in cooperation of Ministry of Environment of Slovak republic, Slovak environment agency and the Public Procurement Office, one new product group will be added every year. These environmental characteristics (GPP criteria) are based on the GPP criteria developed by the European Commission**link:* [*https://rokovania.gov.sk/RVL/Material/24547/1*](https://rokovania.gov.sk/RVL/Material/24547/1) *The Government of Slovak republic has adopted on 27.2.2019 the Strategy for environmental* *policy of the Slovak republic until 2030. This document was being prepared by the Ministry of*  *Environment of the Slovak republic for two years, so it’s a very comprehensive document which is* *publicly available on the website, also in English version* *link:* [*https://rokovania.gov.sk/RVL/Material/23592/1*](https://rokovania.gov.sk/RVL/Material/23592/1)*Public Procurement office has also prepared a new wording of the Act* *on the support of ecological vehicles as a transposition of the EU Directive (the final wording of the act was by the end of December 2020 adopted by the Government of Slovak republic and will be send to parliament for final approval)**link:* [*https://rokovania.gov.sk/RVL/Material/25614/1*](https://rokovania.gov.sk/RVL/Material/25614/1)*Preparation of the new National action programme for GPP until 2030;** *Any recommendations to use the GPP criteria developed by the European Commission, respectively for which product groups:*

*Methodology for GPP (issued in the cooperation of Ministry of Environment of Slovak republic, Slovak environment agency and Public Procurement Office, 2019);**Methodology how to buy electric car (issued by the Public Procurement Office ;2019);**Catalogue of illustrative examples how to use Socially responsible public procurement incl. GPP (issued by the Public Procurement Office 2020);**Publications from the European Commission translated into Slovak language and publicly available on the website of the Ministry of the Environment (*[*www.sazp.sk*](http://www.sazp.sk)*):* ***“GPP Green public procurement – A collection of good practices”, “***[**Buying Green! - A Handbook on green public procurement**](https://ec.europa.eu/environment/gpp/pdf/Buying-Green-Handbook-3rd-Edition.pdf)* *Activities in the area of capacity-building for procuring ‘green’:*

14.6.2019 Public Procurement Office (PPO) has organized V4 Workshop for Secondary policies in public procurement;27.11.2020 and 9.12.2020 PPO has organized for Contracting entities/authorities trainings entitled Green Public Procurement of - paper, computers and vehicles¸ which were prepared within the national project: Increasing the efficiency of public procurement in Slovakia supported by the European Social Fund through the Operational Program Effective Public Administration. PPO will continue in this training activities;In 2018 the Ministry of Environment of the Slovak Republic in cooperation with Slovak Environmental Agency arranged 6 educational activities for government public buyers called “Green public procurement” and workshop for municipal region called “Green public procurement, GPP product groups and Best Practice”.In 2019 the Ministry of Environment of the Slovak Republic in cooperation with Slovak Environmental Agency arranged 1 workshop for government public buyers called “How to do a green public procurement”. |
| V.1.3. Quantitative indicators |  |
| Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section V.1.1 above. To the extent possible, these indicators should be further grouped by type of legal problem. | The table below contains data collected via annual on-line survey by Slovak environment agency. The participation on this survey is voluntary.

|  |
| --- |
| **2018** |
| Type of subject | Number of contracts | Value of contracts (in € without VAT) |
| All contracts | Green contracts | All contracts | Green contracts |
| State administration | 75 430 | 7 884 | 1 830 156 456 | 42 955 452 |
| Local government | 47 707 | 1 448 | 151 665 164 | 32 953 573 |
| ***TOTAL*** | 123 137 | 9 332 | 1 981 821 620 | 75 909 025 |
| **2019** |
| Type of subject | Number of contracts | Value of contracts (in € without VAT) |
| All contracts | Green contracts | All contracts | Green contracts |
| State administration | 99 467 | 871 | 1 553 447 113 | 178 360 773 |
| Local government | 354 775 | 555 | 525 401 676 | 48 686 575 |
| ***TOTAL*** | 454 242 | 1 426 | 2 078 848 789 | 227 047 348 |

We do not currently have data for 2020, as their collection will be held in March 2021. |
| V.2 Socially responsible public procurement ('SRPP') | Socially Responsible Public Procurement ('SRPP') is defined as procurement that takes into account one or several social considerations for advancing social objectives. SRPP covers a wide spectrum of social considerations, such as for example employment opportunities, decent work conditions, compliance with social and labour rights, social inclusion, equal opportunities and accessibility. |
| V.2.1 Qualitative reporting |  |
| Key challenges encountered | - key challenges encountered in promoting socially responsible public procurement:The main goal is to find suitable solutions to solve problems in the use of the social aspect in public procurement and to create support tools that will inspire public contracting authorities and contracting authorities to use the social aspects in public procurement above the statutory quota.- measures taken to overcome them: As public procurement is one of the priorities of public administration reform, within the Operational Program Effective Public Administration, PPO developed the project Increasing Efficiency in Public Procurement in Slovakia. This project focuses on providing long-term support for strategic public procurement by raising professional awareness and motivating public procurers to use strategic public procurement in practice. It focuses on activities that increase proposals for the quality, efficiency and conduct of public procurement, but also on its supervision by the Office. To support the use of social aspects in practice, methodological manuals, collection of examples of good practice, organized workshops and training courses for the professional public will be published and held.- difficulties still existing:Based on the analysis performed by PPO within the above-mentioned project, it was found on a sample of 945 employees of contracting entities that up to 75% of them have no experience with the application of the social aspect. It is, therefore, necessary to pay comprehensive attention to raise awareness of the application of social aspects in public procurement. |
| **V.2.2. Supporting documents** |   |
| Please report any available evidence or supporting document for point V.2.1 illustrating the measures, achievements or challenges faced, relating to the promotion of SRPP.  | The goal of socially responsible public procurement lies in the application, in other words in taking into account one or more social, environmental or innovative aspects in the public procurement process.According to the Public Procurement Act valid until 1 January 2020, there was no obligation in the Slovak Republic for public procurers and procuring entities to apply the social aspect in public procurement, and the term social aspect was not legally defined in the law. The legal basis for the application of the social aspect in the Slovak Republic is the Public Procurement Act and Act no. 112/2018 Coll. on the Social Economy and Social Enterprises and Amendments to Later Acts (hereinafter referred to as the “Act on the Social Economy and Social Enterprises”). The social aspect, in other words, the social viewpoint was transposed to the Public Procurement Act, through an amendment to the Act on the Social Economy and Social Enterprises. According to § 2 (5) letter p) of the Public Procurement Act from the social point of view, such an aspect related to the subject of the contract, which may lead to a positive social impact 26a) fulfilment of the subject of the contract, especially to create or support job creation, decent, fair and satisfactory working conditions beyond obligations to secure them, to integrate disadvantaged, vulnerable or excluded persons and groups into social relations and to facilitate their access to the labour market, increase the availability and usability of goods, services and works for people with disabilities, ethical and fair trade, economic growth based on knowledge and innovation, the sustainability of resources and social and territorial cohesion, to increase the responsibility of suppliers in relation to the interests of society, in particular by integrating socially beneficial activities into the activities of the supplier and cooperating with its activities by the concerned operators or mitigating the consequences of economic and social backwardness of the least developed districts.The obligation to apply the social aspect relates only to the public contracting authority and the contracting authority. The public contracting authority and the contracting authority is, in a calendar year, in which they have started or realized at least ten public contracts, except for low-value contracts obliged to use the social aspect in at least 6% of these public contracts in the description of the subject of the contract, as a special condition of performance of the contract or as a criterion for evaluation of tenders. As in the public procurement process, as purchasers of goods, services, in other words, construction works also perform the so-called subsidized persons (persons pursuant to Section 8 of the Public Procurement Act), it must be emphasized that the obligation in question does not apply to them. |
| **V.2.3. Quantitative indicators**  |  |
| Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section V.2.1 above.  | Contracts according to Annex no. 14 Art. 74: 63 contractsNumber of public procurement procedures reserved to sheltered workshops and economic operators in line with article 20 of the Directive: 15 contracts Articles 91-94 of Directive 2014/25/EU; Annex number. 17: 7 contracts |
| V.3 Public procurement of innovation | The Public Procurement Office - Innovation Section/public procurement of innovative solutions within the euro fund project: Increasing efficiency in the field of public procurement in Slovakia, publishes data of innovative procurement within the framework of statistics and reports for individual years on its website. It takes, e.g. data such as number of procedures carried out in a given year via innovative partnership, a competitive dialogue or a negotiated procedure with publication.As part of a relatively new project operating for less than a year, the General Methodology of Public Procurement of Innovative Solutions was issued and by the end of February, two trainings for public procurers and procurers were carried out. By the end of the project (2023) there will be at least four more trainings and a collection of examples of good practice will be published. In the area of innovation, the PPO prioritizes the project goal of promoting appropriate legal institutes and procedures for this type of procurement.In public procurement, the contracting authority purchases research and development services related to products, services or processes that do not yet exist. The contracting authority defines its need and calls to companies and researchers to provide R&D services to meet this need. These services may consist of personnel, equipment, material safety and are the provision of results and outputs of research activities of highly qualified research and development specialists. In this context, the contracting authority acts as the first customer of research and development services that are not yet widely available on a commercial basis and may include conformity testing.Public procurement of R&D services is a standard part of R&D projects implemented in accordance with Act no. 343/2015 Coll. on Public Procurement and on Amendments to Certain Acts.Within the Ministry of Education, Science, Research and Sports of the Slovak Republic as the primary consumer of services, public procurement is primarily focused on digitization and analytical and consulting services in the field of research and development. In the monitored period, this option was used in the preparation of the plan of research infrastructures, in which the Ministry of Education, Science, Research and Sports of the Slovak Republic cooperated with World Bank experts and the result is a key material for research infrastructures of the Slovak Republic and its connection with international research infrastructures within ESFRI. |
| V.3.1 Qualitative reporting |  |
| Key challenges encountered | We perceive a narrowly specialized issue with a relatively small number of market participants as a key challenge in the public procurement of research and development services within solved research and development projects. This is also related to the pricing of the contract, which complicates control over the economics of using funds, for example for research and development grants. In this context, we see the desirability of further strengthening and improving control mechanisms in the area of science funding, especially in the area of public procurement of research and development services. In this context, we consider frequent changes and amendments to the Public Procurement Act as a factor that introduces a slight uncertainty into the system, which is repeatedly reflected in the application procedures. |
| V.3.2. Supporting documents |  |
| Please report any available evidence or supporting document illustrating the measures, achievements or challenges faced, relating to the promotion and implementation of innovation procurement. | Innovation procurement is slowly starting up and Public Procurement Office is finding out (also in cooperation with other ministries) what the market expects. |
| For purchases made under the EU thresholds, please report any information or document demonstrating that purchase of innovative solutions have been made (e.g.: innovation partnerships or the use of the innovation criterion). |

## Information on monitoring and reporting bodies

 - Public Procurement Office,

 - Government Office,

 - Supreme Audit Office,

 - Antimonopoly Office,

 - Ministry of Economy,

 - Ministry of Investment, Regional Development and Informatization,

 - Ministry of Environment,

 - Ministry of Education, Science, Research and Sports,

 - Ministry of Transport and Construction,

 - Ministry of the Interior,

 - Ministry of Justice,

 - Ministry of Finance,

 - Ministry of Health,

 - Ministry of Labour, Social Affairs and Family,

 - Slovak Environment Agency

## Replicability

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

|  |  |
| --- | --- |
| Links to datasets used to prepare the report |  |
| Files used to obtain the results from the datasets |  |
| Other complementary data |  |

**Annex I:**

**Methodology for estimating the value of procurement, which would have been covered by the directives if its value had exceeded the relevant thresholds and for the estimation of the aggregated total value of procurement above EU thresholds**

### 1. Classification and methodology

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

#### 1.1. General approach:

* **data available under national notice/contract publication requirements were used**

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

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

#### 1.2. Source of data:

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

### 2. Methodology description

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

**Annex II:**



**Annex III:**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **2018** | **2019** | **2020** |
| **Number of decisions** | **215** | **289** | **356** |
|  **upon a complaint** | **215** | **289** | **356** |
|  ***ex officio*** |  **0** |  **0** | **0** |
| **Comment** | In this case, economic entities put all into “of complaint”. Slovak law allows all contracting authorities to put complaint but, in general, they are using system of control instead/incentive to carry out control.  |
| **Median length of the review (days)** |  **52** |  **54** |  **42** |
|  **upon a complaint (days)** | **52** | **54** | **42** |
|  ***ex officio*** | **0** | **0** | **0** |
| **Number of review decisions challenged** | **41** | **56** | **87** |
| **Number of decisions (primarily) upheld** |  **25** | **34** | **63** |
| **Number of decisions (primarily) rejected** | **16** | **22** | **24** |
| **Number of decisions – other**  | **-** | **-** | **-** |
| **Comment** | This data consists of merit decisions of “Council of the PPO”. Our system in Slovakia isn´t linked to court system to provide data from courts.  |