



MAPS

Methodology for Assessing
Procurement Systems

ASSESSMENT OF GREECE PUBLIC PROCUREMENT SYSTEM

2022





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Procurement Systems

Greece: Assessment of the public procurement system

July 2023



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Acronyms

AEPP	Public Procurement Review body
CPB	Central Purchasing Body
EDEL	Financial Audit Committee
EKAPY	National Central Authority of Health Procurements
EKDA	National Centre for Public Administration
ESEL	Audit Coordination Committee
ESIDIS	Electronic System for Public Procurements
ESOEL	National Coordinating Body for Audit and Accountability
ETEP	Greek Technical Specifications
GGG	Greek Government Gazette
GPP	Green Public Procurement
GGY	General Secretariat of Infrastructure
GRECO	Group of States against Corruption
HSPPA	Hellenic Single Public Procurement Authority
ICT	Information and Communication Technologies
INEP	Training Institute
KDEOD	Centre of International and European Economic Law
KIMDIS	Central Electronic Registry for Public Procurements
KYSOIP	Governmental Ministerial Council for Financial Policy
KPI	Key performance indicator
MEAT	Most economically advantageous tender
MoPADIS	Public Procurement Monitoring Unit
NCPB	National Central Purchasing Body
NDP	National Development Programme
NPPDB	National Public Procurement Database
NSRF	National Strategic Reference Framework
NTA	National Transparency Agency
PPP	Public-Private-Partnership
SAI	Supreme Audit Institution
SPP	Sustainable Public Procurement
SRSS	Structural Reform Support Service



TED	Tenders Electronic Daily
YPEs	Health Regions



Executive summary

This report details the results of an assessment of Greece's public procurement system based on the application of the Methodology for Assessing Procurement Systems (MAPS). The assessment was conducted by the OECD in cooperation with the Hellenic Single Public Procurement Authority (HSPPA), under financing received from DG Reform (European Commission).

The primary objective of this assessment is to provide an evidence-based evaluation of progress achieved throughout successive procurement reforms while identifying opportunities to further strengthen the Greek public procurement system across all four pillars of the MAPS.

Over the past decade, Greece has undergone significant reforms efforts in public procurement, sparked by the country's austerity regime to respond to the financial and economic crisis in the late 2000s. Various institutional and structural reforms were initiated, addressing among others the previously complex domestic procurement legislation, consisting of scattered rules, inadequate regulation and ad hoc legal provisions.

Successive reforms have streamlined public procurement responsibilities through the establishment of the Hellenic Single Public Procurement Authority (HSPPA) in 2011, and aimed at achieving greater efficiency through the development of an e-procurement system, and increased centralisation, considering both the institutional arrangements and procurement procedures. Greece also adapted its procurement rules framework through transposition of the 2014 EU directives. The country undertook a reform of the system of both prejudicial and judicial remedies and established the Public Procurement Review Body (AEPP). The creation of the National Transparency Agency (NTA) in 2019 also contributed to streamlining responsibilities for detecting fraud and corruption, including for public procurement, previously performed by several different bodies. In 2021, the Greek government decided to merge HSPPA and AEPP into a single entity called HSPPA, which was legally concluded by March 2022. Therefore, the redesign of the institutional governance model took place during the time of the assessment. Knowing that some facets of the ongoing restructuring are still not finalised, this report takes into account the expected institutional setting, legal provisions and regulatory framework to the extent possible.

Whilst important progress has been achieved throughout the past decade, the Greek public procurement system stills show significant potential for improvements across several dimensions of the MAPS assessment tool. The legal framework, while mostly adhering to EU good practices, presents loopholes in the form of practices that undermine its stability and coherence. The institutional system could benefit from additional streamlining, particularly regarding responsibilities around e-procurement as well as the professionalisation of the procurement function. Procurement practices present several deficiencies related to conducting efficient procedures, including lack of compliance with procurement rules, as well as high prevalence of lowest price criterion and single bids, demonstrating need for further professionalisation and increasing capacity of practitioners. With respect to integrity, Greece would benefit from the implementation of a harmonised framework for internal control of public procurement, targeted action to engage stakeholders, as well as continued efforts to enhance the integrity and anti-corruption framework.

During the execution of this project, in March 2021, the public procurement law was amended, aiming at full digitalisation, simplification and acceleration of procedures. In some instances, the amendments address positively to the assessment criteria. Preliminary findings and draft recommendations have been shared to inform the ongoing reform process. Furthermore, during the course of the assessment, Greek authorities have developed an Action Plan of the National Public Procurement Strategy 2021-2015. This report highlights the synergies and mutual reinforcement of reform recommendations, as per MAPS strategic planning process.



The findings and recommendations per Pillar are summarised as follows.

Pillar I

Pillar I assesses the existing legal, regulatory and policy framework for public procurement. It identifies the formal rules and procedures governing public procurement and evaluates how they compare to international standards.

The existing legal and regulatory framework for public procurement is aligned with the European directives, and Greece's and largely complies with the MAPS Indicator 1. The applicable primary legislation is constituted by L. 4412/2016 as amended by L. 4782/2021, transposing the provisions of Directives 2014/24/EU and 2014/25/EU and consolidating almost all national rules on public procurement in one law. The National Strategy for Public Procurement 2021-2025 provides for strategic orientations of public procurement policy.

The legal, regulatory and policy framework could be enhanced by addressing a number of aspects, as highlighted:

Coherence and stability of the legal framework: The MAPS assessment has identified practices of introducing ad hoc legislation that legalises faulty procurement procedures ex-post. Such actions compromise the stability and compliance with public procurement law. Identified examples of such practice occurred in several sectors, and usually resulted in "blanked approvals" for all procedures undertaken by a specific contracting authority in a given timeframe. Greek authorities need to assess the use and impact of ex-post legalisation mechanisms, and develop appropriate measures to discontinue this practice.

Transparency of the legal and regulatory framework: While the law in itself is easily accessible, the remainder of the regulations are not. It is not easy for the public to a) identify all regulations that are associated with public procurement and b) find the version that is currently in force. Improvements could be made by enhancing user-friendly and up-to-date access to the regulatory framework. Furthermore, although according to the public procurement law, all public procurement opportunities are to be published in the Central Electronic Public Procurement Register, one specific category of public procurement procedures, namely negotiating procedures without prior publications for the award of consulting services below the EU Directives thresholds, referring to major works, concessions and PPPs, are exempted from this basic rule, thus creating a transparency gap. Since litigation may take years to conclude, there should be provisions for use of ADR methods under certain conditions and for certain contracts, e.g. in case of contracts of lesser value.

Document retention: The document retention policy is not compatible with the statute of limitation for investigating and prosecuting cases of fraud and corruption. The law should provide general rules on security protocols protecting records (physical and electronic) other than ESIDIS records.

Public procurement guidance and manual: HSPPA publishes a range of documents on its website, including guidance, technical instructions, templates and frequently asked questions. Although substantial material is available, a comprehensive manual detailing all procedures is not available. In fact, the law does not provide for the availability of a comprehensive manual, nor assigns the responsibility for compiling it.

Pillar II

Pillar II assesses how the procurement system defined by the legal and regulatory framework in a country is operating in practice, through the institutions and management systems that make up overall governance in its public sector.



The Greek public procurement system provides for the necessary public procurement functions and institutions covered in this pillar. Contracting authorities, normative function and central procurement bodies are clearly established. Furthermore, e-procurement has been implemented and first steps have been taken in the area of professionalisation.

Several areas for improvements are highlighted below:

Efficiency of the financial management system for planning and payments: An important challenge in Greek's public procurement system is to increase efficiency of financial management in the area of planning and payments, and to do so based on data and analysis. There are no specific provisions on mechanisms reporting on budget execution especially for public procurement. Late payments have been identified as an issue (see also Indicator 9). Stakeholders reported that procedures were legalised ex-post to allow for payments in these procedures. In several instances, administrative approval for payment was not possible due to errors (non-compliance with legal provisions) in earlier stages in the procurement procedure, and that in these cases, the procedures were declared legal by the Greek parliament to allow the suppliers in these procedures to be paid. Availability of information about payment delays, despite legal provisions to do, appears limited and is not easily accessible.

Efficiency and effectiveness of the normative and regulatory function for public procurement: As noted by the MAPS methodology, an undue fragmentation of the normative / regulatory function is to be avoided. In Greece, in more than 100 instances, different ministries have the primary competence to regulate aspects of the public procurement system. It is concluded that HSPPA might not possess complete formal powers to be able to take meaningful action in all domains of the public procurement system. Several areas are particularly affected by the dispersion of responsibilities, including e-procurement and the provision of information about public procurement. Greece should evaluate whether in the long-term, a model with streamlined responsibilities could be established.

Health central purchasing bodies (CPBs): A key area of improvement pertains to enhancing Greece's central procurement bodies (CPBs). At present, centralised procurement in the health sector is far from being effective. Media articles and industry observers indicated widespread corruption in Greece's healthcare system, including related to the purchasing of healthcare supplies. The National Central Authority for Health Procurement EKAPY, although established, is not operational. Stakeholders mentioned that EKAPY had been unable to fulfil its tasks, hinting at deficits in the institution's status, funding, powers and standing in the government.

Functionalities, usability and uptake of the e-procurement system: The Greek e-procurement architecture is composed of several electronic tools (database and systems) that serve to manage procurement information. Two platforms, i.e. KIMDIS, the Central Electronic Registry for Public Procurements and ESIDIS, Electronic System for Public Procurements, make up the primary infrastructure for e-procurement. ESIDIS is further sub-divided in a platform for supplies and services, and one for public works. The transparency platform Diavegia also contains procurement-related information. The existence of several platforms and systems for e-procurement provides for a fragmented environment, particularly as interoperability among KIMDIS and ESIDIS is not provided. The procurement reform of 2021 provides for the use of e-procurement above EUR 30 000 (previously EUR 60 000). The governance of the e-procurement also shows potential for streamlining. Aspects of e-procurement remain the responsibility of different institutions, for example information management vs. the operation of the technical platform. Furthermore, ESIDIS is not complete in terms of functionalities, as defined by MAPS. Namely, the planning and contract management phases do not seem to be fully covered. Another missing functionality is a mechanism to verify the information in the e-procurement system. Substantial documentation has to be submitted in original by suppliers using e-procurement, limiting the benefits of increased efficiency through digitalisation.

Quality of procurement information: Substantial limitations emerge in the quality of procurement information available through the e-procurement system. Instances of gaps and delays with regards to the information available in KIMDIS have been identified, particularly regarding the upload of



contracts. Information in the Greek e-procurement system is not provided in an “open” format, thus limiting opportunities for further analysis and use of the information. Available data is not structured in a way that would allow assessing many quantitative indicators in the MAPS Indicator Framework. No systematic monitoring of compliance with requirements to provide information, and routine verification of data quality appear to be performed.

Professionalisation and training: As part of the National Strategy for Public Procurement 2021-2025, a professionalisation action plan is foreseen. However, procurement is not recognised as a specific function and procurement positions are not defined. Furthermore, since the aftermath of Greece’s sovereign debt crisis, hiring of civil servants including public procurers, is restricted to the existing pool of civil servants. Thus, contracting authorities might be faced with the choice between no staff or staff that might not be optimally skilled to be a public buyer.

Performance monitoring: Greece has recently implemented a system of procurement KPIs that allows complying with the monitoring requirements set out by the European Commission. The digitalisation of this system would further enhance its effectiveness.

Pillar III

This Pillar looks at the operational efficiency, transparency and effectiveness of the procurement system at the level of the implementing entity responsible for managing individual procurements (procuring entity). In addition, it looks at the market as one means of judging the quality and effectiveness of the system in putting procurement procedures into practice. This Pillar focuses on how the procurement system in a country operates and performs in practice.

Regarding public procurement practices, there are several areas in which the Greek public procurement system would benefit from an increased focus on professionalisation, effective centralisation and enhanced administrative capacity to deliver better performance in terms of efficiency of public spending. Parts of the procurement market appear to be functioning well, such as SME participation, while potential for improvement exists in terms of accessibility and competition, consultation with stakeholders and targeted strategies to address specific sectors.

The analysis of public procurement practices is complemented by quantitative indicators drawn from data on specific procurement procedures carried out by 15 contracting authorities in various sectors (health, ICT, transport, infrastructure and buildings, energy) and on different governmental levels¹.

Several areas for improvements are highlighted below:

Planning, market analysis, and definition of requirements: The procurement planning stage presents gaps across several dimensions, such as inadequate planning, limited use of market analysis and moderate skills in the definition of requirements. From the suppliers’ perspective, poor planning is linked to incorrect assessment of needs and resulting skewed budget calculations, which in turn may pave the way for overly low bids. The integration of sustainability in public procurement appears very limited in practice.

Selection and contracting: Overall, weaknesses at selection and contracting suggest limited technical expertise. In the vast majority of cases, contracting authorities award procurement contracts based on the lowest price instead of the best-price-quality-ratio (MEAT). The development of procurement documents and technical specifications is also affected by limited technical expertise. Contracting

¹ The sample for quantitative indicators consists of five to ten cases reviewed per a selected number of up to 15 contracting authorities, amongst: Ministry of the Interior; National Central Purchasing Body for goods and services (General Secretariat for Commerce); National Central Purchasing Body for public works, studies and technical support (General of Secretariat of Infrastructure); National Central Authority for Health Procurement (EKAPY); Large municipalities: Athens, Thessaloniki; Prefectures: Attika, Central Macedonia, Peloponnesus; State-owned enterprises (utilities) from Ministry of Environment or Ministry of Infrastructure; universities; hospitals



authorities often must reject bids due to missing documents, while suppliers point to limited clarity and standardisation in the requests for supporting bid documentation.

Lengthy procedures appear to be the norm rather than the exception. On average, the time between advertisement of a tender and the contract signature amounts to 208 days, as per the sample analysis. Procurement techniques to deliver efficient outcomes could be exploited more fully, in particular concerning the use of framework agreements. Practitioners could be trained in the use of more complex procedures and the use of functional specifications, when appropriate. Stakeholders have noted high use of direct awards. In addition, a report by the European Parliament documents lack of compliance with procurement rules in infrastructure contracts by artificially splitting contracts in order to allow for direct awarding.

Centralisation: As highlighted in Pillar II, the effective implementation of centralisation in the health sector presents substantive deficiencies. As reported by media, malpractice and opportunities for corruption in the health procurement are not sufficiently addressed by efforts to reform and introduce centralised procurement.

Contract management stage: Procurement practices at contract management stage highlight key deficiencies including shortcomings in timely implementation of contracts (delays due to frequent modifications and additions), inefficient procedures of supervision and final acceptance, substantial delays in payments, as well as partially incomplete record keeping. The sample analysis shows a pattern of substantial delays in contract implementation with over a third of procedures exceeding the expected delivery date by an average of 202 days. Delays apply to all types of procedures analysed. Works and studies are more heavily subject of delays (accounting for 663, and 1084 days of delays respectively). Irregularities at this stage concerning the modification, extension or expansion of the subject-matter of contracts and the conclusion of supplementary contracts have been identified at audit.

Payment delays: As reported by stakeholders, the average payment time for the central administration amounted to 40 days in 2019, a 10 day delay compared to usual payment terms, even if improvements have occurred over the past years. Payment times for works are significantly higher, averaging 80 days according to the World Bank's Doing Business 2020. Interoperability links with tax authorities allowing for speedier checks of any outstanding debt to the State or to Social Security Organisations have been established. The introduction of e-invoice as of the first quarter of 2021 provides a further means to speed up payments.

Record keeping: The record keeping shows potential for improvements regarding completeness and availability of records in one place. Gaps in compliance with publication requirements seem to occur (e.g. delayed uploads on KIMDIS). Most records are not available in machine-readable formats.

Constraints in the access to public procurement markets: Overall, the assessors found a mixed picture with regards to systemic constraints to accessing public procurement opportunities. While not in all dimensions of access, the Greek public procurement system shows some indication of systemic constraints affecting a wider participation to the public procurement market. The heavy use of lowest price at the expense of quality criteria, slow payment procedures and ineffective competition represent such constraints. Suppliers voiced inability to compete in some competition dominated by price. The prevalence of tenders with a single bid is high. Challenges related to competition in Greek procurement markets are underscored by evidence of major collusion. Administrative burden resulting from the e-procurement system (requirements to submit original documents) and difficulties to accessing e-procurement for smaller suppliers represent additional constraints to a well-functioning procurement market. Several coordinated measures are needed to address access to procurement markets focusing notably on better training of procurement practitioners and improving the e-procurement environment.



Sector strategies to improve the overall performance of procurement markets: Increased focus on the effectiveness of procurement in the health sector is key to address shortcomings in performance. In this respect, Greek authorities need to ensure that the actions foreseen in their strategies are implemented and receive appropriate follow-up.

Pillar IV

Pillar IV includes four indicators that are considered necessary for a system to operate with transparency, integrity and accountability in accordance with the legal and regulatory framework, and that has appropriate measures in place to address the potential for corruption in the system. It also covers important aspects of the procurement system and the role of relevant stakeholders, including civil society, as part of the control system. This Pillar takes aspects of the procurement system and governance environment to ensure they are defined and structured to contribute to integrity and transparency.

Some transparency and oversight through civil society have enhanced the integrity of the public procurement system, but impact is hindered through an e-procurement system that hampers use of information. The audit and control system shows several weaknesses, particularly in the areas of internal control and internal audit, as well as limited transparency of audit findings. The appeals system overall is well-established, with challenges relating to performance. Previous analysis has highlighted Greece's progress in the area of anti-corruption, but perceptions of corruption remain and public procurement-specific rules, guidance and practices remain scarce.

Several areas for improvements are highlighted below:

Stakeholder engagement and access to public procurement information: Based on available information, direct citizen participation in public procurement in Greece appears to be very limited and practically, hurdles do exist. No citizen involvement is possible for stages beyond planning and the involvement of citizens or NGOs is limited to pilot projects. The format of publicly available information does not facilitate citizen involvement.

Systemic weaknesses in the control framework: At framework level, some important systemic weaknesses limit the performance of the Greek control system, which have only recently been strengthened. Specifically, the Greek control framework lacks comprehensive central harmonisation of regulations, coordination, development and quality monitoring of internal audit and internal control. A significant gap lies in the availability of audit reports and findings, including the regularity of their publication and overall dissemination. The extent to which audit recommendations are enforced is not clear. To address these issues, the Greek government should establish a harmonised framework for internal control of public procurement.

Professionalisation of audit function: Qualifications for auditors in the field of public procurement, and procedures for their selection do not appear to be defined in detail. In addition, Greece could consider establishing guidelines for the selection procedure and core competencies, including necessary knowledge, skills and experience requirements of auditors working on public procurement audits.

Transparency of the appeals mechanism: No data on the publication of decisions is available. In addition, procedures for submission and resolution of complaints are not made public. Publication requirements (for example requirements to publish outcomes of procedures) should be monitored by the competent authorities; for that purpose, a timeline for publication should be set.

Support to procurers with implementation of integrity based on risk-management: Shortcomings related to integrity cannot be addressed by the authorities in charge of public procurement alone, but rather represent gaps in the overall anti-corruption framework, which has a bearing on the area of public procurement as well. Guidance on how to apply integrity-related rules should be developed by



HSPPA, such as how to include provisions on prohibited practices in procurement documents commensurate to the size of the procedure. Tools or checklists could be helpful to identify and respond to concrete risks in specific procurement procedures. These tools should be embedded in a comprehensive risk-management approach led by HSPPA for the procurement system as a whole.

Lacking reporting mechanisms: The assessors did not identify a clear and standardised procedure clarifying how contracting authorities should report allegations, to whom and under what timeframes. In addition, the assessors were unable to identify any evidence of systematic reporting, such as annual reports about enforcement or reporting activity. Previous analysis, including by the OECD and by civil society organisations, highlighted gaps related to whistle blower protection and the effectiveness of the existing system.

Code of conduct: No dedicated code of conduct for public procurers is available, including specific, practical guidance that is reflective of the specific integrity-related challenges associated with public procurement. Greek authorities could consider providing awareness raising, guidance and training on the procurement-relevant aspects of the code of conduct to the procurement workforce. Such measures should be taken by the entire procurement workforce in reasonable, regular intervals.

Lack of data and statistics: No statistics about prosecution or enforcement of corruption and other prohibited practices in connection with public procurement were available to the assessors. This is a substantive gap, given that the level of enforcement or implementation of the law is not evidenced. The assessors were unable to access any aggregated statistical reporting of convictions related to corruption.

Key Recommendations

The following recommendations will be further detailed throughout the report:

Pillar I

- Safeguard the stability of Greece's legal and regulatory framework
- Expand user-friendly access to all policies, laws and regulations in one place
- Close loopholes in transparency obligations for all procurement procedures
- Provide for alternative dispute resolution (ADR) for relevant types of public contracts
- Specify a document retention policy aligned with the statute of limitation for investigating and prosecuting cases of fraud and corruption
- Consolidate, fine-tune and expand public procurement guidance

Pillar II

- Increase the efficiency and effectiveness of the normative and regulatory function for public procurement
- Streamline the e-procurement and information system and ensure interoperability between e-procurement platforms
- Enhance Greece's health central procurement body (CBP)
- Enhance the collection, processing and storage of procurement data to gather insights into procurement performance
- Increase the efficiency of financial management in the area of procurement planning and payments based on data and analytics



- Recognise procurement as a specific function in the public administration and develop a comprehensive training strategy

Pillar III

- Train public buyers in practices that drive efficiency and quality along the procurement cycle including better planning practices, using Most Economically Advantageous Tender (MEAT) criteria and complex procurement techniques, managing contract implementation
- Enhancing the skills of practitioners with regards to designing procurement documents and technical specifications including functional specifications
- Ensure that effective mechanisms are in place for compliance with transparency requirements (upload to KIMDIS)
- Mainstream mechanisms to monitor contract implementation
- Address payment delays through full digitalisation
- Provide training on practices to strengthen competition in procurement contracts, including the identification of bid-rigging
- Consider introducing procurement sectoral strategies

Pillar IV

- Facilitate access to public procurement information
- Provide practical support for increased integrity to procurers and contracting authorities
- Establish a harmonised framework for public procurement audit and control, increasing monitoring
- Professionalise public procurement audit and control
- Improve the performance of the appeals mechanism for public procurement
- Continue efforts to strengthen Greece's integrity framework with an emphasis on public procurement, including a comprehensive risk-management approach
- Develop a code of conduct for public procurers
- Gather information and data about implementation and enforcement of integrity efforts in public procurement

Overview over the compliance with different indicators

The tables below summarise compliance with MAPS indicators according to the following colour code:

Substantive gaps identified	Gaps identified	Overall compliance
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In case red flags are identified, the respective sub-indicator is marked with an asterisk (*).



Assessment Result Summary: number of assessment criteria met, by pillar

MAPS Pillar	Criteria Substantially Met	Criteria Partially Met	Criteria Substantially Not Met	Total
Pillar I: Legal, Regulatory, and Policy Framework	7	10	1	
Pillar II: Institutional Framework and Management Capacity	4	4	6	
Pillar III: Public Procurement Operations and Market Practices	0	2	4	
Pillar IV: Accountability, Integrity and Transparency of the Public Procurement System	3	7	7	
Total	14	23	18	55
Percentage	25.5%	41.8%	32.7%	100%

Assessment Result Summary: level of compliance with assessment criteria, by sub-indicator

PILLAR I	
1. The public procurement legal framework achieves the agreed principles and complies with applicable obligations.	1(a) – Scope of application and coverage of the legal and regulatory framework*
	1(b) – Procurement methods
	1(c) – Advertising rules and time limits
	1(d) – Rules on participation
	1(e) – Procurement documentation and technical specifications
	1(f) – Evaluation and award criteria
	1(g) – Submission, receipt, and opening of tenders
	1(h) – Right to challenge and appeal
	1(i) – Contract management
	1(j) – Electronic Procurement (e-Procurement)
	1(k) – Norms for safekeeping of records, documents and electronic data.
	1(l) – Public procurement principles in specialized legislation
2. Implementing regulations and tools support the legal framework.	2(a) – Implementing regulations to define processes and procedures
	2(b) – Model procurement documents for goods, works, and services
	2(c) – Standard contract conditions



	2(d) – User’s guide or manual for procuring entities
3. The legal framework reflects the country’s secondary policy objectives and international obligations	3(a) – Sustainable Public Procurement (SPP)
	3(b) – Obligations deriving from international agreements

PILLAR II	
4. The public procurement system is mainstreamed and well integrated into the public financial management system.	4(a) – Procurement planning and the budget cycle
	4(b) – Financial procedures and the procurement cycle *
5. The country has an institution in charge of the normative/regulatory function.	5(a) – Status and legal basis of the normative/regulatory institution function
	5(b) – Responsibilities of the normative/regulatory function
	5(c) – Organisation, funding, staffing, and level of independence and authority
	5(d) – Avoiding conflict of interest
6. Procuring entities and their mandates are clearly defined.	6(a) – Definition, responsibilities and formal powers of procuring entities
	6(b) – Centralised procurement body *
7. Public procurement is embedded in an effective information system.	7(a) – Publication of public procurement information supported by information technology
	7(b) – Use of e-Procurement
	7(c) – Strategies to manage procurement data
8. The public procurement system has a strong capacity to develop and improve.	8(a) – Training, advice and assistance
	8(b) – Recognition of procurement as a profession
	8(c) – Monitoring performance to improve the system

PILLAR III	
9. Public procurement practices achieve stated objectives.	9(a) – Planning
	9(b) – Selection and contracting
	9(c) – Contract management *
10. The public procurement market is fully functional.	10(a) – Dialogue and partnerships between public and private sector
	10(b) – Private sector’s organisation and access to the public procurement market
	10(c) – Key sectors and sector strategies



PILLAR IV	
11. Transparency and civil society engagement foster integrity in public procurement.	11(a) – Enabling environment for public consultation and monitoring
	11(b) – Adequate and timely access to information by the public
	11(c) – Direct engagement of civil society
12. The country has effective control and audit systems.	12(a) – Legal framework, organisation and procedures of the control system
	12(b) – Coordination of controls and audits of public procurement
	12(c) – Enforcement and follow-up on findings and recommendations
	12(d) – Qualification and training to conduct procurement audits
13. Procurement appeals mechanisms are effective and efficient.	13(a) – Process for challenges and appeals
	13(b) – Independence and capacity of the appeals body
	13(c) – Decisions of the appeals body
14. The country has ethics and anticorruption measures in place.	14(a) – Legal definition of prohibited practices, conflict of interest, and associated responsibilities, accountabilities, and penalties
	14(b) – Provisions on prohibited practices in procurement documents
	14(c) – Effective sanctions and enforcement systems
	14(d) – Anti-corruption framework and integrity training *
	14(e) – Stakeholder support to strengthen integrity in procurement
	14(f) – Secure mechanism for reporting prohibited practices or unethical behaviour
	14(g) – Codes of conduct/codes of ethics and financial disclosure rules

1. Introduction

This report details the results of an assessment of Greece's public procurement system based on the application of the Methodology for Assessing Procurement Systems (MAPS). The assessment was conducted by the OECD in cooperation with the Hellenic Single Public Procurement Authority (HSPPA) during the project implementation time when this institution was active (2019-2021). For the finalization of this report and the overall project, helpful support was given by the General Secretariat of Commerce (GSC) in the Ministry of Development and Investment and by the General Secretariat of Coordination in the Greek Government.

The primary objective of this assessment is to provide an evidence-based evaluation of progress achieved throughout successive procurement reforms in Greece while identifying opportunities to further strengthen the national public procurement system across all four pillars of the MAPS. This output is part of a wider project on improving public procurement in Greece, as requested by the Greek Single Public Procurement Authority (HSPPA) in 2019, funded by DG REFORM from the European Commission through the SRSS programme.



This assessment was conducted by a MAPS assessment team led by the OECD in close coordination with members of HSPPA. From HSPPA, George Katapodis, Maria Stulianidou, Christos Koukakis, Katerina Kyriazi, Betti Spanou and Mina Kalogridou contributed to the assessment. Paulo Magina, Lena Diesing and Costanza Caputi from the OECD Infrastructure and Public Procurement Division of the Public Governance Directorate, co-ordinated and finalised the overall assessment. Acting as local coordinator, Vaia Stergiopoulou has contributed to the assessment.

Finally, various officials and practitioners in the Greek public administrations, public institutions, oversight agencies, municipalities, as well as representatives of business associations, and private sector stakeholders were open and frank interview partners in this assessment.

The action was funded by the European Union via the Technical Support Instrument, and implemented by the OECD, in cooperation with the Directorate-General for Structural Reform Support of the European Commission.

2. Analysis of Country Context

2.1. Political, economic and geostrategic situation of the country

Greece is situated in South-Eastern Europe. A peninsular, one-fifth of Greece's landmass consists of approximately 2 000 islands. For millennia, Greece has had a strategic geographic location dominating the Aegean Sea and the southern approach to the Turkish Straits.² This geographic location is also of strategic importance with regards to energy supply for Europe, the Black Sea and the Caucasus. In addition, Greece has close historical and cultural ties with the surrounding region, finding expression today in politics and economy. For this reason, Greece's foreign policy has a strong emphasis the neighbouring Western Balkans, Middle East and Mediterranean regions.³

Greece's population is 10.7 million, growing at a rate of 0.1%.⁴ Life expectancy at birth in Greece is 81.2 years and well in the mid-range among OECD countries.⁵ Today, almost 80 % of the Greek population live in urban areas, and one-third in and around metropolitan Athens.⁶ Unemployment is relatively high at 13.3% (compared to 5.32% in the OECD on average).⁷

In 2020, Greece's Gross Domestic Product (GDP) was USD 188,835 billion (current USD).⁸ Greece had a GDP per capita of USD 27 924 in 2020. This means that the Greek GDP per capita is slightly lower than the OECD and EU averages (OECD average: USD 45 026, average in the EU: USD 44 755 in 2020).⁹ Greece is part of the eurozone.

In 2020, Greek government debt stood at 237.6 % of GDP.¹⁰ General government spending accounted for 59.8% of GDP in Greece in 2020, which is second highest in OECD countries (lowest OECD: Chile accounts for the smallest share with 26.4 %, France for the highest with 61.6%).¹¹ The high levels of debt caused the Greek economy to face a sovereign debt crisis, in the aftermath of the 2008 financial

²<https://www.britannica.com/place/Greece>, <https://www.cia.gov/library/publications/the-world-factbook/geos/gr.html>

³<https://www.mfa.gr/en/foreign-policy/regional-policy/>

⁴<https://data.oecd.org/greece.htm>

⁵<https://data.oecd.org/healthstat/life-expectancy-at-birth.htm>

⁶<https://www.cia.gov/library/publications/the-world-factbook/geos/gr.html>

⁷<https://data.oecd.org/greece.htm>

⁸ <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=GR>

⁹<https://data.oecd.org/gdp/gross-domestic-product-gdp.htm>

¹⁰<https://data.oecd.org/greece.htm>

¹¹<https://data.oecd.org/gga/general-government-spending.htm>



crisis. In 2018, the EU spent EUR 7.414 billion in Greece, which represents a sizeable share of the Greek economy. In turn, Greece contributed EUR 1.857 billion to the EU budget.¹²

The most important sectors of Greece's economy in 2018 were wholesale and retail trade, transport, accommodation and food services (25.1%), public administration, defence, education, human health and social work activities (20.3%) and real estate activities (16.3%).¹³

In 2019, Greece had a trade deficit of 1.66 % of GDP. Trade accounts for 81.82 % of Greece's GDP.¹⁴ In 2020, trade in services accounted for 23 % of GDP.¹⁵ Most of Greece's trade is with other EU countries (53% of Greece's exports, mostly with Italy, Germany and Cyprus.)¹⁶. 51% of Greek imports come from EU countries (mostly Germany and Italy).¹⁷

According to the World Bank, Greece's most important export categories (by trade value) are:¹⁸

- petroleum oils (excl. crude): USD 11 040 351.24 million
- other medicaments of mixed or unmixed products: USD 1 759 498.90 million
- plate, sheet or strip aluminium alloy: USD 604 918.57 million
- cotton, not carded or combed: USD 588 743.75 million
- storage units : USD 563 483.78 million

Most important import categories were as follows:¹⁹

- petroleum oils and oils obtained from bituminous minerals, excluding crude: USD 10 479 290.11 million
- petroleum oils (excl. crude): USD 3 927 599.94 million
- other medicaments of mixed or unmixed products: USD 1 803 065.73 million
- natural gas in gaseous state: USD 1 059 226.61 million
- storage units: USD 665 476.99 million

Political structures, aspects of conflict, corruption

Greece traces its roots to the Bronze Age (prior to 3 200 B.C.), with early civilisations flourishing due to natural geo-strategic advantages of the region and its islands. Civilisations existed in the region throughout the millennia, and Greece is considered to have “invented” democracy.²⁰

The country's current constitution was introduced in 1975 after the military dictatorship (1967–74) and established Greece as a Parliamentary Republic.²¹ The head of state is the President (elected every five years by the Greek parliament). The Prime Minister is the head of the government, which is constituted by the Ministerial Council, consisting of the Prime Minister, Ministers, Deputy Ministers and Ministers without portfolio. The legislative is fulfilled by the parliament and the President; the executive by the President and the government and the judicial power by the courts of law. The President formally appoints the Prime Minister and other members of government upon recommendation by the Prime Minister. General elections (i.e., to constitute the parliament) are held every four years.²²

¹²https://ec.europa.eu/info/strategy/eu-budget/long-term-eu-budget/2014-2020/spending-and-revenue_en

¹³https://europa.eu/european-union/about-eu/countries/member-countries/greece_en#trade-and-economy

¹⁴ <https://wits.worldbank.org/CountryProfile/en/Country/GRC/Year/2019/SummaryText>

¹⁵ <https://data.worldbank.org/indicator/BG.GSR.NFSV.GD.ZS?locations=GR>

¹⁶https://europa.eu/european-union/about-eu/countries/member-countries/greece_en#trade-and-economy

¹⁷https://europa.eu/european-union/about-eu/countries/member-countries/greece_en#trade-and-economy

¹⁸<https://wits.worldbank.org/CountryProfile/en/Country/GRC/Year/2019/SummaryText>

¹⁹<https://wits.worldbank.org/CountryProfile/en/Country/GRC/Year/2019/SummaryText>

²⁰<https://www.mfa.gr/missionsabroad/en/about-greece/history-and-culture/history.html>

²¹<https://www.britannica.com/place/Greece/Services#ref26462>

²²<https://www.mfa.gr/missionsabroad/en/about-greece/government-and-politics/>



The Greek public sector consists of ministries, local government agencies, public legal entities and independent administrative authorities.²³ Greece's administration follows the principle of the decentralization, as set out in the constitution. The current administrative division into Regions was established in 1986.²⁴

Greece currently has thirteen regions:

- 1) Eastern Macedonia and Thrace
- 2) Central Macedonia
- 3) Western Macedonia
- 4) Epirus
- 5) Thessaly
- 6) Ionian Islands
- 7) Western Greece
- 8) Central Greece
- 9) Attica
- 10) Peloponnese
- 11) Northern Aegean
- 12) Southern Aegean
- 13) Crete

In recent years, Greece has made efforts to increase transparency and accountability of the public administration. As part of these efforts, special inspection bodies of inspectors have been established, focussing on public control on bureaucracy, anti-corruption, transparency and effectiveness.²⁵

The decentralised administration was reformed as part of the "Kallikratis" programme, in force since 2011. This programme reduced the number of municipalities by roughly a third (from 1 034 to 325), and increased the responsibilities of the local level. The programme also include measures to respond to the financial crisis.²⁶

A High Council for the Selection of Personnel (ASEP) was established in 1994. This independent authority supervises the selection of public servants to ensure appointments based on merit, impartiality and transparency. The National Centre of Public Administration, founded in 1983, aims at training civil servants. The Institute for In-Service Training, a unit of this Centre, is tasked with continuous professional training.²⁷

Greece ranks 32nd out of 189 in the United Nations' Human Development Index, signifying a high living standard.²⁸ In the OECD's Better Life Index, Greece reports mixed results: Greece is above the OECD average in several indicators, like safety or health. On others, Greece ranks among the lowest in the OECD, such as life satisfaction or community.²⁹

In recent years, Greece was destination for refugees from conflicts in the Middle East and South Asia. It is estimated that more than 1.2 million refugees and migrants arrived in the country between January 2015 and June 2020, i.e. more than a tenth of the local population. In 2020, 15 696 refugees arrived in Greece, a 78.9% decrease compared to 2019 (59 726 arrivals).³⁰

Greece has been in a tension with neighbouring Turkey over territorial disputes (notably Cyprus) and other issues since the 1970s with varying intensity. Following a relatively peaceful period, in recent

²³<https://www.mfa.gr/missionsabroad/en/about-greece/government-and-politics/public-administration.html>

²⁴<https://www.mfa.gr/missionsabroad/en/about-greece/government-and-politics/local-government.html>

²⁵<https://www.mfa.gr/missionsabroad/en/about-greece/government-and-politics/public-administration.html>

²⁶<https://www.mfa.gr/missionsabroad/en/about-greece/government-and-politics/local-government.html>

²⁷<https://www.mfa.gr/missionsabroad/en/about-greece/government-and-politics/public-administration.html>

²⁸<http://hdr.undp.org/en/content/2019-human-development-index-ranking>

²⁹https://www.oecd-ilibrary.org/economics/how-s-life_23089679

³⁰<https://ecre.org/aida-2020-update-greece/>



years following the 2016 coup attempt in Turkey, tensions increased with new territorial claims and in connection with the refugee crisis.³¹

Corruption remains a concern in Greece, despite action in recent years. Greece has improved its ranking in Transparency International's Corruption Perceptions Index (CPI), scoring thirteen points higher than in 2012 at 49 / 100, placing the country on rank 58/180. However, among peers in the EU for example, Greece still ranks in the lower areas.³²

Greece is a member of and signatory to various international organisations and agreements, including the following:³³

- Bank of International Settlements (BIS)
- Council of Europe
- European Organization for Nuclear Research (CERN)
- European Space Agency (ESA)
- European Union, including the European Central Bank and the European Monetary Union
- Financial Action Task Force (FATF)
- Food and Agriculture Organization of the United Nations (FAO)
- International Atomic Energy Agency (IAEA)
- International Civil Aviation Organization (ICAO)
- International Council on Clean Transportation (ICCT)
- International Criminal Court (ICC, national committees)
- International Energy Agency (IEA)
- International Federation of Red Cross and Red Crescent Societies (IFRC)
- International Fund for Agricultural Development (IFAD)
- International Holocaust Remembrance Alliance (IHRA)
- International Hydrographic Organisation (IHO)
- International Labour Organization (ILO)
- International Maritime Organisation (IMO)
- International Maritime Organization (IMO)
- International Monetary Fund (IMF)
- International Olympic Committee (IOC)
- International Organization for Migration (IOM)
- International Standards Organisation (ISO)
- International Telecommunication Union (ITU)
- International Trade Union Confederation (NGOs)
- Inter-Parliamentary Union (IPU)
- Interpol
- Nuclear Energy Agency (NEA)
- Organisation Internationale de la Francophonie (OIF)
- Organisation of American States (OAS)
- Organisation for Economic Cooperation and Development (OECD)
- Organisation for Security and Co-operation in Europe (OSCE)
- Organisation for the Prohibition of Chemical Weapons (OPCW)
- Organisation of the Black Sea Economic Cooperation (BSEC)
- Schengen Convention

³¹ <https://www.dw.com/en/greece-turkey-in-border-dispute-after-alleged-island-occupation/a-53564277>, <https://www.mfa.gr/en/issues-of-greek-turkish-relations/>

³² <https://www.transparency.org/en/cpi/2021/>

³³ <https://www.cia.gov/library/publications/the-world-factbook/geos/gr.html>, <https://www.mfa.gr/en/foreign-policy/greece-in-international-organizations/>

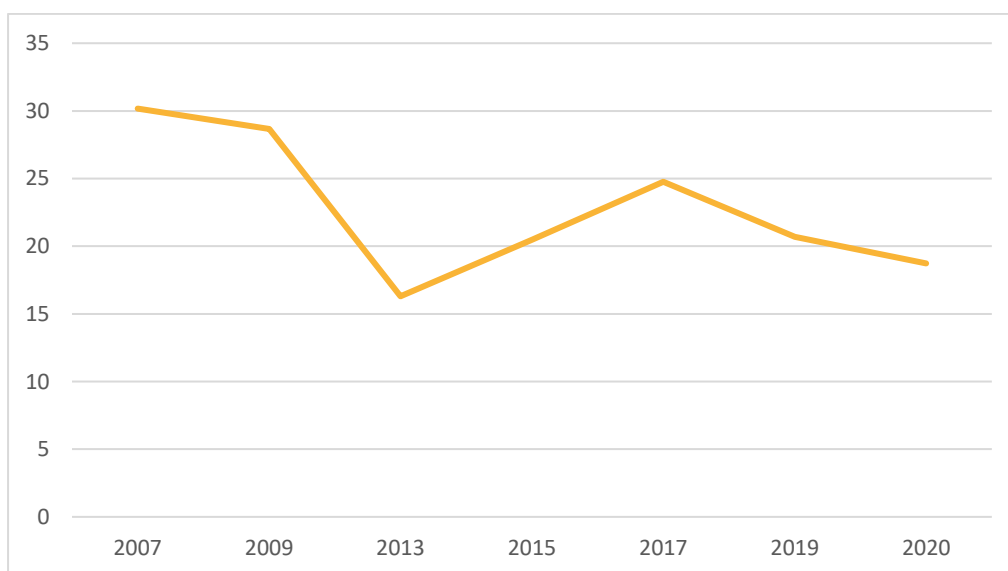


- Several multilateral development banks, such as World Bank Group and its organisations, the European Bank for Reconstruction and Development, European Investment Bank,
- Southeast European Law Enforcement Centre (SELEC)
- The North Atlantic Treaty Organization (NATO)
- United Nations, including several UN agencies (UNCTAD, UNESCO, UNHCR, UNIDO, UNIFIL, UNWTO)
- Universal Postal Union (UPU)
- World Customs Organisation (WCO)
- World Health Organisation (WHO)
- World Intellectual Property Organisation (WIPO)
- World Meteorological Organisation (WMO)
- World Trade Organisation (WTO)

2.2. The Public Procurement System and its links with the public finance management and public governance systems

Public procurement in Greece represents a significant share of government expenditure (18.7% in 2020), albeit lower than the OECD average (29.6% in 2019). As shown in Figure 1 below, Greece experienced a sharp decline in public procurement as a share of government expenditure over the past decade, linked to decreasing public sector budgets and austerity policies as a result of the Greek sovereign debt crisis. Shrinking public sector budgets put further pressure on authorities to deliver more with less.

Figure 1: Public procurement as a share of total government expenditures in Greece, 2007-2020

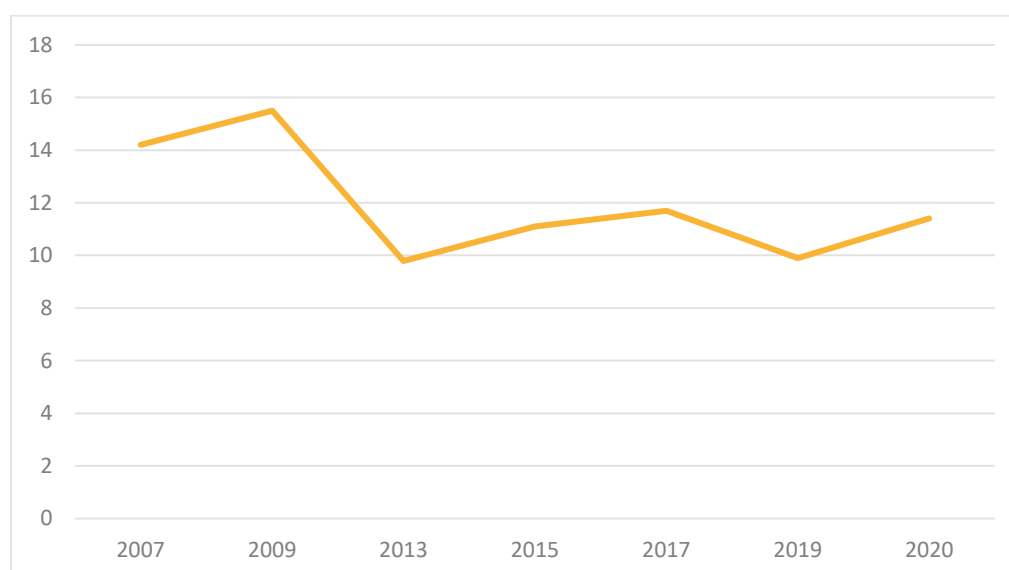


Source: OECD Government at a Glance (2021)

A similar downward trend can be observed for public procurement as a share of GDP over the course of the past decade (Figure 2). Despite the decrease in procurement expenditure, in particular for the years 2013 and 2018, public procurement remains very significant accounting for 11.4 % of GDP.



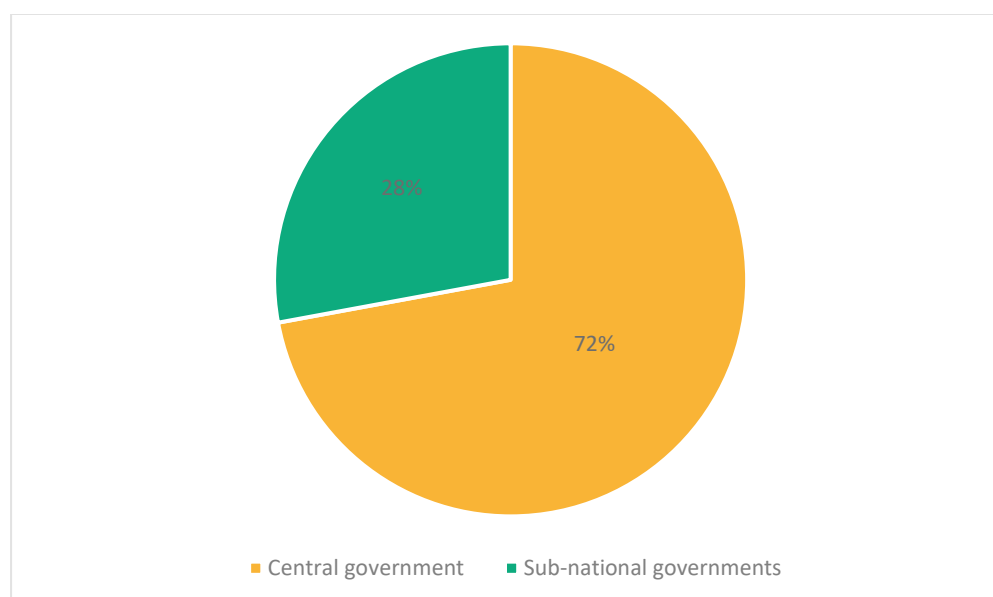
Figure 2: Public procurement as a share of GDP in Greece, 2007-2020



Source: OECD Government at a Glance (2021)

Overall, Greece presents a centralised system for government expenditure, with central government procurement accounting for 72.1% of total procurement expenditure, while sub-central procurement only makes up for 27.9% of procurement expenditure.

Figure 3: Share of general government procurement by level of government, in Greece (2020)

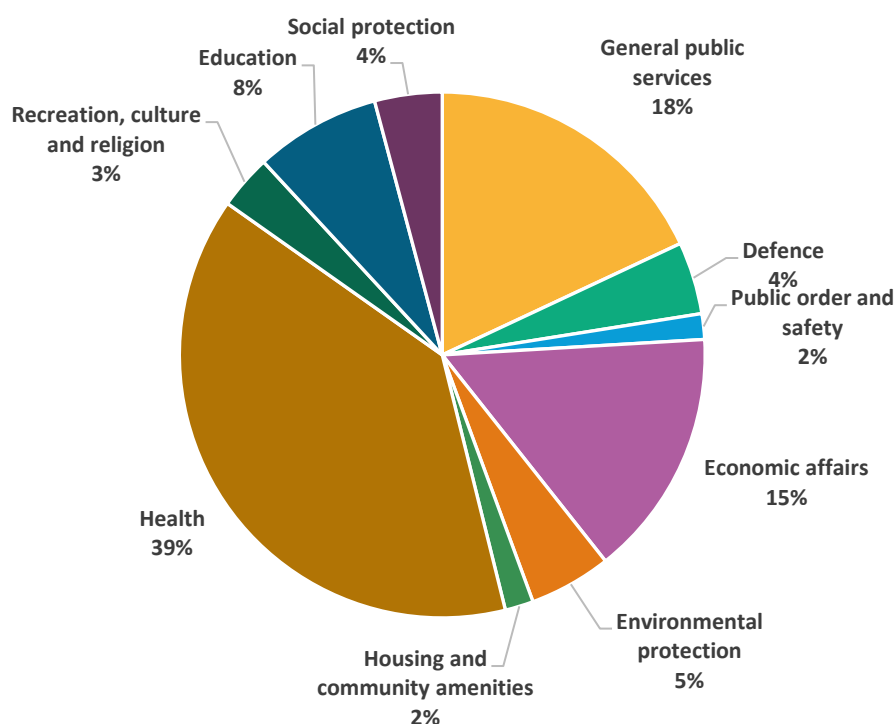


Source: OECD Government at a Glance (2021)

In terms of sectoral split of public procurement expenditure, the health sector plays a prominent role accounting for 32% of total government procurement. Economic affairs and general public services also account for large shares of public procurement, amounting to 29% and 16%, respectively. Other significant areas of public procurement are defence (8%), education (5%) and environment protection (4%).



Figure 4: Structure of general government procurement by function, share of total government procurement in Greece (2020)



Source: OECD Government at a Glance (2021)

Key institutions

Institutional responsibilities for public procurement have traditionally been dispersed over several bodies, although recent reforms have introduced greater centralisation. In 2011, the Hellenic Single Public Procurement Authority (HSPPA) was established as an Independent administrative Authority, responsible to supervise and ensure compliance with the legal framework on public procurements by all public bodies, including contracting authorities and relevant auditing and supervising institutions. Among other goals, establishing HSPPA aimed at promoting the national strategy, policy and actions in the field of public procurements, ensuring compliance with the regulations and principles of the European and domestic legislation on public procurements, enhancing and consolidating the national legal framework on public procurement, as well as coordinating and streamlining administrative practice so as to comply with the principles of transparency and equality³⁴. In 2022, HSPPA and the Review Body AEPP were merged to create a single administrative body (called HSPPA)³⁵ with responsibility over public procurement, including the appeals process.

³⁴ Explanatory report on L. 4013/2011 "Establishment of a Single Independent Public Procurement Authority and the Electronic Registry of Public Procurements – Replacing the 6th Chapter of L. 3588/2007 (Bankruptcy Code) – Pre-bankruptcy insolvency procedure and other provisions".

³⁵ It should be noted that the name of the new Authority (HSPPA), though it is translated in the same way in English as the name of the former Authority, is different in Greek. Namely, the former Authority was called E.A.A.D.I.S.Y., i.e. Hellenic Single Independent Public Procurement Authority; in English the translation was shortened to HSPPA – Hellenic Single Public Procurement Authority. The new Authority is called E.A.D.I.S.Y., thus omitting 'independent' but still translated as HSPPA in English. The changed name might reflect the fact that the former HSPPA was abolished by law, while the regulatory functions previously held by HSPPA have been assigned to the review body AEPP, under a new name.



As such, HSPPA (former AEPP) is in charge of reviewing complaints for any public procurement above the relevant thresholds for direct awards (EUR 30 000 for supplies and services, EUR 60 000 for works, social and other specific services, as well as for technical assistance). Complaints regarding public procurements below this threshold can be filed directly before the competent courts, as administrative appeal procedures are not foreseen. Judicial review is provided by administrative courts and in particular the administrative courts of Appeals. Furthermore, the Council of State is competent regarding concessions, PPPs, as well as procurements falling under the scope of Directive 2014/25/EU and procurements under the scope of Directive 2014/24/EU valued over EUR 15 000 000 (VAT included).

Several ministries have legislative initiative for public procurement, i.e. the Ministry of Development and Investments and the Ministry of Infrastructure. In contrast, HSPPA does not have legislative initiative. It has exclusive regulatory competence for the issuance of standard public procurement documents, as well as regulatory acts related to its organisation and operation.

Three national central purchasing bodies (CPBs) are also part of the institutional landscape of public procurement in Greece. Namely, the General Secretariat of Infrastructure (GGY) of the Ministry of Infrastructure, Transport and Networks centralises procurement in the field of public work contracts, designs and the provision of technical and other related scientific services. The General Directorate of Public Procurements of the General Secretariat of Commerce and Consumer Protection of the Ministry of Economy, Development and Tourism is responsible for centralised purchasing of supplies and services. Finally, the National Central Authority for Health Procurement (EKAPY) of the Ministry of Health Medical is responsible for public procurement of technological, health, pharmaceutical supplies and related services.

The Ministry of Digital Governance also plays an important role in public procurement, as it is in charge of the e-procurement architecture, comprised of the National Electronic Public Procurement System (ESIDIS) and the Central Registry for Public Procurement (KIMDIS).

The National Transparency Authority (NTA) is an independent agency established in 2019 aimed at enhancing transparency, integrity and accountability of the public administration, as well as preventing and tackling corruption. The new authority consolidated a plethora of different auditing bodies, including those responsible for public procurements³⁶.

The Court of Auditors acts as the supreme audit institution with responsibilities for external audits, and ex ante review of procurement contracts above certain thresholds.

Key external stakeholders

As member of the European Union, Greece is under the obligation to comply with the European legislation. The recent EU Directives on public procurement³⁷ have been transposed in the Greek legal framework, simplifying public procurement procedures and improving access of SMEs to procurements, while implementing the corresponding policies of the European Single Market³⁸.

In the context of the Greek sovereign debt crisis, Greece has agreed to implement structural reforms as part of its bail-out programme. The main counterparts in this regard have been the European Commission, the European Central Bank (ECB) and the International Monetary Fund (IMF). Reforms resulting from Greece's three economic adjustment programmes have targeted many areas of the Greek economy and public sector, including public procurement.

³⁶Explanatory report on L. 4622/2019 "Executive State: organization, operation and transparency of the Government, the governmental bodies and the central public administration".

³⁷ Directives 2014/24/EU, 2014/25/EU and 2014/23/EU

³⁸See COM(2017) 572 final, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Making Public Procurement work in and for Europe.



Additional international obligations arise from Greece's membership in international Conventions in relation to anticorruption³⁹, conduce to reforms aiming at streamlining the procurement system to operate in a more effective way.

As an EU member, Greece is also a signatory of the Agreement on Government Procurement (GPA) of the World Trade Organisation (WTO)⁴⁰.

2.3. National policy objectives and sustainable development goals

Over the past decade, successive Greek governments have engaged in far-reaching structural reforms covering fiscal sustainability, financial stability and the modernisation of the public administration, among others. The reform effort has largely been driven by international obligations in the context of economic adjustment programmes agreed with European stakeholders. Despite the fact that many transformations of the Greek economic system and public administration have been ongoing as a result of these programmes, reforms are still on the agenda of the current government, including public procurement⁴¹.

On July 2018, the Greek government adopted an ambitious Growth Strategy⁴² aiming at reversing Greece's deindustrialization, restoring productivity and competitiveness, developing skilled human resources, upgrading infrastructures (transport, digital technology, energy), exploiting the country's comparative advantages and transforming the country's production model.

With respect to public procurement, the Growth Strategy underlines the need to improve SMEs access to procurement markets and to use public procurement as an engine for innovation. Green public procurements are recognized as a key component of the growth envisaged. Further centralisation of public procurement, digitalization and the use of e-invoicing and e-payments mechanisms are also identified as key components of the Strategy. The Growth Strategy regarding public procurements highlights the need for Greece to move from the 3rd to the 1st tier of the Single Market Scoreboard on Public Procurements by 2022⁴³. To achieve this goal, the Growth Strategy calls for an update of the National Strategy for Public Procurement adopted on January 2017⁴⁴. The update National Strategy for Public Procurement 2021-2025 was adopted in May 2021 after a consultation process.

The Growth Strategy is supplemented by the national digital government strategy, i.e. the Digital Transformation Bible 2020-2025⁴⁵. The Strategy serves as a roadmap for the digital transformation

³⁹See L. 2656/1998 ratifying the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, L. 3560/2007, ratifying the Council of Europe Criminal Law Convention of Corruption and Additional Protocol, L. 3666/2008, ratifying the UN Convention on Combating Corruption, L. 3875/2010, ratifying the UN Convention against Transnational Organized Crime.

⁴⁰ WTO, https://www.wto.org/english/tratop_e/gproc_e/memobs_e.htm

⁴¹ A Governmental Committee was established (Act 11/29.4.2020 of the Ministerial Council) with the aim to prepare a new framework on programming, monitoring, coordinating and promoting the necessary actions to reform and update the legal framework on public procurements. Subsequently, a legislative committee was established by MD No. 40597/2020 and given the task to prepare a draft law reforming and modernizing the statutory framework on public procurements.

⁴²<https://government.gov.gr/olistiki-anaptixiaki-stratigiki/>

⁴³ European Commission, Single Market Scoreboard, Public Procurement, https://single-market-scoreboard.ec.europa.eu/policy_areas/public-procurement_en

⁴⁴The National Strategy for Public Procurements 2016-2020 was prepared by HSPPA on Mars 2016 and adopted by the Governmental Council for Financial Policy on January 2017, aiming at "addressing morbid phenomena and chronic pathogens (entanglement, corruption, limited participation of economic operators, bureaucracy, low quality of supplies), leading to savings in public resources and making public procurements a useful tool for the country's development policy, enhancing the productive small and medium sized Greek enterprises in the context of the rules on competition applying in the EU". See publication 17.6.2020 in the Hellenic Government's formal website: <https://government.gov.gr/%CE%B1%CF%80%CF%8C%CF%86%CE%B1%CF%83%CE%B7-%CE%B3%CE%B9%CE%B1-%CF%84%CE%B7%CE%BD-%CE%B5%CE%B8%CE%BD%CE%B9%CE%BA%CE%AE-%CF%83%CF%84%CF%81%CE%B1%CF%84%CE%B7%CE%B3%CE%B9%CE%BA%CE%AE-%CE%B3%CE%B9%CE%B1/>

⁴⁵ Ministry of Digital Governance (2021), "Bible of Digital transformation 2021-2025", <https://digitalstrategy.gov.gr/>



of Greece's economy, society, and public sector, and offers continuation to the efforts stated in the National Digital Strategy 2016-2021⁴⁶.

2.4. Public Procurement Reform

Greece's public procurement reform efforts in recent years are closely linked to the country's austerity regime to respond to the financial and economic crisis beginning in the late 2000s, sparked by the international financial and economic crisis in 2007/2008. The fiscal austerity period lasted for almost 10 years, with further social and humanitarian consequences. In August 2018, Greece successfully exited the European Stability Mechanism, although still being subject to the enhanced surveillance procedure. Growth has suffered and accumulated imbalances remain as a legacy of the economic crisis.⁴⁷

In this context, various institutional and structural reforms were initiated, including reforms in the area of public procurement. Previously, domestic procurement legislation had been particularly complex. A plethora of scattered rules in some areas (especially in public works), inadequate regulation in other areas (concession agreements and service contracts) and ad hoc legal provisions for specific issues and specific contracting authorities created an environment of insecurity for economic operators and contracting authorities⁴⁸.

In line with the reform measures agreed between Greece and its creditors as part of the first economic adjustment programme (signed in 2010), Greece established a single public procurement authority and developed an e-procurement system. During the second adjustment programme (signed in 2012), Greece moved towards more centralised procurement, especially in the health sector, as well as to reform the entire public procuring system with a view to simplifying, streamlining and consolidating public procurement legislation, as well as rationalising the administrative structures and processes. Furthermore, in 2012, a new public audit and financial inspection authority of the Ministry of Finance, the General Directorate for Financial Audits, was established, including responsibilities on procurement auditing.

During the third adjustment programme (starting in 2015), Greece undertook further actions in the area of public procurement, introducing a consolidated, comprehensive and simplified legislative framework on public procurements and concessions, including the transposition of the relevant new EU directives. Greece also undertook a reform of the system of both prejudicial and judicial remedies and established the Remedies Review Body⁴⁹ (AEPP).

In parallel, the newly adopted EU Directives 2014/24/EU and 2014/25/EU required additional reform to transpose the EU Directives into Greek procurement law.

In order to meet EU obligations, Greece initially enacted L. 4281/2014, a law that although voted for by the parliament and published in the Greek Government Gazette, never entered into force, to be replaced almost two years later by L. 4412/2016⁵⁰. The new law 4412/2016 transposed the provisions

⁴⁶http://www.epdm.gr/el/Documents/EP_MDT/GR-Digital-Strategy_2016-2021.pdf

⁴⁷Source: COM(2019) 150 final Country Report Greece 2019, Executive Summary, p. 3.

⁴⁸V. Christianos – Th. Panagos, Public Contracts, L. 4412/2016 and L. 443/2016, Sakkoulas SA publications, page IX.

⁴⁹J. Vintzileos and K. Spanou, Reform of the Public Procurement System, Annex to publication of ELIAMEP: Reforms in public administration during the crisis, review / description / evaluation, October 2018. <https://www.eliamep.gr/publication/%CE%BC%CE%B5%CF%84%CE%B1%CF%81%CF%81%CF%85%CE%B8%CE%BC%CE%AF%CF%83%CE%B5%CE%B9%CF%82-%CF%83%CF%84%CE%B7-%CE%B4%CE%B7%CE%BC%CF%8C%CF%83%CE%B9%CE%B1-%CE%B4%CE%B9%CE%BF%CE%AF%CE%BA%CE%B7%CF%83%CE%B7/>

⁵⁰ L. 4281/2014 "Measures for the support and development of the Greek economy, organizational issues of the Ministry of Finance and other provisions" was promulgated on August 2014. Article 14-201 regulated public procurements. Article 201 par. 1 of the said law stipulated its entry into force on the 1st of May 2015. The time line was extended initially by article 93 of L. 4368/2016 and then by the 3rd article of L. 4380/2016, as replaced by the second article of L. 4392/2016, until 1.7.2016.



of Directives 2014/24/EU and 2014/25/EU and consolidated almost all national rules on public procurement in one law.

In 2021, the National Strategy for Public Procurement 2021-2025 including an Action Plan was adopted by a joint decision of the Ministers of Development and Investment, Infrastructure and Transport, Finance, Digital Governance, Justice and Health. The approval was based on a proposed draft strategy prepared by HSPPA and submitted to the Minister of Development and Investment. The main pillars of the National Strategy are (a) the regulatory framework of the public procurement sector, (b) the digital transformation, aiming at the complete transition to digital public procurement, (c) the achievement of broader strategic objectives and the implementation of related policies through public procurement, such as green, social and innovative public procurement, and, lastly, (d) good governance in the public procurement sector.

It is worth highlighting that the National Strategy for Public Procurement places emphasis on, among other things:

- the evaluation of the regulatory framework and the supervision of its implementation;
- measuring the administrative burden, in order to promote data-based decision making for regulatory reform;
- the planning of the issuance of secondary law, as well as the issuance of instructions and circulars, to fully and effectively implement the new provisions of the regulatory framework and to ensure legal certainty;
- the implementation of a system for monitoring and publishing the procurement planning of the contracting authorities;
- the implementation of new e-shopping techniques and tools to meet different needs (e-catalogues, eshops, eAuctions, Marketplace, etc.), as well as the complete digitization of public procurement processes (e.g., electronic invoice, electronic issuance of guarantees);
- the implementation of the Action Plan for Green Public Procurement, as well as the elaboration of an Action Plan of the Center of Excellence for Public Innovation Contacts;
- strengthening the role of the National Central Purchasing Bodies, in order to increase the centralization of the public procurement system;
- the professionalisation of the public procurement sector.

Despite successive reform efforts, persistent deficiencies in the procurement system prompted Greek authorities to engage in a revision of the public procurement framework over the course of 2020 and early 2021, during the execution of this project. As a result of a consultation process, the Greek Parliament amended the public procurement law (L. 4412/2016) with the introduction of L. 4782/2021 in March 2021. Overall, the reform aims at full digitalisation, simplification and acceleration of procurement procedures. The goal is to finalise a single, comprehensive, streamlined public procurement system that will apply to all kinds of procurements and contracting authorities, without future derogations and exceptions that jeopardize the system's effectiveness as well as legal certainty. The reform also expands e-procurement to a lower threshold, thus increasing transparency and reducing administrative burden linked to paper-based procedures. Box 1 below analyses the key elements of the reform.

An impactful additional reform touching upon the institutional framework of the procurement system was introduced in March 2022. Namely, HSPPA and the Review Body AEPP were merged into one single administrative body with responsibility over public procurement. The reform was motivated by the need to make more effective use of the resources, including human resources, expertise and skills, available in these institutions. According to the legislator, the workload of AEPP had been increasing

By article 57 of L. 4403/2016 the new legislation was abolished and on the 8th of August 2016 L. 4412/2016 was promulgated and entered into force.



over the past decade, while the one of HSPPA had been decreasing. Bringing these two bodies together would therefore allow to exploit synergies and make effective use of available resources. For the purpose of this report, the references made to HSPPA refer to both the mandate given to the national public procurement authority in Greece (namely HSPPA as foreseen before its merging with AEPP) and to the institution that is coming out of the aforementioned merger.

As these reforms were passed during the execution of the MAPS assessment, there is limited insight on how these legal changes will affect public procurement practices. The legal changes have been reviewed to the extent they modify provisions related to assessment criteria.

Box 1: Key elements of the public procurement reform (L. 4782/2021)

As of March 2021, Greece significantly amended its public procurement law by passing law L. 4782/2021. The main objective of the reform related to simplifying up the public procurement process, in particular through greater digitalisation. The reform is comprehensive in nature, and is considered to have a significant impact on public procurement practices. The following are some of the notable changes brought about by the L. 4782/2021:

- Expansion of e-procurement (Article 4 of Law 4281/2021): The mandatory use of e-procurement is expanded to the threshold of EUR 30 000, instead of EUR 60 000. Though some stakeholders reported potential challenges for smaller economic to make use of e-procurement, increased digitalisation of procurement has shown to bring significant benefits such as reduced administrative burden and increased transparency.
- Simplification of low value procurement: The amendment introduced the possibility to award contracts of value equal of or less than EUR 2 500 without any procedure, at the discretion of the contracting authority. Such a simplified procedure for low value procurement was not foreseen by the legal framework and reduce administrative burden for contracting authorities and economic operators. These contracts can be executed with increased flexibility and fast procedures.
- Acceleration of the bid evaluation process (Article 40 of L. 4281/2021): The bid evaluation process in supply and general service contracts has been reformed to speed it up and reduce administrative burden. Namely, contracting authorities need to issue fewer decisions for the evaluation stages.
- Direct award thresholds: The direct award threshold was raised to EUR 30 000 for supplies and services (from 20 000 previously) and to EUR 60 000 for work, social and other special services contracts. The EUR 60 000 threshold also applies for contracts in implementation of ICT having as their subject matter the interoperability of digital services or the modernisation of the digital instruments of the Central Administration.
- Transparency of direct award in KIMDIS (Article 53 of L. 4281/2021): Contracting authority are obliged to publish an invitation to the contract registry KIMDIS in the context of a direct award.
- Unjustified exclusion of economic operators (Article 42 of Law 4281/2021): The new provisions provide more flexibility to enable economic operators to supplement submitted elements of the offer to reduce unjustified exclusions of economic operators for purely formal reasons, while the essential conditions for participation are met. Thus, with this amendment the Greek law aligns itself to the spirit of the EU Directives. Similarly, the new provisions streamline the framework for the application of the provisions for the exclusion grounds from public procurement and the selection criteria (Articles 22 and 29 of L. 4281/2021).



- Implementation of best-price-quality ratio (Article 30 of Law 4281/2021): The new law provides for an alternative mathematical formula for determining the more economically advantageous offer, on the basis of the best price-quality ratio for contracts of general services. The new law also abolishes two cases in which price-only was previously allowed related to small works and certain types of studies.
- Changes of the appeals process for low value procurement: For procedure below the direct award thresholds, economic operators can bring their claims before the competent administrative court. Previously, economic operators could address the contracting authorities with their complaint.

3. Assessment

3.1. Pillar I - Legal, Regulatory and Policy Framework

Pillar I assesses the existing legal, regulatory and policy for public procurement. It identifies the formal rules and procedures governing public procurement and evaluates how they compare to international standards. The practical implementation and operation of this framework is the subject of Pillars II and III. The indicators within Pillar I embrace recent developments and innovations that have been increasingly employed to make public procurement more efficient. Pillar I also consider international obligations and national policy objectives to ensure that public procurement lives up to its important strategic role and contributes to sustainability.

In line with the European directives, Greece's legal and regulatory framework largely complies with this MAPS Pillar. All relevant aspects are covered, in line with international agreements. Greece has a National Strategy for Public Procurement covering aspects of sustainability.

The legal and regulatory framework could be enhanced by covering smaller gaps in the law and expanding the scope of supporting documents. A larger gap relates to ex-post legalisation of procurement procedures through law. The current regulatory framework is not as user-friendly and up-to-date as it could be. Formal adoption of the SPP action plan has been slow, and implementation is lacking.

Indicator 1. The public procurement legal framework achieves the agreed principles and complies with applicable obligations.

The indicator covers the different legal and regulatory instruments established at varying levels, from the highest level (national law, act, regulation, decree, etc.) to detailed regulation, procedures and bidding documents formally in use.

In line with the European directives, Greece's legal framework largely complies with this MAPS indicator. The Greek legal framework, which is contained mostly in the public procurement law 4412/2016 as amended and in force, covers most relevant aspects. As of March 2021, the public procurement law L. 4412/2016 was amended by L. 4782/2011, which is considered to have reformed the whole public procurement system. A larger gap relates to ex-post legalisation of procurement procedures through law. In addition, some detailed provisions are missing, such as aspects of the



challenges and review process (publication of application for review) and e-procurement (extension of e-procurement to cover the contract management phase). Frequently changing laws and regulations limit transparency of the legal and regulatory framework overall.

Findings

Overall, the assessors found the Greek legal framework in compliance with the assessment criteria. In general, the legal framework for public procurement is closely aligned with the European Directives in this area (notably 2014/24/EU and 2014/25/EU).

Scope and coverage of the legal and regulatory framework (sub-indicator 1 (a))

The legal framework is organised hierarchically distinguishing between international and EU rules, constitution, laws and regulatory acts; precedence is clearly established in the Greek Constitution.⁵¹ Public procurement is regulated by the Law on Public Works, Supply and Service Contracts (L.4412/2016 as amended and in force) transposing Directives 2014/24/EU and 2014/25/EU (hereafter referred to as “public procurement law”). This law includes rules for procurements at all values. In specific articles of the public procurement law, relevant ministers are given the power to regulate more detailed procedures in their area of competence, e.g. for e-procurement.⁵²

The legal framework (i.e., the public procurement law and its delegated regulations) applies to all procurements of classical sector (Book I) undertaken using public funds (goods, works and services, including consulting services). It applies to all public bodies and sub-national governments and entities, regardless of their legal nature (public bodies governed by private law) when funds from the national budget are used, either directly or indirectly. It also applies to public private partnerships (PPPs), with some exceptions and supplementary law 3389/2005.⁵³ Public procurement in the utilities sector is regulated in Book II of the public procurement law. Procurements in the field of defence and security are regulated by a separate Law (L. 3978/2011). Concessions are regulated by L.4413/2016 transposing Directive 2014/23/EU. Finally, the L. 4903/2022 (“Standard proposals for infrastructure projects and other urgent provisions”) concerns the private sector participation in development of infrastructure tenders and PPPs and can be considered as part of the general procurement framework.

Laws and regulatory acts relating to public procurements are published in the Greek Government Gazette (GGG), as it is the case for all laws and regulations, and in the National Public Procurement Database (NPPDB) kept by HSPPA.⁵⁴ Both are accessible on the web at no cost.⁵⁵ Policies are not published in the database, but are available in a separate area of HSPPA’s website. HSPPA’s National Public Procurement Database facilitates location of laws or regulations. The procurement law is available in its e-form, i.e. as amended and in force. The presentation of the law as such is user friendly. Information about the public procurement law is regularly updated, but additional elements of the regulatory framework (Presidential Decrees, Ministerial decisions, Joint Ministerial Decisions) are only updated twice a year. For instance, in December 2020 the data base was updated up to regulations published up to 30.6.2020.⁵⁶ Nevertheless, HSPPA uses website announcements to inform contracting authorities about legislative changes in a timely manner. It is difficult to identify the delegated regulatory acts, as these are not matched with the relevant articles of the public procurement law published in HSPPA’s website.

⁵¹ See articles 28, 36, 42-44, 54, 83, 107.

⁵² For example, article 38 regulates KIMDIS; art. 38 para. 6 authorises the Minister of Finance, Development and Tourism and the Minister in charge of the respective issue to regulate details regarding the web site, the structure and content, accessibility, registration procedure, etc.

⁵³ See Art. 1, 3, 222 of the public procurement law L. 4412/2016

⁵⁴ L. 3469/2007 and L. 4013/2011

⁵⁵ <http://www.et.gr/index.php/anazitisi-fek> ;
https://ppp.eaadhsy.gr/index.php/el/?option=com_sppagebuilder&view=page&id=96&lang=gr

⁵⁶ See <https://ppp.eaadhsy.gr/index.php/el/>



A law or regulation published in the GGG cannot be found unless the exact date of publication or the number of issue and the year of publication are known (i.e., the number or name of the law alone are not sufficient.) Furthermore, laws and regulations are published in the GGG website as initially promulgated. There is no information on whether the law in question is still in force, whether it has been amended or rescinded.

Procurement methods (sub-indicator 1 (b))

The public procurement law provides for different procurement methods⁵⁷:

- open procedure,⁵⁸
- restricted procedure,⁵⁹
- competitive procedure with negotiations,⁶⁰
- competitive dialogue,⁶¹
- innovation partnership,⁶²
- negotiated procedure with prior call for competition,⁶³ and
- negotiated procedure without prior publication.⁶⁴

For procurements with a value below the EU threshold, two additional procedures are provided, which are lighter methods:

- the direct award in case of supplies and services of value equal of or of less than EUR 30 000 and equal of or of less than EUR 60 000 in case of works, social and other specific services contracts, as well as contracts for supplies, services, works and studies and technical and other related scientific services, related to the implementation of ICT projects⁶⁵. There is also a variation of the direct award available, namely the direct award through e-market place systems, carried out exclusively through OPS ESIDIS. Contracting Authorities may recourse to this electronic system, when the contracts do not exceed the monetary value of EUR 40 000 annually per type of product or service⁶⁶
- contracts of value equal of or less than EUR 2 500 may be awarded without any procedure, at the discretion of the contracting authority⁶⁷

While contracting authorities are given discretion to choose the procurement procedure, they have to follow the requirements and conditions for each method as established by the law.

The procurement methods provide for competitive (e.g. open procedure) and less competitive (e.g. direct award) procurement procedures.

Direct awards are provided only for low value procurements (equal or less than EUR 30 000), for all types of procurement (goods and services) and for procurements with estimated value equal or less than EUR 60 000, in case of works, social and other special services contracts. The latter threshold (EUR 60 000) holds also for awards of all types of contracts, provided that they relate to the

⁵⁷ L. 4412/2016, articles 26 -32A, 117-188 and 263-269A, 327-328 for PPs in the utility sector

⁵⁸ L. 4412/2016, article 27, 264

⁵⁹ L. 4412/2016, article 28, 265

⁶⁰ L. 4412/2016, article 29

⁶¹ L. 4412/2016, article 30, 267

⁶² L. 4412/2016, article 31, 268

⁶³ L. 4412/2016, article 266

⁶⁴ L. 4412/2016, article 32, 269

⁶⁵ L. 4412/2016, article 118, 328

⁶⁶ L. 4412/2016, article 118A

⁶⁷ L. 4412/2016, articles 117A, 327 A



implementation of ICT projects having as their subject matter the interoperability of digital services or the modernisation of the digital instruments of the Central Administration⁶⁸.

In case of public works, designs and technical and other relevant scientific services, following the conclusion of the contract the contractor or any natural or legal person controlled by him may not conclude another contract with this procedure for a period of 12 months. Using direct awards, a contracting authority may award annually only 10% of its procurement budget for works, designs and technical and other relevant scientific services (see article 118 of the public procurement law L. 4412/2016). This rule does not apply to procurements in the utility sector.

Contracting authorities may award public contracts by negotiated procedure without prior publication only in specific cases and under the specific circumstances in line with the conditions set by the EU procurement directives (see indicator matrix in the annex for a detailed report of the conditions).⁶⁹

Technical assistance contracts may be concluded with the special procedure provided for in article 119 and 269 for public procurement in the utility sector of the public procurement law L. 4412/2016., provided that they are of value equal of or less than EUR 60 000 and refer to technical assistance on National Strategic Reference Framework (NSRF) or EAA Co-financed Programmes or on EU or international programs or funds, as well as on sectional, regional and special programs of the National Development Programme (article 119 and 269 for public procurements in the utility sector of the public procurement law L. 4412/2016). This special procedure provides for a call for expression of interest posted on KIMDIS and addressed to at least 3 economic operators, selected among those registered in the suppliers or/and service providers' catalogue.

By virtue of a justified decision of the competent organ to perform the technical assistance actions of the Ministry or the Region or the legal person, it is allowed to award a supply or service contract of an estimated value of EUR 60 001 – 100 000, following a call for expression of interest. The latter is posted on KIMDIS and addressed to all economic operators registered in the suppliers and service providers catalogue who meet the conditions of the subject matter of the contract. Article 119 provides for the issuance of a decision by the Minister of Development and Investments or the competent (depending on the issue) Minister, which will regulate the procedure of preparation and keeping of the above-mentioned catalogue and any other relevant detail⁷⁰ (see No. 26329/2022 Decision of the Deputy Minister of Development and Investment, Government Gazette B; 1244 / 17-3-2022).

Negotiated procedure without prior call for competition can also be used for consulting services (such as technical, legal, financial and organisational services) to assist on specific matters required for the implementation, study and execution of public works, works concessions or works contracts in the form of PPP with an estimated contract value of more than EUR 30 million provided that total remuneration does not exceed the EU thresholds and the 0.5% of the estimated value of the contract. This procedure is also provided for consulting services on issues regarding supervision and monitoring from technical, legal and financial aspects during operation and maintenance of concessions or PPPs valued over EUR 30 000 000.

In these cases, an invitation must be posted on the contracting authority's website. A similar procedure applies (although in this case the threshold of EUR 30 000 000 does not apply) when procuring consultant services for these types of contracts (public works, works concessions, works implemented as PPP) in particular for the planning, design, study control, administration and supervision of projects of Secretariat General of Infrastructure of the Ministry of Infrastructure and Transport. By Joint Ministerial Decisions it can be provided that this exceptional procedure may be used by other Contracting Authorities too. Consultant's services on specific issues required for the implementation and execution of these projects for a total remuneration up to the EU thresholds and

⁶⁸ L. 4412/2016, article 118 paragraph 6

⁶⁹ L. 4412/2016, article 32; article 269 for public procurements in the utility sector

⁷⁰ L. 4412/2016, article 119, paragraph 3



up to the 0.5% of the estimated value of the contract may be awarded using a negotiated procedure without publication of a notice by just posting the invitation on the contracting authority's website.

Contract splitting is prohibited.⁷¹

Advertising opportunities (sub-indicator 1 (c))

Advertising rules and time limits are regulated in line with EU directives. Requirements differ according to the EU thresholds.

Above the EU thresholds for the respective type of procurement

Procurement notices are sent to be published Europe-wide in TED (Tenders Electronic Daily).⁷² At the national level, notices are published in KIMDIS. Procurement notices are advertised in KIMDIS after they are published in TED. In case of public procurement by local authorities, the procurement must be advertised in the local newspapers too (this obligation expires 1 January 2024). This obligation also applies to central agencies - non-local authorities in case a procurement is carried out outside Athens⁷³.

In open procedures, the minimum time limit for the receipt of tenders shall be 35 days from the date on which the contract notice was sent to the Publication Office of the EU. This time limit may be shortened by 5 days where tenders may be submitted by electronic means. The time limit can be shortened to 15 days in specific circumstances in line with EU directives (see indicator matrix in the annex for a detailed representation.)⁷⁴

In all two-stage procedures (restricted procedure, competitive procedure with negotiation, competitive dialogue, innovation partnership) the minimum time limit for receipt of requests to participate is 30 days from the date on which the contract notice or, where a prior information notice is used as a means of calling for competition, the invitation to confirm interest was sent. Similarly, the minimum time limit for the receipt of tenders is 30 days from the date on which the invitation to tender was sent. Where contracting authorities have published a prior information notice which was not itself used as a means of calling for competition, the minimum time limit for the receipt of tenders may be shortened to 10 days, provided that several requirements are met, in line with EU directives (see indicator matrix in the annex for a detailed representation.) The time limit for receipt of tenders may be reduced by five days where the contracting authority accepts that tenders may be submitted by electronic means.

Non-central contracting authorities may set the time limit for the receipt of tenders by mutual agreement between the contracting authority and the selected candidates, provided that all selected candidates have the same time to prepare and submit their tenders. In the absence of agreement on the time limit for the receipt of tenders, the time limit shall be at least 10 days from the date on which the invitation to tender was sent to the Publication Office of the EU. Finally, reductions are possible where a state of urgency (duly substantiated by the contracting authorities) renders the time limit of 30 days impracticable. Requirements for a reduction are in line with EU directives (see indicator matrix in the annex for a detailed representation.)

Below the threshold:

Procurement opportunities are published in KIMDIS and the time limits are set as follows:⁷⁵

In open procedures: 15 days from the day of publication in KIMDIS. Where a state of urgency (duly substantiated by the contracting authority) renders the above time limit impossible to be observed,

⁷¹ L. 4412/2016, articles 6 (3); and article 236 (3) for PPs in the utility sector

⁷² L. 4412/2016, article 65

⁷³ Transitional provisions of L. 4412/2016 (art. 379 par. 12), L. 3669/2008 and L. 3316/2055, PD. 118/2007, MD 11389/1993.

⁷⁴ L. 4412/2016, article 27; article 264 for the utility sector

⁷⁵ L. 4412/2016, article 121; article 331 for the utility sector



the contracting authority may fix a time limit, which shall not be less than 10 days from the date on which the procurement documents were published in KIMDIS.

In restricted procedures and competitive procedures with negotiations: 10 days from the day of publication in KIMDIS and regarding the receipt of tenders by the pre-selected economic operator 7 days from the day that the invitation to submit an offer was sent to them.

Each specific procurement procedure has an associated time limit:

- in the competitive procedure with negotiations, the minimum time limit for receipt of requests to participate is 30 days from the date on which the contract notice was sent to the EU Publication Office, or, where a prior information notice is used as a means of calling for competition, the invitation to confirm interest was sent.⁷⁶
- in the competitive dialogue the minimum time limit for receipt of requests to participate is 30 days from the date on which the contract notice was sent to the EU Publication Office,⁷⁷ and the same goes for innovation partnership.⁷⁸

In case of public procurement by local authorities, the procurement below the threshold must be advertised in the local newspapers too (this obligation expires 1 January 2024). This obligation also applies to central agencies - non-local authorities in case a procurement is carried out outside Athens.

There is no provision of extension of time frames when international competition is solicited, but the time frames are aligned with the ones set in the EU Directives aiming at facilitating international competition. It should be noted that contracting authorities, while setting the time frames for the submission of a tender, are required to take into account, in particular, the specific nature of the contract and the time required by economic operators to prepare applications for participation or tenders, subject to minimum deadlines.

All procurement notices and documents are mandatorily posted in KIMDIS, provided that they exceed the value of EUR 2 500.⁷⁹ The registry is easily accessible at no cost; it does not involve any barriers. Any interested person can access the information.

Participation (sub-indicator 1(d))

Rules on participation are generally non-discriminatory. The legal framework provides for participation based on qualification and provides rules on eligibility and exclusions in line with the EU Directives. Selection criteria are clearly distinguished from award criteria.

Contracting authorities are obliged to treat economic operators equally and without discrimination and to act in a transparent and proportionate manner. No preferential treatment is granted to state-owned enterprises. The design of the procurement may not be made with the intention of excluding the process from the scope of the law or of artificially narrowing competition. Competition is considered to be artificially narrowed where the procurement is designed with the intention of unduly favouring or disadvantaging certain economic operators.⁸⁰

Foreign participants do not face any barriers such as registration obligations, obligations to associate with local firms or to establish subsidiaries in the country in order to participate to the tender in line with EU and WTO GPA requirements.⁸¹

⁷⁶ L. 4412/2016, article 29; article 266 for the utility sector

⁷⁷ L. 4412/2016, article 30; article 267 for the utility sector

⁷⁸ L. 4412/2016, Article 31; article 268 for the utility sector

⁷⁹ VAT excluded; L. 4412/2016, article 38

⁸⁰ L. 4412/2016, article 18; article 253 for the utility sector

⁸¹ L. 4412/2016, article 83 (8)



The law details eligibility requirements and provides for exclusion for criminal or corrupt activities⁸² and for administrative debarment.⁸³ Contracting authorities are obliged to exclude an economic operator from participation in a procurement procedure where the economic operator has been the subject of a conviction by final judgment for a number of criminal offenses⁸⁴, as well as for failure to pay taxes and social security contributions. Contracting Authorities may provide in the procurement documents a derogation from mandatory exclusion:

- for reasons of overriding public interest, as public health or environment protection or
- in case where the exclusion related to the payment of taxes or social security contributions would be clearly unproportional, in particular where only small amounts of taxes or contributions are due or where the economic operator has been informed of the sum due at a time where he had no time to take any measures, by the expiry of the deadline to submit the tender or the application to participate.

In addition, contracting authorities may include provisions in the procurement documents for specific events that impact the delivery of the contract, such as bankruptcy, fraud, etc. (please see the annexed indicator matrix for a full list). On this basis, economic operators shall be excluded from the public procurement procedure, provided that the event generating the exclusion has taken place within the last five years in case of conviction with an irrevocable criminal decision for the offences of art. 73 par.1 and may be excluded within the last three years in any other grounds for exclusion.⁸⁵ The law provides also for a horizontal debarment by administrative decision, in accordance with a debarment system that will be defined by Presidential Decree. The latter will specify: (a) the competent bodies for the enforcement of the debarment; (b) the legal and natural persons subject to the debarment; (c) the specific reasons which may lead to debarment; (d) the terms and conditions for the debarment; (e) the minimum and maximum period of debarment; (f) the procedural safeguards and legal protection of economic operators subject to debarment; (g) the specific issues of keeping and deletion from the list of those debarred; (h) the procedure for invoking self-cleaning measures, after debarment, by the competent body evaluating the measures, as well as the specific conditions for reducing the duration of debarment or for its complete lifting; (i) the bodies responsible for sending the data to HSPPA for the purpose of updating the data of the register; (j) the conditions for access by the contracting authorities / entities to the register; (k) any other matter or detail relating to the procedure for the enforcement, duration and lifting of debarment.

In case where an economic operator falls under any of the above situations, except for the situation of bankruptcy where it is left to the contracting authority to prove whether the economic operator is able to execute the contract albeit his bankruptcy, he may present evidence proving that he has taken measures that prove his credibility.

The law provides for qualitative selection criteria:⁸⁶

- suitability to pursue the professional activity;
- economic and financial standing;
- technical and professional ability and to means of proof⁸⁷

⁸² L. 4412/2016, article 73; article 305 for the utility sector

⁸³ L. 4412/2016, articles 74; article 306 for the utility sector; for exclusion grounds see L. 4412/2016, article 73 (and article 305 for the utility sector); for rules on selection criteria see L. 4412/2016, articles 75, 76, 77 (and articles 303,304, 305 for the utility sector); for rules on awarding procedure see L. 4412/2016, articles 109A and 320 A.

⁸⁴ Participation in a criminal organisation; corruption; fraud; terrorist offences or offences linked to terrorist activities, or inciting or aiding or abetting or attempting to commit an offence; money laundering or terrorist financing; child labour and other forms of trafficking in human beings.

⁸⁵ L. 4412/2016, article 73 (10); article 306 for the utility sector. L. 4412/2016, article 73 provides for the relevant process.

⁸⁶ L. 4412/2016, articles 75-78; articles 303-307 for the utility sector

⁸⁷ L. 4412/2016, articles 75-83; articles 303-310 for the utility sector; L. 4412/2016, Annex XII of Appendix A



Procurement documents and specifications (sub-indicator 1 (e))

The minimum content of the procurement documents is regulated in the law, including the requirement that the content of the procurement documents should be clear and sufficient for tenderers to submit responsive and comparable bids.⁸⁸

Technical specifications shall afford equal access of economic operators to the procurement procedure and shall not have the effect of creating unjustified obstacles to the opening up of public procurement to competition.⁸⁹

Technical specifications shall be formulated in one of the following ways:

- in terms of performance or functional requirements, including environmental characteristics, provided that the parameters are sufficiently precise to allow tenderers to determine the subject-matter of the contract and to allow contracting authorities to award the contract;
- by reference to technical specifications and, in order of preference, to national standards transposing European standards, European technical assessments, common technical specifications, international standards, other technical reference systems established by the European standardisation bodies or - when any of those do not exist - national standards, national technical approvals or national technical specifications relating to the design, calculation and execution of the works and use of the supplies; each reference shall be accompanied by the words 'or equivalent';
- in terms of performance or functional requirements as referred to in point (a), with reference to the technical specifications referred to in point (b) as a means of presuming conformity with such performance or functional requirements;
- by reference to the technical specifications referred to in point (b) for certain characteristics, and by reference to the performance or functional requirements referred to in point (a) for other characteristics.

Where a contracting authority refers to technical specifications, it shall not reject a tender on the grounds that the works, supplies or services tendered for do not comply with the technical specifications to which it has referred if the tenderer proves in an appropriate way that the proposed solutions satisfy the requirements defined by the technical specifications in an equivalent way. Where a contracting authority formulates technical specifications in terms of performance or functional requirements, it shall not reject a tender for works, supplies or services which comply with a national standard transposing a European standard, a European technical approval, a common technical specification, an international standard or a technical reference system established by a European standardisation body, where those specifications address the performance or functional requirements which it has laid down.⁹⁰

If requested in due time, contracting authorities shall supply additional information relating to the specifications and any supporting documents to all tenderers. This response (i.e., additional information) for contracts above thresholds has to be provided no later than six days before the time limit set for the receipt of tenders.⁹¹ In case of the expedited procedure, this deadline amounts to four days⁹². In the case of contracts below thresholds, the deadline is four days, too⁹³. All administrative

⁸⁸ L. 4412/2016, article 53; article 281 for the utility sector; L. 4412/2016, Annex V of Appendix A provides details about the minimum content of the procurement documents.

⁸⁹ L. 4412/2016, article 54; article 282 for the utility sector

⁹⁰ L. 4412/2016, article 54 (5-6); similar rules for the utility sector in article 282.

⁹¹ L. 4412/2016, article 67 (2); article 297 (2) for the utility sector

⁹² L. 4412/2016, article 67 (2)

⁹³ L. 4412/2016, article 121



acts, including the additional information on tenders, shall be in written form,⁹⁴ but can be communicated through the electronic system for electronic procurements.⁹⁵

Evaluation and award criteria (sub-indicator 1 (f))

The provisions for the evaluation and award process are generally of high quality and confidentiality is maintained overall; rules are in line with EU directives.

In awarding a contract, contracting authorities shall use the concept of most economically advantageous tender (MEAT). This most economically advantageous tender is to be “identified on the basis of the price or cost, using a cost-effectiveness approach, such as life-cycle costing in accordance with article 87 on life-cycle costing”⁹⁶. A price-quality ratio maybe applied, considering inter alia qualitative, environmental and/or social aspects linked to the subject matter of the contract. Permitted non-price criteria include quality, (in case linked to the contract) organisation, qualification and experience of staff, as well as after-sales service and aspects of the delivery.⁹⁷ Contracting authorities shall verify the specifications and information provided by bidders, and specify the determination of the MEAT (such as relative weighting of the criteria) in the procurement documents.⁹⁸

The concept of life cycle cost is defined.⁹⁹

Contracting authorities are free to decide whether they will use price as sole criterion or they will use other non-price attributes. There is one exception: in design contests, contracting authorities can use price or cost as the sole award criterion, following the opinion of the technical council of the contracting authority. A number of conditions have to be met (please see the indicator matrix in the annex.) In addition, the Minister of Infrastructure and Transport can require contracting authorities to use non-price attributes for public works contracts, studies and the provision of technical and other related scientific services.¹⁰⁰

The law thoroughly specifies the procedure and methodology for rating and evaluating proposals.¹⁰¹ There are no dedicated rules for consulting services; however, additional possible criteria are specified.¹⁰²

The contracting authority may not disclose information submitted by economic operators, which they have designated as confidential, including, but not limited to, technical or trade secrets and the confidential aspects of tenders.¹⁰³ Contracting authorities may impose on economic operators requirements aimed at protecting the confidential nature of information which the contracting authorities makes available throughout the procurement procedure.

Article 100 of the public procurement law L. 4412/2016 on unsealing and evaluation of tenders and applications to participate to public supply and service procurements explicitly states that following the unsealing, tenders are accessible only to the members of the competent procurement committees and the contracting authority.

⁹⁴ L. 2690/1999 (“Administrative procedure code”), article 16 (1)

⁹⁵ No. 64233/2021 JMD ESIDIS on supplies and general services, article 12; Protocol No. 166278/2021 JMD ESIDIS on works, designs and provision of technical and other relevant scientific services, article 11

⁹⁶ L. 4412/2016, Article 86

⁹⁷ L. 4412/2016, article 86 (2)

⁹⁸ L. 4412/2016, article 86; similar provisions for the utility sector in article 311

⁹⁹ L. 4412/2016, article 87

¹⁰⁰ L. 4412/2016, article 86 (15)

¹⁰¹ L. 4412/2016, Article 86; similar rules for the utility sector in article 311

¹⁰² L. 4412/2016, article 86 (5)

¹⁰³ L. 4412/2016, article 21



It should be also noted that although not explicitly stated for other types of public contracts (works, designs, since bids/proposals are evaluated by administrative collective bodies, namely the Evaluation Committees, the administrative procedure code applies, which foresees secrecy and requires members to not disclose whatever was discussed during the meeting.¹⁰⁴

Submission, receipt and opening tenders (sub-indicator 1 (g))

The opening of tenders, in case of work procurements not carried out electronically, is required to take place immediately following the closing time for bid submission.¹⁰⁵ In case of other type of procurements not carried out electronically, the opening of tenders shall take place at the time and date stated in the procurement documents.¹⁰⁶ For all types of procurements (works, studies, supplies and services), it is not provided for the opening to take place publicly. In fact, it is explicitly provided that following the unsealing of tenders, these are accessible only to the members of the competent procurement committees and the contracting authority. Details regarding the procedure to be followed are included in the law.¹⁰⁷ In case of electronic procurements the relevant procedure is regulated separately, but follows the same principles.¹⁰⁸

Records of the bid opening are required to be kept, according to detailed instructions in the law. Contracting authorities are required to keep a “Public Procurement File”, which serves to keep all relevant documents and communication along the procurement process.¹⁰⁹ Records are available to all participants after the competent decisive body has decided on the particular stage of the procurement procedure.¹¹⁰ The documentation shall be kept for a period of at least five (5) years from the date of award of the final receipt of the contract. In case of litigation regarding the public contract the file shall be kept until the end of litigation.

The same principles apply for electronic procurements, where all communication and transmission of documents is carried out through ESIDIS.¹¹¹ Namely, in case that the procedure is carried out through ESIDIS the Public Contract File is kept in that system.

In all communication, exchange and storage of information, contracting authorities shall ensure that the integrity of data and the confidentiality of tenders and requests to participate are preserved. They shall examine the content of tenders and requests to participate only after the time limit set for submitting them has expired.¹¹²

Confidentiality is required: contracting authorities may not disclose any sensitive information provided by bidders, and can impose additional requirements to maintain confidentiality. Prices, quantities offered, financial quotation, and technical quotation details used for evaluation shall not

¹⁰⁴ L. 2690/1999 (administrative procedure code), article 14 (10); does not apply on CAs established as legal persons governed by private law.

¹⁰⁵ L. 4412/2016, Article 98

¹⁰⁶ L. 4412/2016, Articles 99 and 100

¹⁰⁷ Opening of tenders for public works, designs, technical and other relevant scientific services procurements, supplies and provision of general services procurements, when the procedure is not carried out electronically, is defined and regulated in L. 4412/2016, articles 98, 99 and 100, respectively.

¹⁰⁸

No. 64233/2021 JMD ESIDIS for supplies and general services, article 16; No. 166278/2021 JMD ESIDIS for works, designs and provision of technical and other relevant scientific services, articles 13 and 13A

¹⁰⁹ L. 4412/2016, article 45

¹¹⁰ L. 4412/2016, articles 98 (1), 99 (1) and 100 (1)

¹¹¹ No. 64233/2021JMD ESIDIS for supplies and general services, articles 16 and 17; No. 166278/2021JMD ESIDIS for works, designs and provision of technical and other relevant scientific services, articles 13, 13 A and 14

¹¹² L. 4412/2016, Article 22 (3)



be classified as confidential information¹¹³ (see also criterion (f)). The security policy of ESIDIS is regulated in the public procurement law.¹¹⁴ Details are regulated in the regulations regarding ESIDIS.¹¹⁵

Rules on preparing and submitting tenders are specified in the law. These rules are very detailed and include extensive description of the file to be submitted and the three sub-files (the file containing the participation documents, the technical proposal file and the financial proposal file) and lists the documents to be submitted within every sub-file.¹¹⁶ The procedures for electronic procurements are regulated separately but follow the same principles.¹¹⁷

Challenges and appeals (sub-indicator 1 (h))

Participants have the right to challenge any decision or action taken by the procuring entity if the participants have suffered loss on the grounds that such decision or action infringes the union or national law.

For procurements valued equal or less than EUR 30 000 (VAT excluded) as well as for public procurements under article 119 on technical assistance contracts of value of up to EUR 60 000, the economic operator can bring procedures for the set aside (application for annulment) and for interim measures (application for suspension) of any act or omission of the contracting authority before the competent administrative court¹¹⁸. As such, there is no administrative stage for challenging these procedures.

If the procurement value is more than the respective direct award threshold, namely EUR 30 000 (VAT excluded) for supplies and services or EUR 60 000 for works, social and other special services contracts and technical assistance contracts, the economic operator may file a request for review with the Single Public Procurement Authority (HSPPA)—established initially in 2016 as an independent public procurement review body (AEPP)—within (a) 10 days from the day that the act contested was communicated to the economic operator concerned or from the day the omission occurred; (b) 15 days from the day that the act contested was communicated to the economic operator concerned, if other means of communications besides electronic have been used or otherwise; (c) 10 days from the day that the economic operator was fully, really or presumed to be, informed about the act. In case that the request for review relates to the procurement documents, full knowledge is presumed after 15 days from the day the procurement documents were published in KIMDIS. In case of omission, the time limit is 15 days from the day that the omission occurred.¹¹⁹

HSPPA is an administrative body that is independent of the contracting authorities; according to the law, HSPPA is functionally and financially independent. HSPPA has the authority to take interim measures, including suspension of the procurement procedure or of the implementation of any decision taken by the contracting authority.¹²⁰ HSPPA has the power either to dismiss the request or to uphold it setting aside (annulling) the contested act or omission. Contracting authorities are obliged to comply with HSPPA's decisions.¹²¹

¹¹³ L. 4412/2016, Article 21; article 257 for the utility sector

¹¹⁴ L. 4412/2016, Article 37; article 259 for the utility sector

¹¹⁵ No. 64233/2021 JMD ESIDIS on supplies and general services, articles 5, 7, 14; No. 166278/2021 JMD ESIDIS of works, designs and provision of technical and other relevant scientific service; articles 4, 6, 12 and 13

¹¹⁶ L. 4412/2016, articles 92-96; article 315 for the utility sector

¹¹⁷ No. 64233/2021 JMD ESIDIS for supplies and general services, article 14; No. 166278/2021 JMD ESIDIS for works, designs and provision of technical and other relevant scientific services, article 12

¹¹⁸ L. 4412/2016, Article 127

¹¹⁹ L. 4412/2016, Book IV (articles 345 -373)

¹²⁰ L. 4412/2016, article 366

¹²¹ L. 4412/2016, article 367 (2)



L. 4412/2016 also establishes the right for judicial review: HSPPA's decisions, can be challenged before the competent administrative Courts.¹²²

In case of non-electronic procurements, for practical reasons, HSPPA shall communicate the request to the contracting authority within the next working day from the day the request was filed; the contracting authority shall further communicate the request to any third party that can be affected by the upholding of the request by the contracting authority at the latest the next working day from which the request was filed. Third parties affected can intervene submitting their opinions to the HSPPA. HSPPA defines the exact day and time of review that cannot exceed 40 days from the day that the request for review was filed. According to article 367 of the public procurement law, HSPPA has to issue its decision within 20 days from the day of review.¹²³

The legal framework provides only for publication of HSPPA's decisions. HSPPA's decisions are required to be posted on its website in line with the provisions of L. 4624/2019, the Regulation 2016/679/EU of the European Parliament and the Council of 27 April 2016 (EE L119) on data protection.¹²⁴

Contract management (sub-indicator 1 (i))

Contract management is regulated by type of procedure.

Monitoring, controlling and management of public works is undertaken by the competent technical service of the body constructing the work (managing or supervising service). This service designates the technical officials to supervise the work, defines their tasks, in case they are more than one, monitors their work and take any action necessary for the good and timely performance of the works.¹²⁵

Design and technical services contracts are managed and monitored by the technical service of the contracting authority. It aims at the due fulfilment of the terms of the contract by the contractor and the elaboration of the design or the provision of services.¹²⁶

For service contracts, monitoring of the execution of the service contract and its administration is carried out by the competent service of the contracting authority or by a Committee. Detailed rules are specified, for example regarding recommendations for action related to the contract performance or in the case of non-compliance, as well as designation of supervisors or coordinators to monitor these types of contracts.¹²⁷ The receipt of services or deliverables is carried out by a three-member or five-member Receipt Committee.¹²⁸

For supply contracts, a Monitoring and Receipt Committee (3 or 5 persons) shall make recommendations on all matters relating to the receipt of the physical object of the contract, conducting macroscopic, functional or even operational inspections of the subject matter of the contract to be received, if provided for in the contract or deemed necessary, shall prepare protocols, shall monitor and control the due performance of all terms of the contract and the fulfilment of the contractor's obligations and shall suggest taking the necessary measures due to non-compliance with the above terms. A second committee for monitoring these tasks may be set up, functioning as a committee of second instance.¹²⁹ For contracts of an estimated value equal or less than EUR 30 000,

¹²² L. 4412/2016, article 372

¹²³ L. 4412/2016, article 365

¹²⁴ L. 4412/2016, article 366 (6)

¹²⁵ L. 4412/2016, Article 136 (1); articles 136-149 include detailed rules on the project administration and management, while articles 168-173 regulate the works acceptance procedure.

¹²⁶ L. 4412/2016, article 183 (1)

¹²⁷ L. 4412/2016, article 216; articles 216-220 provide for further detailed rules on the execution of service contracts

¹²⁸ L. 4412/2016, article 219 (1)

¹²⁹ L. 4412/2016, article 221 (11.b); articles 206-215 provide for detailed rules on the execution of supply contracts



no monitoring and receipt committee is required and receipt is carried out through a certificate issued by the head of the service, for which the goods or services are purchased.¹³⁰

Conditions for contract amendments are specified. Modifications are allowed if several conditions are met, such as a) a modification has been provided for in the initial procurement documents, b) for additional works, services, or supplies where a change of contractor is not possible or would result in substantial costs. If these two conditions are not met, a third possibility sets a list of mandatory requirements for changes in line with EU rules (see the indicator matrix for the full list.) The law allows contract values to be increased by a maximum of 50% and the replacement of the contractor under certain conditions.¹³¹ Detailed rules for specific issues related to work contracts and for design and technical service contracts are provided.¹³²

Dispute resolution in the contract management stage is regulated by type of contract.¹³³ Arbitral decisions are final and irrevocable. The arbitral dispute resolution may be preceded by a stage of conciliation of the dispute. All judicial final decisions are enforceable.¹³⁴

E-procurement (sub-indicator 1 (j))

Greece's e-procurement system consist of a publication platform (Central Electronic Registry for Public Procurements, KIMDIS), and a platform to manage the public procurement process (Electronic System for Public Procurements, ESIDIS).

With the publication of L. 4782/2021, which amended L. 4412/2016 on public procurement the mandatory threshold to use ESIDIS was reduced from EUR 60 000 to EUR 30 000. For procurements valued below EUR 30 000¹³⁵ the use of ESIDIS is optional.¹³⁶ For public procurements in the utility sector, contracting authorities can use their own electronic system, if they have one in place provided that conforms with the security specifications provided for regarding ESIDIS.¹³⁷ Details are regulated by ministerial decision.¹³⁸

Although the electronic procurement procedures foresee that bids are submitted by electronic means, economic operators have to submit some of the electronically submitted documents also in paper form¹³⁹. They have to do so before the date and time of opening of tenders, as specified in the

¹³⁰ L. 4412/2016, articles 208 (10) & 219(1)

¹³¹ L. 4412/2016, article 132

¹³² L. 4412/2016, articles 156, 186; article 337 on amendment of contracts in the utility sector

¹³³ For work contracts: L. 4412/2016, article 174 provides for *administrative* resolution of contractual disputes; article 175 for *judicial* resolution of disputes; article 176 for *arbitral* resolution of disputes. The latter applies if a clause to that effect has been included in the contract. Article 176 also applies to design and technical service contracts when their value is over 1.000.000 EUR.

For design and technical service contracts: L. 4412/2016, article 198 provides for *administrative and judicial* resolution of disputes.

For supply and service contracts: L. 4412/2016, article 205 provides for *administrative* review procedures during performance of contracts; article 205A for *judicial* resolution of disputes.

¹³⁴ L. 4412/2016, article 176 (3); see also article 50 of PD 18/1989 on Codification of laws applying on the Council of State

¹³⁵ Excluding VAT

¹³⁶ L. 4412/2016, Article 36 (1)

¹³⁷ L. 4412/2016, article 258 (11)

¹³⁸ JMD ESIDIS No. 64233/2021 provides for detailed rules on "Regulation of technical issues relating to the award of Public Supplies and Services using the instruments and procedures of the National System of Electronic Public Procurements (ESIDIS)" and JMD ESIDIS No. 166278/2021 on "Regulation of technical issues relating to the award of Public Work, design and provision of technical and other relevant scientific services contracts, using the instruments and procedures of the National System of Electronic Public Contracts (ESIDIS)".

¹³⁹ As a general rule, tenders comprise three dossiers: the dossier of participation documents, the dossier of technical tenders and the dossier of economical bids. The economic operator awarded the tender is then requested to submit a forth dossier with the award documents. The first dossier of participation documents contains the ESPD and the participation guarantee. Supporting documents that prove the grounds for exclusion and fulfilment of selection criteria are included in the fourth dossier (submitted only by the bidder that has been awarded the contract)



procurement documents. Documents submitted in paper are: (a) the original participation guarantee letter, to be submitted before the date and time of opening of tenders, provided that it has not been issued digitally, as specified in the procurement documents, otherwise the tender shall be rejected as unacceptable; (b) notarial documents (e.g. affidavits) and documents bearing the Hague Seal (Apostille) if not issued by electronic stamp e-Apostille.¹⁴⁰ The requirement to submit the original guarantee of participation prior to tender opening was introduced by L. 4281/2021 in order to explicitly reject inadmissible tenders and to prevent the economic operators who submitted them from having access to the tenders of the other participants at any stage of the award process¹⁴¹.

Rules mirroring the EU directives have been adopted for electronic invoicing¹⁴² obliging contracting authorities to accept electronic invoices regarding contracts above the thresholds.

The legal framework provides for rules that ensure access to the system while accounting for privacy, security of data and authentication. The legal framework provides for detailed rules on security levels commensurate to the associated risks, as well as encryption and certification tools as envisioned by EU rules.¹⁴³

The law includes a list of the information that should be included in procurement documents. This mandatory information includes whether the process will be managed electronically, whether tenders or requests to participate can be submitted electronically, whether electronic invoicing is acceptable and whether electronic payments will be used.¹⁴⁴

Document retention and safekeeping of records (sub-indicator 1 (k))

Contracting authorities are required to document the progress of all procurement procedures, regardless if they are conducted by electronic means or not. To this end, contracting authorities keep a so-called “Public Contract File”, see also sub-indicator 1(g)).¹⁴⁵ If the award procedure is carried out through ESIDIS, the Public Contract File is kept in the website of the award procedure.

The Public Contract File includes at least:

- the documentation of the expediency of the contract;
- the budget of the contract and its documentation;
- evidence of the maturity of the contract within the meaning of articles 49, 50, 51, 52 ;
- the description of the subject matter of the contract;
- the contract documents, in accordance with Article 53;
- all documents necessary for the contracting authority to justify the decisions taken at all stages of the public procurement process, such as:
 - on communication with economic operators and service judgements;
 - on the preparation of the contract documents;
 - on dialogue or negotiation (if any);

¹⁴⁰ JMD ESIDIS No. 64233/2021, article 13

¹⁴¹ Law 4281/2021, article 21 replaced Article 72 of Law 4412/2016

¹⁴² L. 4601/2019 (transposing Directive 2014/55/ EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurements and other provisions), articles 148-154; JMD eco 60967EJ 2020 and 63446/2021 (GG B 2338/02.06.2021)

¹⁴³ L. 4412/2016, Article 37; supplemented by JMD ESIDIS No. 64233/2021 (“Regulation of technical issues relating to the award of Public Supplies and Services using the instruments and procedures of the National System of Electronic Public Procurements (ESIDIS)”), articles 1-10 and 13-14, as well as JMD ESIDIS No. 166278/2021 (“Regulation of technical issues relating to the award of Public Work, design and provision of technical and other relevant scientific services contracts, using the instruments and procedures of the National System of Electronic Public Contracts (ESIDIS)”), articles 1-9 and 12. The latter regulates ESIDIS security policy and authentication in detail. Similar provisions are provided for PPs in the utility sector (See article 259 of the public procurement law).

¹⁴⁴ L. 4412/2016, articles 53, 281, Annex V of Appendix A

¹⁴⁵ L. 4412/2016, article 45; article 277 for the utility sector



- on the selection of the contractor and the assignment of the contract;
- a copy of the contract.

Concerning public work, design and technical service contracts, the article divides the Public Contract File into three sub-files: one with documents prepared before the procurement of the contract, one documenting the award of the contract, i.e. with documents prepared during the procurement procedure and one for the period of the performance of the contract. Furthermore, the article presents a comprehensive list of all documents that should be kept in each of the above-mentioned sub-files.

The law does not establish a relevant list for supply and service contracts, but the relevant power is delegated to the Minister of Development and Investment.

There is no policy for availability of such records for public inspection specifically for public procurement, but the general rules on public inspection on all administrative acts and operations apply (see Pillar IV). Nevertheless, in the platforms KIMDIS and DIAVGEIA, data can be searched freely and free of charge by anyone interested.

The statute of limitations for corruption is longer than the document retention requirements. Documents shall be kept for at least five years following the final receipt of the object of the contract, unless in case of litigation, where the documents shall be kept until its end.¹⁴⁶ However, according to the criminal code, fraud and infidelity (corruption) can be investigated and prosecuted within a limitation period of 5 years from the day that the crime was committed or where the damage caused exceeds the total amount of EUR 120 000 within a limitation period of 15 years from the day the crime was committed. If the crime is directed against the legal personality of the Greek state, legal persons governed by public law or local self-governed bodies and the damage caused exceeds the total of EUR 120 000, the crime is barred after twenty years.

Security protocols are established regarding ESIDIS as mentioned above (see sub-indicator 1(j)). Procedures on record keeping (physical and / or electronic) including security protocols are regulated by decisions of each relevant contracting authority.

Public procurement principles in specialised legislation (sub-indicator 1 (l))

Public procurement principles generally do apply in specialized legislation. Public procurement in the utilities sector, i.e. procured by contracting entities operating in the sectors of water, energy, transport and postal services is covered by specific provisions in the public procurement law, as referenced throughout this indicator (see matrix and footnotes.)¹⁴⁷

Concessions are regulated by a separate law (L. 4413/2016), transposing EU Directive 2014/23/EU.

Public private partnerships are regulated by the public procurement law L. 4412/2016, with the exception of the provisions set out in article 1 (7) that do not apply on PPPs, and supplemented by L. 3389/2005, as amended and in force. PPPs are regulated by the same principles as regular public procurements.

Responsibilities for developing policies and supporting the implementation of PPPs, including concessions, lies with the Inter-Ministerial Committee on Public- Private Partnerships (D.E.S.D.I.T.). D.E.S.D.I.T. has the responsibility to develop policies on executing works and providing services with the participation of private funds.¹⁴⁸ There is also a Special Secretariat for Public- Private Partnerships in the Ministry of Economic Affairs and Finance, aiming at supporting D.E.S.D.I.T. and public bodies.¹⁴⁹

¹⁴⁶ L. 4412/2016, article 45; article 277 for the utility sector

¹⁴⁷ L. 4412/2016, Book II (articles 222 – 338)

¹⁴⁸ L. 3389/2005 (Public-Private Partnerships, as amended by L. 3483/2006), Article 3

¹⁴⁹ L. 3389/2005, Article 4



Gaps

Transparency of the legal and regulatory framework

The provisions of the 2021 public procurement law (L. 4782/2021)¹⁵⁰ regarding procurement methods of consulting services undermine the principles of transparency and competition. Namely, the new rules give significant flexibility with the use of a negotiated procedure without prior publication for consultancy services under EU thresholds related to public works, works concessions or PPPs of estimated value over EUR 30 000 000¹⁵¹, i.e. without requirements for publication in KIMDIS, but only on the contracting authority's website. As noted by HSPPA in its comment on the law, this rule does not conform with the collection of statistical data on public procurements awarded under article 128.

The full legal and regulatory framework is accessible to the public, however the format could be improved regarding user-friendliness specifically for delegated regulatory acts. While the law in itself is easily accessible and updated within a few days, access to the remainder of the regulations is less user-friendly. Regulations are to be found in a separate list that is not consolidated with the public procurement law as published in HSPPA's website and they are not updated as often as the public procurement law (twice a year). These challenges are compounded by frequent regulatory changes. For suppliers, for example, it is not easy to prepare adequately for the legal requirements associated with a tender participation.

Selection and award

The public procurement law does not specify that during the period of the evaluation, information on the examination, clarification and evaluation of bids/proposals is not disclosed to participants or to others not officially involved in the evaluation process except for supply and service procurement. Although the administrative procedure code applies to evaluation committees and provides for secrecy, the respective article of the administrative procedure code does not apply on contracting authorities established as legal persons governed by private law. Indeed, this obligation for secrecy is regarded as in force and applied by contracting authorities, as it is derived through a combination of provisions from the public procurement law, the administrative procedure code as well as Ministerial Decisions on ESIDIS¹⁵². It should be noted that the procedure in the Joint Ministerial Decision on ESIDIS defines the procedure in detail, and specifies that tenders are not accessible to economic operators after they have been opened¹⁵³. As such, no formal gap is recorded.

Some gaps relate to the opening of tenders: For supplies and services procurements, the law does not provide that tenders should be opened immediately after the deadline for submission of tenders. This is linked to the fact that contracting authorities need to wait for the receipt of the original letter of guarantee of participation, except for the guarantees issued electronically. Those original letters of guarantee of participation according to article 72 of L. 4412/2016 should be submitted under the responsibility of the economic operator, no later than the date and time of opening of the tenders as specified in the contract documents. No formal gap is assigned.

There is no specific methodology for the assessment of proposals for procuring consulting services. However, the assessors deemed the general statutory framework on evaluating technical capacity as sufficient.

Challenges and reviews

The legal framework does not provide for publication of the applications for review, taking into consideration the need to protect sensitive information, and ensuring compliance with the General Data Protection Regulation (GDPR). Furthermore, user-friendly publication of decisions would allow

¹⁵⁰ L. 4782/2021, article 56 amending article 128 of Law 4412/2016

¹⁵¹ L. 4412/2016, article 128

¹⁵³ No. 64233/2021 JMD ESIDIS Article 15 par. 2 (2.1)



interested parties to be better informed as to the consistency and fairness of the process. Publication of HSPPA's decision is not user friendly, because the decisions are published without any index in accordance with the legal issue addressed.

Administrative resolution of disputes cannot be considered as an alternative dispute resolution, since the issues in question are reviewed by the public administration itself. Regarding arbitrary resolution of dispute, it is provided only for works, studies and other related scientific services only at the stage of contract execution and under the condition that an arbitrary resolution clause is included in the contract, i.e. arbitration resolution clause is not mandatory.

At present, the public procurement law does not define the process to challenge administrative decisions for debarment of economic operators from future procurement procedures. Nevertheless, Article 74 par. 2 of L. 4412/2016 as amended by article 23 of L. 4782/2021 provides for the issuance of a presidential decree following the proposal of the Ministers of Development and Investments, Justice and Infrastructures and Transports, which will regulate – among others - the procedural guarantees and the legal protection of the excluded economic operators. Furthermore, the general rules on challenging administrative acts before the competent administrative court apply.

E-procurement

E-procurement solutions cover the management of the contract only to a limited extent. Namely, the platform ESIDIS does not cover the management of the contract, billing and payments, although electronic invoicing has been initiated in contracts above the thresholds¹⁵⁴ and the regulatory framework on ESIDIS for supplies / general services¹⁵⁵ stipulates that the System supports the procedures of electronic conclusion as well as execution of public contracts. In particular, e-invoicing is provided for contracts above thresholds, but have limited application in procurement contracts below thresholds.

During interviews with contracting authorities, the problem of interoperation of ESIDIS with other electronic systems was pointed out (see pillar II and III). Some suppliers also noted problems with the security architecture of the system; however, the assessors were unable to establish further details on this matter. There is no legislation on security protocols to protect records (physical or electronic) of contracting authorities, with the exception of ESIDIS records.

See indicator 7 for a more detailed assessment of the e-procurement system and recommendation.

Substantive gaps

Coherence and stability of the legal framework

The assessors identified several instances where ad hoc legislation legalised faulty procurement procedures ex-post. The examples occurred in several sectors¹⁵⁶, and usually resulted in “blanked approvals” for all procedures undertaken by a specific contracting authority in a given timeframe. Despite identification of faulty procedures, these ex post legalisation were extended several times for most of the procedures. This approach undermines the stability and rule compliance with the public procurement law. Please see the indicator matrix for examples of these ex-post legalisation procedures.

Stakeholders also noted that the L. 4412/2016 underwent substantive changes in a short amount of time. Namely, over 200 modifications occurred since its introduction. This poses a challenge to the

¹⁵⁴ JMD eco 60967EJ 2020 and oik 60970 / EX 2020 (B 2425)

¹⁵⁵ Articles 4, 18 of the relevant MD

¹⁵⁶ Sectors and entities in which ex post legalisations were identified include the health sector (hospitals, health regions) as well as the Ministry of Finance, Ministry of Foreign Affairs, Ministry of Civil Protection. A detailed list is provided in the indicator matrix.



public administration as many officials struggle to keep up with the regulatory framework. It also increases the risk that procurement officials are not familiar with the tools and opportunities that the new law tries to promote.

Document retention

The document retention policy is not compatible with the statute of limitation for investigating and prosecuting cases of fraud and corruption (see also indicator 14.)

Risk assessment

Overall, this indicator presents two substantive gaps that are deemed to represent a high risk to the procurement system. The limited coherence and stability of the legal framework due to ex post legalisation of procedures is considered a high risk to the functioning of the procurement system as it denotes underlying issues with legality of the procurements and creates precedents for lack of compliance by undermining the legal framework. This substantive gap also warrants a red flag, since the shortcomings are widespread and difficult to address within the procurement system only.

The substantive gap around the document retention policy is deemed high risk given that it limits the possibility for investigation of fraud and corruption. Nonetheless, this gap can be addressed within the procurement system and hence does not warrant a red flag.

Table 1: Summary of substantive gaps and risk assessment

	Substantive gap	Risk	Red flag
1 (a)	Coherence and stability of the legal framework	High	Yes
1 (k)	Document retention policy is not compatible with the statute of limitation	High	No

Recommendations

A number of recommendations mirror the identified gaps. Most of these relate to legal changes or clarifications, but are completed by recommendations in other indicators that address the issue from an implementation perspective. Following the MAPS methodological guidance and user's guide, the recommendations refer to the legal framework as currently in force.

Coherence and stability of the legal framework

Greek authorities need to assess the use ex-post legalisation mechanisms, and develop appropriate measures to eliminate this practice.

HSPPA should continue to express objections to this practice as part of its advisory competence and in its annual reporting. It should further assist the competent bodies in initiatives and measures for its reduction and elimination through promoting the use of the tools provided by the legislation, as well as providing consulting support and training of employees in procurement departments through EKDDA.

Greek authorities should also be mindful of the frequency of legal changes over a short period of time, giving preference to bundling changes into larger reforms and preparing procurement officials to the upcoming changes.

Transparency of the legal and regulatory framework

Greek authorities should ensure that the legal framework upholds transparency obligations (publication on KIMDIS) for all procurement methods, without exceptions.



HSPPA could expand and interoperate its database with Public Procurement Law (L. 4412/2016) in its website to allow for user-friendly access to delegated regulatory acts currently in force. The database should be updated as often as possible, particularly regarding the delegated regulatory acts.

Selection and award

To fully comply with MAPS standards, the law should stipulate that tenders in supply and service procurements should be opened immediately after the deadline for submission of tenders.

Challenges and reviews

The legal framework should provide for alternative dispute resolution (ADR) for relevant types of public contracts. Since litigation may take years to conclude, there should be provisions for use of ADR methods under certain conditions and for certain contracts, e.g. in case of contracts of lesser value.

Greek authorities could also consider publication of review decisions to a greater extent, and in a user-friendly manner.

E-procurement

E-procurement solutions should expand to cover the whole life cycle of public procurement including contract management, and below EU thresholds. While e-procurement has been expanded significantly with the 2021 procurement reform, the benefits of electronic procurement could be considered even for small value procurements (i.e. below direct award thresholds). Indeed, e-procurement can have many benefits to reduce transaction costs, notably in remote locations (see indicator 7 for a more detailed assessment of the e-procurement system and recommendation.) In doing so, attention should be paid to small economic operators that might not have the necessary IT capacity to use the e-procurement system.

Document retention

The law provisions regarding the period of time that records on public procurement, including records on the execution of the contracts should be kept by the competent contracting authorities, should align with the statute of limitation for investigating and prosecuting cases of fraud and corruption.

The law should provide general rules on security protocols protecting records (physical and electronic) other than ESIDIS records.

Indicator 2. Implementing regulations and tools support the legal framework.

This indicator verifies the existence, availability and quality of implementing regulations, operational procedures, handbooks, model procurement documentation and standard conditions of contract. Ideally the higher-level legislation provides the framework of principles and policies that govern public procurement. Lower-level regulations and more detailed instruments supplement the law, make it operational and indicate how to apply the law to specific circumstances.

The Greek public procurement system largely complies with this indicator. Necessary regulations and guidance exist. Gaps relate to the scope of the regulatory framework and available guidance, which could be expanded. In addition, the current regulatory framework is not as user-friendly and could be updated more frequently than twice a year regarding secondary legislation.

Findings

Implementing regulations to define processes and procedures (sub-indicator 2 (a))

There is a range of regulatory acts that supplement and detail the provisions of the public procurement law (L. 4412/2016). According to Hellenic Single Public Procurement Authority's (HSPPA) database, there are 17 Presidential Degrees, 39 Joint Ministerial Decisions, 103 Ministerial Decisions and 11



Decisions of HSPPA.¹⁵⁷ There is no recorded case where it was established that one of these regulations contradicted the law. The bodies responsible for adopting a regulation are also responsible for its maintenance and updates. Changes in the National Public Procurement Database (NPPDB) kept by HSPPA show that regulations are updated regularly (e.g. HSPPA's decisions on model procurement documents).

As in the case of laws, regulatory acts are published in the Government Gazette and posted to the NPPDB kept by HSPPA. The presentation of regulations presents some gaps in terms of its accessibility (see sub-indicator 1 (a)).

Model procurement documents for goods, works, and services (sub-indicator 2 (b))

HSPPA has issued a range of mandatory model procurement documents, posted on its website and published in the Government Gazette.¹⁵⁸ The model documents are applicable for different electronic procedures, above and below the threshold and for different categories of procurement objects. The model procurement documents include standard sets of clauses and templates that reflect the legal framework.

Furthermore, HSPPA has approved seventy Greek Technical Specifications (ETEP) adopted by the Ministry of Infrastructure and Transports, applying mandatorily on all Public Works and Designs.¹⁵⁹

As confirmed by checking HSPPA's website, all relevant documents are regularly updated by HSPPA and posted on its website. HSPPA's relevant responsibility is clearly assigned by the law.¹⁶⁰

Standard contract conditions (sub-indicator 2 (c))

The legislative framework does not provide for standard contract conditions in a consolidated model form. Instead, the public procurement law provides for a range of rules and contract conditions that are either mandatory or optional for the contracting authorities.¹⁶¹ These rules cover practical aspects of contract implementation, including general conditions on inspection, quality control, final acceptance of products, general procedures relating to invoicing and payment and provisions on dispute resolution. These conditions seem to be in line with internationally accepted practice.

All the model procurement documents referred to above include contract conditions. Where the relevant model procurement documents are mandatory, the contract conditions included therein are mandatory too. The procurement law prescribes including the contract conditions in a certain form in the procurement documents.¹⁶²

Draft contracts (contracts) for supplies and services have been prepared and are posted on HSPPA's website¹⁶³. For works and studies, the preparation of draft contracts are mainly under the responsibility of the Ministry of Infrastructure¹⁶⁴.

User's guide or manual for procuring entities (sub-indicator 2 (d))

HSPPA is tasked with providing general instructions on the interpretation and application of public procurement law to contracting authorities and economic operators. This includes the responsibility to maintain manuals.¹⁶⁵ HSPPA publishes a range of documents on its website¹⁶⁶, including guidance,

¹⁵⁷ Date of reference: 16 January 2021

¹⁵⁸ <https://www.eaadhsy.gr/index.php/m-foreis/m-protypa>

¹⁵⁹ L. 4412/2016, Article 54 (8)

¹⁶⁰ L. 4013/2011, article 2 (2) (e); L. 4412/2016, article 53 (3).

¹⁶¹ For example, for work contracts in articles 136-173, for design and technical services contracts in articles 184-195, for supply contracts in articles 200-215 and for services contracts in articles 200-205A and 216-220.

¹⁶² L. 4412/2016, Article 53 (2)

¹⁶³ Available here: <https://www.eaadhsy.gr/index.php/m-protypa-docs/promithies-docs>; <https://www.eaadhsy.gr/index.php/m-protypa-docs/yphresies-docs>

¹⁶⁴ L. 4412/2016 article 53 (6)

¹⁶⁵ L.4013/2011, Article 2 (2) (d)

¹⁶⁶ www.eaadhsy.gr



technical instructions, templates and frequently asked questions (for the full list of available documents please refer to the annexed indicator matrix.)

Gaps

Overall, implementing regulations in Greece meet the assessment criteria. Gaps relate mostly to their presentation and their scope.

User-friendliness of regulatory acts

First, the presentation of the regulations makes it difficult to identify the entirety of the legal and regulatory framework (see also indicator 1.) The public procurement law as published in HSPPA's website does not present regulatory acts consolidated with the relevant article of the law that they are supplementing. Instead, regulatory acts are published in HSPPA's database, requiring the user to switch websites. Thus, there are limitations to comprehensive, accessible availability of the regulatory framework.

Specialised model procurement documents

In addition, several additional pieces of guidance, templates or models could be impactful in supporting procurers for frequently used procedures. For example, more specialised model procurement documents are not available, such as model documents for the restricted procedure. It should be noted that HSPPA is considering developing a series of additional model documents (e.g. fuel supplies, cleaning services, security services, restricted procedure for studies). Contract conditions are not available in a consolidated form, as the legislative framework does not foresee them in this way.

Procurement manual

Similar, although the assessors acknowledge that a lot of information has already been provided by HSPPA, a comprehensive manual detailing all procedures is not available. In fact, the law does not provide for the availability of a comprehensive manual, nor assigns the responsibility for compiling it. Such a manual could provide a "one stop shop" for procurement practitioners, facilitating the dissemination of procurement knowledge by clearly establishing one consolidated and comprehensive document that can serve as the starting point for inquiries.

Substantive gaps

No substantive gaps have been identified.

Recommendations

A number of measures could enhance Greece's regulatory framework for public procurement. The measures aim at consolidating, fine tuning and expanding the guidance on offer, as well as the presentation of rules and tools.

Enhancing presentation of regulatory framework

As recommended in indicator 1, existing regulations should be made available in a consolidated manner, clearly establishing the entirety of the legal and regulatory framework currently in force for contracting authorities, economic operators and interested citizens. Similarly, guidance and tools could be linked into this comprehensive form of presentation as well.

Public procurement manual

Existing guidance could be supplemented with additional, currently missing aspects into a comprehensive public procurement manual. It is important that the manual be conceived as a dynamic



tool that is regularly updated and consolidates procurement knowledge in one place. The task of manual maintenance and update should be clearly assigned.

Model documents

Additional model documents to cover more complex procurements could be developed, as per HSPPA's planning, priorities, and established methodology to identify contracting authorities' needs. Topics could be restricted procedures, but also any other area of procurement activity that might be revealed in analysis of the practices and performance of procurers and their needs.

Indicator 3. The legal and policy frameworks support the sustainable development of the country and the implementation of international obligations.

This indicator assesses whether horizontal policy objectives, such as goals aiming at increased sustainability, support for certain groups in society, etc., and obligations deriving from international agreements, are consistently and coherently reflected in the legal framework, i.e. whether the legal framework is coherent with the higher policy objectives of the country.

Greece largely complies with this indicator. The public procurement system is in line with the country's international obligations. In the area of sustainable public procurement (SPP), a dedicated action plan on SPP has been adopted in early 2021 and the National Strategy for Public Procurement contains references to sustainability. However, the implementation of SPP in a comprehensive way has been lagging behind compared to EU peers.

Findings

Sustainable public procurement (SPP) (sub-indicator 3 (a))

In 2010, the legal framework¹⁶⁷ established a Committee on Green Public Procurements tasked with:

- developing an Action Plan for the promotion of green public procurement and submit national policy proposals;
- selecting products, services and projects, on which environmental criteria shall apply;
- considering drafting environmental criteria or adopting EU green criteria;
- disseminating information on green public procurement and its implementation internally and externally to the government;
- monitoring the implementation and update of the national policy and Action Plan in Greece;
- suggesting updates to the legal and regulatory framework and taking measures to implement green public procurement;

Based on the work of the above Committee, in 2020 the Ministry of Development prepared and posted for consultation a National Action Plan for the Promotion of Green Public Contracts for the years 2021-2023, which aims to use Public Procurement as an instrument to advance green growth and circular economy within the national strategy for these areas. The Action Plan was approved in February 2021¹⁶⁸.

The Action Plan addresses the following elements:

- reference framework covering environmental policy, legislation and European Union initiatives in GPPs as well as Environmental policy, legislation and initiatives for GPPs at national level. It also provides an evaluation of the current situation of Greece and GPP

¹⁶⁷ L. 3855/2010 (Law on Measures to Improve Energy Efficiency), article 18, as amended and in force

¹⁶⁸ No. 14900/4.2.2021 JMD of the Ministers of Development and Investments and Environment and Energy (Government Gazette B 466 / 8-2-2021)



- National Action Plan for the Promotion of Green Public Procurements: This section outlines the following elements:
 - methodological approach;
 - general objectives of the National Action Plan;
 - possibilities, means and alternative ways of achieving the above objectives;
 - market Research;
 - detailed presentation of the selected products / services and the environmental criteria;
- management and support of the National Action Plan: The Action Plan sets up several provisions related to governance, such as:
 - committee for administration and monitoring of the implementation of the National Action Plan;
 - update of the National Action Plan;
 - actions of involvement, information, awareness and training of stakeholders;
 - monitoring and evaluation of the implementation of the National Action Plan;

Within the context of the Action Plan, fifteen product categories of supplies/services/works have been selected, for which GPP criteria apply. For eight purchasing categories GPP criteria are mandatory, while for the remaining ones they are optional. Quantitative targets apply for these fifteen product categories apply, too. The implementation of the National Action Plan is gradual, meaning that during the first year it applies only to central government authorities, while during the second and third year it is extended to non-central government contracting and contracting entities, respectively.

Beyond the Action Plan for the Promotion of Green Public Contracts, Greece's National Strategy for Public Procurement 2021-2025 has relevance for the strategic implementation of procurement, including sustainable procurement.

The current National Strategy for Public Procurements¹⁶⁹ consists of four (4) Pillars, namely:

- pillar A: regulatory framework of public procurement
- pillar B: digital transformation of public procurement, aiming at full transition to digital PPs ("end-to-end eProcurement")
- pillar C: achieving strategic goals when implementing policies through public procurement
- pillar D: good governance of public procurement

Pillar C explicitly mentions sustainable, whole-life-cycle and green public procurement as one of its actions, while Pillar D addresses professionalisation, which is often considered a pre-condition for strategic public procurement.

In line with the European Directives, the legal and regulatory framework allows sustainability considerations, for example the inclusion of environmental characteristics.¹⁷⁰ Life cycle cost calculation is regulated.¹⁷¹ Conditions related to the performance of the contract may be set to incorporate sustainability and strategic considerations.¹⁷² The procurement law places requires contracting authorities to observe the principle of environmental protection. Economic operators can be sanctioned for wrongdoing in this area,¹⁷³ as well as for the violation of labour laws.¹⁷⁴ In addition, contracting authorities may restrict participation in public procurement procedures to certain

¹⁶⁹ JMD approval 25-5-2021

¹⁷⁰ L. 4412/2016, article 54, article 282 for the utility sector; L. 4412/2016, article 130, article 335 for the utility sector

¹⁷¹ L. 4412/2016, article 87, article 312 for the utility sector

¹⁷² L. 4412/2016, article 130, article 335 for the utility sector

¹⁷³ L. 4412/2016, articles 18, 130; articles 253, 335 for the utility sector

¹⁷⁴ L. 4412/2016, article 73, articles 303-306 for the utility sector



companies fulfilling requirements in the area of social responsibilities, such as sheltered workshops or social cooperatives.¹⁷⁵

Obligations deriving from international agreements (sub-indicator 3 (b))

Greece's public procurement legal framework generally complies with the country's international obligations. The public procurement law L. 4412/2016 transposed the EU Directives 2014/24/EU and 2014/25/EU, and L.4413/2016 the EU Directives 2014/23/EU. These directives, in turn, take into consideration the provisions of the GPA, as well as other International Conventions e.g. International Labour Conventions.

The National Strategy for Public Procurement¹⁷⁶ takes into account the relevant EU strategies, such as the Council Conclusions on Public Investment through Public Procurement: Sustainable Recovery and Reboosting of a Resilient EU Economy¹⁷⁷, A New Industrial Strategy for Europe¹⁷⁸, Making Public Procurement work in and for Europe¹⁷⁹, Commission Recommendation on the professionalisation of public procurement — Building an architecture for the professionalisation of public procurement¹⁸⁰.

Gaps

Monitoring of SPP

The assessors were unable to verify whether measures in the Action Plan were implemented, and whether targets related to GPP uptake are being met. Furthermore, monitoring of GPP is not automated through the e-procurement system, making it more difficult to have a clear picture about uptake.

SPP uptake

Although the legal framework allows including sustainability considerations, feedback from stakeholders highlights that the actual use of this legal scope is limited and the room for discretion is not used (see also indicator 9). Furthermore, compared to EU peers, Greece has been slower in implementing a comprehensive GPP Action Plan. Other aspects of sustainable public procurement (e.g. gender equity) are not addressed.

Substantive gaps

No substantive gaps were identified.

Recommendations

Assessment and monitoring of SPP uptake

Given that the scope given to this topic in the legal and regulatory framework does not seem to be used in practice (see indicator 9), HSPPA could evaluate to what extent this under-use is related to the structure of the legal and regulatory framework. Any additional legal or regulatory measures should be complemented by support for contracting authorities in implementing sustainable public procurement, for example additional guidance, training or capacity (see indicator 9). Monitoring the uptake of sustainable public procurement should be considered, too.

¹⁷⁵ L. 4412/2016, article 20, article 241 for the utility sector

¹⁷⁶ JMD 58305/2021

¹⁷⁷ 2020/C 412 I/01

¹⁷⁸ COM(2020) 102 final

¹⁷⁹ COM/2017/0572 final

¹⁸⁰ C/2017/6654



3.2. Pillar II - Institutional Framework and Management Capacity

Pillar II assesses how the procurement system defined by the legal and regulatory framework in a country is operating in practice, through the institutions and management systems that make up overall governance in its public sector.

Pillar II evaluates how effective the procurement system is in discharging the obligations prescribed in the law, without gaps or overlaps. It assesses: i) whether it is adequately linked with the country's public finance management system; ii) whether institutions are in place in charge of necessary functions; and iii) whether the managerial and technical capacities are adequate to undertake efficient and transparent public procurement processes.

Greece has necessary public procurement functions and institutions covered in this pillar. Contracting authorities, the normative function and central procurement bodies are clearly established, e-procurement has been implemented and first steps have been taken in the area of procurement professionalisation.

The two most notable gaps relate to ex-post legalisation by the Greek parliament to enable payments and the dispersion of responsibilities for different areas of public procurement policy over a large number of institutions in a manner that prevents strategic policy making and effective implementation. This includes the normative function, e-procurement / information management and professionalisation.

Other gaps in this pillar relate to implementation, including reports of payment delays, a non-operational CPB for health, and gaps in the uptake of e-procurement. Functionalities and usability of the e-procurement system are limited, granularity in data gathering and monitoring is missing.

Indicator 4. The public procurement system is mainstreamed and well integrated with the public financial management system.

This indicator focuses on how well integrated the procurement system is with the public financial management system given the direct interaction between procurement and financial management, from budget preparation to planning treasury operations for payments.

Greece only partially complies with this indicator. The legal and regulatory framework covers necessary aspects. However, implementation is lacking. A large gap relates to ex-post legalisation by the Greek parliament to enable payments. Stakeholders report considerable payment delays. Evidence-based insight or monitoring of payments is missing.

Findings

Procurement planning and the budget cycle (sub-indicator 4 (a))

Government authorities develop their budgets on an annual basis within the general context of the current Medium-term Budgetary Framework.¹⁸¹ This approach does not prevent multi-annual commitments or commitments that continue in the following year. The law on Financial Management and Supervision regulates the formulation process.

With the multi-year planning of public contracts, contracting authorities provide for the inclusion of the proposed for financing and implementation of public contracts in the Public Investment Program (PDE). The PDE finances the country's development policy with projects that contribute to the growth of the private and public capital of the economy and support the modernisation of the country on a

¹⁸¹ L. 4270/2014 ("Principles of Financial Management and Supervision (transposition of Directive 2011/85 / EU) - public accounting and other provisions"), article 48 (1)



long-term basis. Regarding the preparation of procurement plans, article 41 of L. 4412/2016 introduces the obligation the contracting authorities to submit and publish the programme of public contracts that intend to award the upcoming year. Previously such obligation applied only to Central Purchasing Bodies. The amendment also extends the time horizon for the planning of National Central Purchasing Bodies (“EKAA”) short-term planning (one year) to medium-term planning (two years)¹⁸².

Before public authorities can assume an obligation, a competent authority has to certify that adequate funds have been committed.¹⁸³ The funds remain committed until paid or until withdrawal of the commitment. Procurement documents, award decisions and contracts have to reference the funds designation.¹⁸⁴ Contracting authorities have to have a certification by their respective competent authority to demonstrate that adequate funds have been committed.¹⁸⁵

L. 4270/2014 on Financial Management and Supervision regulates the feedback mechanism reporting on budget execution in general. There are no specific provisions on public procurement. In case of work contracts, the competent body for monitoring the execution of the contract also monitors the development of costs during the implementation phase.¹⁸⁶ Furthermore, every public body has to record all its obligations in a separate book, the Register of Commitments. The Commitments Register is a useful tool for the monitoring, control and proper execution of expenditures, as well as for the accurate and reliable recording of all elements of commitments, payments and liabilities for all General Government bodies¹⁸⁷. Finally, the Project Management System of the co-financed projects provides a mechanism for monitoring the execution and establishment of payments.

Financial procedures and the procurement cycle (sub-indicator 4 (b))

The financial rules, like all national regulations, are published in the Government Gazette (see also sub-indicator 1(a)). However, as noted above, a law or regulation published in the Greek Government Gazette cannot be found unless the exact date of publication or the number of issue and publication year are known. Laws and regulations in the Government Gazette website are displayed as initially promulgated and there is no information whether the law in question is still in force, whether it has been amended or repealed.

The Law on Financial Management and Supervision provides for timeframes within which invoices shall be processed and paid.¹⁸⁸

Gaps

Lacking efficiency

The overarching challenge in this area is to increase efficiency of financial management in the area of planning and payments, and to do so based on data and analysis.

Stakeholders in interviews commented that frequently, invoices were not paid on time, relative to the requirements in procedures. Although the law provides for timeframes within which invoices shall be processed and paid, these timeframes do not seem to be met. Stakeholders also stated that payment delays were frequently brought to court. Contracting authorities reportedly used any possible means to delay the payment, for example by delaying court hearings. Attention to the timeliness of payments is crucial to maintain competition. Especially small and medium-sized enterprises might face difficulties substituting the missing cash flow from late payments and can be discouraged from participating in future public procurements.

¹⁸² L. 4412/2016, article 41 (4)

¹⁸³ L. 4270/2014, article 61

¹⁸⁴ PD 80/2016, article 4 (4)

¹⁸⁵ L. 4270/2014, article 61

¹⁸⁶ L. 4412/2016, articles 136, 142

¹⁸⁷ PD 113/2010, article 7

¹⁸⁸ L. 4270/2014, Article 69B



The transposition of Directive 2011/7 / EU on avoiding delays in the payment of liabilities of public bodies, introduced a requirement to monitor payment delays through the Key Performance Index (KPI). An index for the payments of Central Administration bodies is monitored on a monthly basis, gathering data from the Integrated Fiscal Policy Information System (OPSDP). However, the assessors were unable to access the data from this Index and to evaluate the quantitative assessment criterion (share of invoices paid on time.) Late payments are further discussed in Indicator 9 (c).

In this context of reportedly frequent payment delays, the assessors find that a lack of transparency of applicable rules adds challenges. Regulations and procedures for processing invoices and payment authorisation are published, but not in a manner that makes them easily accessible and clear to potential bidders. Although national regulations on processing of invoices and authorisation of payments are published in the Government Gazette, they cannot be found unless the exact date of publication or the number of issue published and the year of publication is known. Laws and regulations in the Government Gazette website are displayed as initially promulgated and there is no information whether the law in question is still in force, or whether it has been amended or repelled. This leads to a situation in which the current rules for payments are not easily identifiable, resulting in confusion and potentially arbitrary handling of invoices.

There are no specific provisions on mechanisms reporting on budget execution for public procurement.

Substantive gaps

Ex-post legalisation of procedures to allow for payments

A specific, substantive gap in this indicator relates to ex-post legalisation of procedures mentioned in indicator 1. Stakeholders reported that procedures were legalised ex-post to allow for payments in these procedures. Apparently, in some cases, administrative approval for payment was not possible due to errors (non-compliance with legal provisions) in earlier stages in the public procurement, and that in these cases, the procedures were declared legal by the Greek parliament to allow the suppliers in these procedures to be paid.

Upon further research, the assessors identified several instances where ad hoc legislation legalised faulty procurement procedures ex-post. The examples occurred in all sectors, and usually resulted in “blanked approvals” for all procedures undertaken by a specific contracting authority in a given timeframe. Despite identification of faulty procedures, these ex post legalisation was extended several times for most of the procedures. This approach undermines the stability and compliance with the public procurement law. Please see the indicator matrix, indicator 1 for examples of these ex-post legalisation procedures.

Risk assessment

The substantive gap around ex post legalisation of procedure is considered high risk (see Indicator 1) and is assigned a red flag due to the implications of this gap on Indicator 4, i.e. issues in executing payments due to non-compliance with legal provisions. As a systemic issue, this gap cannot be easily mitigated within the procurement system.

Table 2: Summary of substantive gaps and risk assessment

	Substantive gap	Risk	Red flag
4 (b)	Ex post legalisation of procedures	High	Yes

Recommendations

Late payments



Late payments discourage competition, which in turn jeopardises outcomes for Greece's citizens. Collecting information on the extent of payment delays, and the reasons for any non-compliance with procedures, are crucial insights that could be drawn to inform strategic reforms in this area. As part of all regulations (see indicator 1), relevant rules on authorisation and processing of invoices should be made publicly available to increase awareness of both buyers and suppliers. Furthermore, enforcing interests on late payments for reasons not attributable to the supplier may be introduced as a measure to encourage expeditious payment.

Planning and budgeting

In addition, planning and budgeting could be improved. Consider developing procurement plans that consolidate the needs of different contracting authorities to allow aggregation and realisation of efficiencies. Greek authorities could also explore if additional competencies are needed for HSPPA to fill the gap between public accounting and public procurement.

Finally, Greek authorities could assess the need for further reporting of budget execution, particularly for major projects.

Indicator 5. The country has an institution in charge of the normative/ regulatory function.

This indicator refers to the normative/regulatory function in the public sector and its proper discharge and co-ordination. The assessment of the indicator focuses on the existence, independence and effectiveness of these functions and the degree of co-ordination between responsible organisations. Depending on the institutional set-up chosen by a country, one institution may be in charge of all normative and regulatory functions. In other contexts, key functions may have been assigned to several agencies, e.g. one institution might be responsible for policy, while another might be in charge of training or statistics. As a general rule, the normative/regulatory function should be clearly assigned, without gaps and overlaps. Too much fragmentation should be avoided, and the function should be performed as a well-co-ordinated joint effort.

The Greek public procurement system partially complies with the indicator. All aspects of the normative and regulatory function are clearly assigned; the main regulatory institution, HSPPA, appears to possess the necessary status and means to fulfil its role. However, a substantive gap relates to the dispersion of responsibilities over a large number of institutions, which results in a less strategic approach and inefficient and ineffective implementation. Aside from the overall regulatory oversight, this dispersion is most noteworthy with regards to the digital information infrastructure and professionalisation.

It should be noted that this assessment takes into account the legal basis in force as a result of Law 4912/2022, which merges HSPPA and AEPP. Hence, there is limited insight on how these legal changes will affect the practical functioning of the institutional landscape.

Findings

Status and legal basis of the normative/regulatory institution function (sub-indicator 5 (a))

Overall, the normative or regulatory function is clearly assigned in Greece. However, the fact that aspects of the function are assigned to a number of different institutions creates some fragmentation and in turn inefficiencies.



The main institution tasked with fulfilling the normative and regulatory function is the Hellenic Single Public Procurement Authority (HSPPA), which was established by law in 2011.¹⁸⁹ HSPPA's task is to develop and promote the national strategy, policy and actions on public procurement, ensuring transparency, efficiency, coherence and harmonisation of procedures for the award and execution of public contracts under national and European law. It is also tasked with continuously improving the legal framework of public procurement, as well as monitoring compliance by public bodies and contracting authorities. However, the legislative initiative in public procurement belongs to several Ministries.

In 2022, after a decade since its establishment, HSPPA was merged with the former National Review Body AEPP. Namely, by Law 4912/2022, amending article 347 of L. 4412/2016, HSPPA is also the Greek remedy review body in public procurement. The tasks and mandates of HSPPA and AEPP remain largely unchanged according to the current legal basis.

With this reform, the Greek legislator aims at making optimal use of the potential, experience and know-how of the two authorities. The legislator noted that over the course of the years, the workload of AEPP has been constantly increasing, related to the entry into force of a single rules framework (L.4412/2016) and the ESIDIS Information System. In contrast, HSPPA's workload has been decreasing over the same period of time. This reform, as intended by the legislator, is therefore a return to an earlier proposal for HSPPA, in which a single independent administrative authority is responsible for all issues regarding public procurement, including the examination of the appeals. The goal of this institutional arrangement is also to share human resources among the former entities, and make best use of currently available staff.

Aside from HSPPA, specific responsibilities are assigned to other public entities:

The Public Work and Design Contracts Support Division of the Directorate for Legislative Coordination of the Ministry of Infrastructure and Transport is to cooperate with HSPPA to issue circulars and instructions on the uniform application of public procurement law on public works and design contracts.¹⁹⁰

The Directorate of Public Sectoral Works within the Ministry of Digital Governance is to cooperate with HSPPA in preparing procurement templates and model documents for the implementation of projects and actions relating to digitalisation, as well as for the supply of services, equipment, software, networks and hardware ICT.¹⁹¹

More than 100 similar provisions can be found in the public procurement law, delegating authority to establish regulations different ministers and in particular to the Minister of Infrastructure, the Minister of Development, the Minister of Finance, and the Minister of Health. HSPPA has to consent to these regulations.

To prevent overlap of competencies, the law foresees that HSPPA provides an opinion on the legality of any draft legal provision or draft regulation concerning public procurement and participates in the relevant legal drafting committees. The competent authorities must take into account the opinion of HSPPA. HSPPA must give its consent to ministerial decisions in order for them to be issued.¹⁹² Similarly, it must also consent to withdrawal of regulations in its area of competence¹⁹³.

¹⁸⁹ L. 4013/2011, "Establishment of a Single Independent Public Procurement Authority and Central Electronic Public Procurement Register – Replacement of the sixth chapter of Law 3588/2007 (bankruptcy code) – Pre-bankruptcy settlement process and other provisions", thereafter "Law on the Establishment of HSPPA"

¹⁹⁰ PD 123/2017, article 19 (4)

¹⁹¹ P.D. 40/2020, article 40 (4)

¹⁹² L. 4013/2011, article 2(c)

¹⁹³ Recital 5 of the decision 460/2001 of the Council of State



Responsibilities of the normative/regulatory function (sub-indicator 5 (b))

The responsibilities listed in the MAPS methodology are assigned as follows:

Function	Institution / Assignment
Providing advice to procuring entities	<p>HSPPA (on its own initiative or at the request of contracting authorities, focusing on objections, lawful conduct of public procurement procedures and the uniform application of public procurement law)¹⁹⁴</p> <p>General Secretariat of Commerce and Tourism of the Ministry of Development (in charge of procurement of supplies and services; providing information and instructions related to supply and service procurement)¹⁹⁵</p> <p>Centre of International and European Economic Law (KDEOD; advisory assistance and legal information; the Public Procurement Monitoring Unit (MoPADIS) provides advice on issues related to EU law)¹⁹⁶</p> <p>Several Ministries that have the legislative initiative in the field of public procurement (e.g. Ministry of Development and Investments and the Ministry of Infrastructure)</p> <p>Special Institutional Support Service of the Ministry of Development provides advisory services on public procurement¹⁹⁷</p>
Drafting procurement policies	HSPPA (developing and promoting national strategy, policy and actions in the field of public procurement) ¹⁹⁸
Proposing changes/drafting amendments to the legal and regulatory framework	<p>HSPPA (recommending regulations)¹⁹⁹</p> <p>Several Ministries, i.e. the Ministry of Development and Investments and the Ministry of Infrastructure, can propose changes as well.</p>
Monitoring public procurement	HSPPA (monitoring and evaluating the efficiency and effectiveness of actions related to public procurement, including procurement of contracting authorities, and the procurement-related work of audit and control bodies) ²⁰⁰
Providing procurement information	<p>Ministry of Digital Governance through the National Electronic Public Procurement System (ESIDIS) and the Central Registry for Public Procurement (KIMDIS)²⁰¹</p> <p>HSPPA through the National Database of Public Procurements</p>

¹⁹⁴ L. 4013/2011, article 2 (2), (9)

¹⁹⁵ PD 147/2017

¹⁹⁶ L. 717/1977

¹⁹⁷ L. 4412/2016 article 340

¹⁹⁸ L. 4412/2016, article 347 (1)

¹⁹⁹ L. 4013/2011, article 2(2) (b)

²⁰⁰ L. 4412/2016, article (2) (2)

²⁰¹ PD 81/2019, article 1 (1.4)



Managing statistical databases	HSPPA's Directorate of the National Database of Public Procurement and Electronic Support (maintaining, operating and developing the National Database of Public Procurement, statistical processing and analysing incoming information on public procurements and HSPPA's actions; maintaining and / or monitoring databases related to public procurement) ²⁰²
Preparing reports on procurement to other parts of government	<p>HSPPA (preparing annual reports to the President of the Greek Parliament, includes statistics, as well as proposals for improving the procurement system as addressed to competent institutions and to what extent these institutions followed up.)²⁰³</p> <p>In addition, every three years, HSPPA prepares a report on procurement within the scope of EU law to the European Commission; prepared in cooperation with the General Secretariat of Commerce and Consumer Protection of the Ministry of Finance, Development and Tourism and the General Secretariat of Infrastructure of the Ministry of Infrastructure, Transport and Networks.²⁰⁴</p>
Developing and supporting implementation of initiatives for improvements of the public procurement system	HSPPA (not explicitly set out but implicitly included in HSPPA's mandate to constantly improving the legal framework of public procurement, develop and promote national strategy, policy and actions in the field of public procurement) ²⁰⁵
Providing tools and documents, including integrity training programmes, to support training and capacity development of the staff responsible for implementing procurement	<p>HSPPA's Department of Education and Certification and Department of Coordination (collaboration with the Training Institute (INEP) of the National Centre for Public Administration and Self-Governance to develop training programmes; developing tools and methodologies, as well as in cooperation with the General Secretariat of Commerce of the Ministry of Development and Tourism and the General Secretariat of Infrastructure of the Ministry of Infrastructure, Transport and Networks for policies on professionalisation, training, certification)²⁰⁶</p> <p><u>On training:</u></p> <p>Training Institute INEP (within National Centre for Public Administration (EKDA); providing training programmes to support training and capacity development of the staff of the public entities in general. No <i>obligation</i> to provide training on procurement, although this is the case in practice)²⁰⁷</p>

²⁰² L. 4605/2019, article 11 (1)

²⁰³ L. 4013/2011, article 2 (2) (m)

²⁰⁴ L. 4412/2016, article 342

²⁰⁵ L. 4412/2016, article 347 (1)

²⁰⁶ L. 4605/2019, article 53 (8); L.4605/2019, article 8 (1) (e)

²⁰⁷ PD 57/07



	<p>Development Program Management Organisation Unit (MOD SA; trains officials involved in the management and implementation of EU co-financed operations, provides tools and documents for the implementation of NSRF programmes; supervision by the Minister of Development and Investments)</p> <p>Contracting authorities (ensuring that procurers have the necessary training, experience and specialisation, etc.)²⁰⁸</p>
Supporting the professionalisation of the procurement function (e.g. development of role descriptions, competency profiles and accreditation and certification schemes for the profession)	<p>HSPPA's Directorate of Coordination (developing policy architecture for professionalisation and certification of procurers, in cooperation with the General Secretariat of Commerce of the Ministry of Development and Tourism and the General Secretariat of Infrastructure of the Ministry of Infrastructure, Transport and Networks)²⁰⁹</p> <p>By presidential decree, following a proposal by the Ministers of Economy, Development and Tourism, Infrastructure, Transport and Networks, Health and the competent Deputy Minister of Administrative Reconstruction and issuance of a relevant Opinion of the HSPPA, a Register of Certified Public Employees shall be established (in the future), regulating which institution should maintain the Register, the conditions of registration, evaluation and certification, among others.</p>
Designing and managing centralised online platforms and other e-Procurement systems, as appropriate.	<p>General Secretariat for Information Systems of the Public Administration of the Ministry of Digital Governance (design, development, production, operation and utilisation of Information and Communication Technologies (ICT) since 2019)²¹⁰</p> <p>Ministry of Digital Governance (management of KIMDIS and ESIDIS)²¹¹</p> <p>General Secretariat of Infrastructures of the Ministry of Infrastructure and Transport (management of ESIDIS Public Works, i.e. the sub-system of ESIDIS dedicated to works)</p> <p>Ministry of Development and Investment (business owner of KIMDIS and ESIDIS)</p>

Organisation, funding, staffing, and level of independence and authority (sub-indicator 5 (c))

As stated in the law²¹², HSPPA enjoys functional independence, administrative and financial autonomy and is not subject to any control or supervision by government bodies or any other independent or administrative authority. HSPPA is subject to the scrutiny of the Hellenic Parliament²¹³ and to the ex

²⁰⁸ L. 4412/2016, article 344

²⁰⁹ L. 4605/2019, article 8 (1) (e)

²¹⁰ PD 40/2020 article 25

²¹¹ PD 81/2019, article 1 (1.4)

²¹² Article 347 of L.4412/2016

²¹³ Rules of Procedure of the Greek Parliament, article 138A



post audit of the Court of Audits. With the Law 4912/2022, HSPPA is now directed by the President and 10 Directors, assigned by Act of the Cabinet, following an opinion of the Parliamentary Institutions and Transparency Committee. Prior to the reform, a board of seven members, elected by parliament, directed HSPPA. Although not guaranteed by the Greek constitution (the highest degree of standing conveyed to some public institutions), HSPPA can be considered of high standing.²¹⁴

HSPPA is financed by a fee (0.1%) that is deducted from all contracts with a value above EUR 1 000 regardless of source of funding. The fee is deducted from each payment in a procurement procedure and applies on initial contracts and additional contracts, as well as amendments.²¹⁵

In terms of organisation, HSPPA now consist of (a) the President; (b) ten (10) Directors and; (c) thirty (30) members. The governing bodies of the Authority are the President and the Executive Board, which consists of the President and the Directors²¹⁶. All decisions of the Authority are taken by the Executive Board, except where expressly provided decisions are to be taken by the President or by a panel. The Executive Board decides on all matters of the internal operation of the Authority. A Presidential Decree following the proposal of the Minister of Justice will regulate issues of operation²¹⁷.

The President of the Authority is responsible for its operation and exercises all powers to this end²¹⁸. The Directors exercise the responsibilities assigned to them and take care of the orderly operation of the organic units and panels under their responsibility. In particular, they coordinate and direct the members and the scientific staff of the Authority within their area of responsibility and are in charge of panels²¹⁹. Two of the Directors, who are appointed on the proposal of the Minister of Development and Investment, are delegated all responsibilities and tasks related to the exercise of the responsibilities of the Authority, namely all the responsibilities other than the remedy review²²⁰.

Article 357 (5) of L. 4412/2016 provides for the issuance of a presidential decree, issued on the proposal of the Ministers of Justice, of Internal Affairs and Finance, and following the opinion of the Authority, to regulate the Authority's internal organisation. The latter will specify the specialties and the number of positions per specialty of staff, the structure of its organisational units into Directorates, Departments and Offices, their responsibilities and the way of selection of directors and heads of departments and offices, staff's qualifications and any other relevant issues.

Avoiding conflict of interest (sub-indicator 5 (d))

Conflict of interest is managed through legal provisions. The President, the directors, and the members of HSPPA are fully and exclusively employed by HSPPA, and suspended from exercising any other professional activity. Following their term of office and for a time period of 2 years they are not allowed to provide any service to or acquire any stocks of any company or enterprise involved in cases they had handled or on which they had decided during their term of office.²²¹ Furthermore it is prohibited, during their term of office, to engage in any kind of commercial activity or to be shareholders or be involved in any way in an economic operator that develops activity in the field of public procurement. Membership to a political party is prohibited during the term of office. Members of HSPPA cannot be appointed to a position in case they have direct personal, financial or any other kind of interest and would affect or appear to affect their impartial and objective judgment in the performance of their duties. This applies for interests related to themselves, their spouse or relative up to the second grade or any other person, natural or legal, with which they are closely related. If such obstacles and incompatibilities are found during their term of office, it results to an automatic

²¹⁴ L. 4013/2011, article 5 (5)

²¹⁵ L. 4412/2016, article 350 (3)

²¹⁶ L. 4412/2016, article 353

²¹⁷ L. 4412/2016, article 355

²¹⁸ L. 4412/2016, article 356

²¹⁹ In accordance with the more specific provisions of the Rules of Operation to be enacted under L. 4412/2016, article 355

²²⁰ L. 4013/2011 (A '204) article 2 (2)

²²¹ L. 4013/2011, article 4



resignation from their position of Chairman/Director/ member, respectively. Finally, public sector employees with a certain position, including the Chairman, the Directors and members of HSPPA are under the obligation of submitting a yearly asset declaration, covering also their spouses and children²²².

Other employees beyond the President and the members are subject to the rules applying to all civil servants.²²³ See indicator 14 for information about a code of conduct applicable to the entire Greek public service.

Gaps

Fragmentation of the normative / regulatory function

As noted by the MAPS methodology, an undue fragmentation of the normative / regulatory function is to be avoided. In Greece, in more than 100 instances, different ministries have the primary competence to regulate aspects of the public procurement system. Therefore, the assessors conclude that HSPPA might not possess complete formal powers to be able to take meaningful action in all domains of the public procurement system, due to the split of competencies among several bodies. Similarly, regarding implementation support, the distribution of responsibilities to several bodies appears to create challenges in the practical execution of this task.

While the new institutional set-up provides a consolidation of procurement bodies, it is unclear whether it addresses the fragmentation of the normative /regulatory function. Furthermore, the assessors are not able to provide an analysis on how HSPPA operates in practice in its expanded capacity, as this reform is being implemented during the execution of the assessment.

Lack of coordination in several policy areas of the normative / regulatory function

Several policy areas are affected by the fragmentation of the normative / regulatory function. An example is e-procurement, where competencies are assigned, but the governance system seems to prevent the establishment of an e-procurement system that realises the full potential that such a system usually offers to countries. For starters, there is a distinction between the business owner (i.e. the Ministry of Development and Investment) and the System Owner (i.e. the Ministry of Digital Governance). Furthermore, responsibility for the two sub-systems constituting the e-procurement platform ESIDIS are assigned to different institutions. Namely, the Ministry of Digital Governance has competence over OPS-ESIDIS (e-procurement platform for supplies and services), while the General Secretariat for Infrastructures of the Ministry of Infrastructure and Transport has responsibility over ESIDIS Works (e-procurement platform for works). The third platform, KIMDIS, containing information about contracts is also assigned to the Ministry of Digital Governance. This split in competencies for the different platforms seems to result in challenges related to their use and integration. The two databases gathering information, KIMDIS and ESIDIS, should be closely integrated but are not interoperable. This fragmentation leads to inefficiencies in managing public procurements and results in fragmented procurement information, which in turn has implications for the analytics that can be conducted in an evidence-based way. While responsibility to provide procurement information is clearly assigned in the law, the manner of distributing this responsibility between several bodies appears to create challenges in the use and availability of data and information, and is compounded by lack of interoperability. Please refer to indicator 7 for additional information.

In the area of guidance, advice and training, the fragmentation of competencies seems to have resulted in conflicting advice, according to stakeholder feedback. Several agencies may come to different interpretation of the same rule and consequently advice contracting authorities in inconsistent ways. Stakeholders during interviews mentioned examples of inconsistent guidance

²²² L. 4412/2016, article 349 (10)

²²³ L. 3528/2007, article 36



emerging from trainings. In providing advice, the advising institutions should focus on the needs of the user of the guidance.

Other substantive gaps relating to the area of professionalisation follow from the fragmentation. Although training programmes on public procurement are provided by INEP (EKDA), it is at EKDA's discretion to offer the training. The law assigns the task of supporting training to INEP (EKDA), but in a general way and not specifically in public procurement. In contrast, HSPPA has the responsibility for developing the appropriate architecture of the policy for the professionalisation, training and certification of the personnel of the contracting authorities and contracting bodies in cooperation with the competent services of the General Secretariat for Commerce and the General Secretariat for Infrastructure. However, the split in competencies might render it more difficult to pursue a consistent, overarching professionalisation agenda for public procurement. This is an aim that has been gaining in importance internationally as its benefits are widely demonstrated. Ultimately, given that the responsibility for funding and certifying procurement training lies with EKDA, a divergence in priorities might result in lower availability of procurement training than would be envisioned by HSPPA in connection with its overall strategy.

Another gap relates to delay in implementing the Register of Certified Public Employees, which has not been established yet. The presidential decree required in the law for its establishment has not been issued. Also, note that there is no certification mechanism for procurers yet.

No survey was conducted to evaluate the optional quantitative assessment criterion (perception that the normative/regulatory institution is free from conflicts of interest.)

Substantive gaps

No substantive gaps have been identified.

Recommendations

Reducing institutional fragmentation

A key recommendation for Greece's public procurement system is to increase the efficiency and effectiveness of the normative and regulatory function for public procurement. Given the transaction costs involved in increased coordination, Greece should evaluate whether in the long-term, a model with streamlined responsibilities should be established. Ultimately, the goal should be to designate a body with a clear ability to steer public procurement as a whole and in a consistent and centralised manner, which is more effective if this ability is assigned to one or two bodies. In practice, this would mean clarifying and strengthening the mandate of HSPPA in line with national priorities. Many countries split the tasks related to public procurement regulation (as mentioned in the MAPS assessment criteria) between the competent ministry and a procurement authority. Several areas are particularly affected by the dispersion of responsibilities, including e-procurement and the provision of information about public procurement.

A specific recommendation in the context of regulating public procurement is to establish the Register of Certified Public Employees by taking necessary steps to introduce the certification mechanism for public procurers.

Coordination

It is also recommended to increase coordination in the provision of guidance during its development and provision. Given the transaction costs involved in increased coordination, Greek authorities could evaluate whether in the long run, a different model with streamlined responsibilities should be established to facilitate provision of guidance in its most effective and efficient way.



Indicator 6. Procuring entities and their mandates are clearly defined.

This indicator assesses: i) whether the legal and regulatory framework clearly defines the institutions that have procurement responsibilities and authorities; ii) whether there are provisions for delegating authorities to procurement staff and other government officials to exercise responsibilities in the procurement process, and iii) whether a centralised procuring entity exists.

The assessors found mixed compliance with this indicator. The legal and regulatory framework largely complies with requirements, establishing also central procurement bodies which seem to be working to some extent. However, the legal framework could be clearer in establishing contracting authorities. In addition, the central procurement body in charge of the health sector does not appear to be operational.

Findings

Procuring entities (sub-indicator 6 (a))

The public procurement law includes a definition of “Contracting Authority” in line with EU rules, without further specification.²²⁴ Every legal entity may procure to meet its needs. Within the same public entity, several independent operational units may be responsible for procuring contracts.²²⁵ By act of the competent Minister, the Commander-in-Chief or the President for the line authority / ministry shall be determined which public units within the Public Government meet the criteria to be considered independent public operational units. HSPPA has published a registry of contracting authorities.²²⁶

In addition, HSPPA has issued a guideline regarding the scope of Directive 2014/25/EU on Utility Public Procurements, where among others it defines the term of Contracting Body within the meaning of the directive as transposed in the Greek Law 4412/2016²²⁷.

With the 2021 procurement reform, a significant provision was repealed concerning minimum requirements for the competent technical service of procuring entities for work and design contracts. Prior to the reform, the competent technical service of the public entity procuring such contracts (work and design) was required to have a minimum staffing having the qualifications defined by a joint decision of the Minister of Infrastructure, Transport and Networks and the occasional competent Minister, depending on the contracts’ estimated value, type, category, size and complexity.

The reform stipulates that whether a Contracting Authority is technically capable to procure a work procurement is left to its own judgment. Furthermore, the article stipulates how Contracting Authorities lacking the procuring capacity can procure contracts (programming contracts, conclusion of technical services contracts or getting support from CPAs)²²⁸.

The law does not provide for specific rules on the responsibility or organisation of a procuring entity (e.g. the designation of a specific procurement function within the contracting authority.) Once a public entity fulfils the general conditions stated above, it is responsible for all aspects of the procurement. The structure of every public entity is established by its internal organisational regulation, regulating the management structure, capacity and capability of each unit in the public entity at issue, including the procurement function.

²²⁴ L. 4412/2016, article 1 (1) (a)

²²⁵ L. 4412/2016, article 6 (3)

²²⁶ <https://www.eaadhsy.gr/index.php/category-articles-gia-tous-foreis/242-dhmosiopihs-mhtrwoy-ana8etoyswn-arxwn>

²²⁷ Decision 1 / 15-04-2021 of the Hellenic Single Public Procurement Authority <https://diavegia.gov.gr/doc/%CE%A9%CE%A3%CE%A81%CE%9F%CE%9E%CE%A4%CE%92-%CE%9A%CE%A6%CE%A6?inline=true>

²²⁸ Article 9 L. 4782/2021, Amendment of par. 1 and 3, repeal of par. 2 of article 44 of Law 4412/2016



There are no rules on delegation of decision-making authority; these rules are defined by each contracting authority. There are no dedicated rules on accountability of public officers for decisions in the field of public procurement. The general rules on civil servants' accountability apply.²²⁹

Centralised procurement bodies (sub-indicator 6 (b))

Central Purchasing Bodies (CPBs) can be established in two ways: The Greek public procurement law establishes three CPBs at national level. In addition, a CPB can be established for other levels of aggregation by joint decision of the respective Ministers and the materially competent Minister, which includes the minister in charge of the NCPB.²³⁰

The three National Central Purchasing Bodies (EKAAAs) established by law are: ²³¹

- public work contracts, designs and the provision of technical and other related scientific services: **General Secretariat of Infrastructure (GGY)** of the Ministry of Infrastructure, Transport and Networks;
 - GGY has no separate legal personality; the Minister of Infrastructure, Transport and Networks determines funding and decision-making powers. GGY and its head have a high-level of standing in government²³².
 - internal organisation of GGY, as well as staffing levels, are regulated by Presidential Decree.²³³
- supplies and services: **General Directorate of Public Procurements** of the General Secretariat of Commerce and Consumer Protection of the Ministry of Economy, Development and Tourism;
 - this central purchasing body is one of many General Directorates in this ministry, having no separate legal personality. The Minister of Economy, Development and Tourism determines funding and decision-making powers. Like GGY, the CPB and its head have a high-level of standing in government.²³⁴
 - internal organisation of the General Directorate of Public Procurements, as well as staffing levels, are regulated by Presidential Decree.²³⁵
- medical, technological, health, pharmaceutical supplies and related services: **National Centralised Health Procurement Authority (EKAPY)** of the Ministry of Health.
 - previously a legal person governed by public law, in 2022 EKAPY was transformed into a legal person governed by private law, with the aim of creating a flexible and efficient health supply system.²³⁶ EKAPY is resourced by the state budget and a dedicated fee, a percentage of the contract value managed by EKAPY. It is also resourced by revenues from the provision of services to operators (it supports all Health Regions of the country and all hospitals of the National Health System, among others)²³⁷ and donations, bequests, contributions, grants from third

²²⁹ See the Code of Status of Public Civil Servants and Employees of Legal Persons Governed by Public Law (L. 3528/2007)

²³⁰ L. 4412/2016, article 41

²³¹ L. 4412/2016, article 41

²³² The hierarchy is: Minister – General Secretary; PD 123/2017

²³³ PD 123/2017

²³⁴ PD 147/2017

²³⁵ PD 123/2017; PD 147/2017

²³⁶ L. 4865/2022, articles 1-20

²³⁷ According to article 7 of L. 4865/2022 EKAPY supports, in the contest of meeting their needs for products and services, the following bodies: (a) all Health Regions of the country; (b) all hospitals of the National Health System (ESY) and their decentralized units, the interconnected hospitals, the General Hospital of Thira, as well as the Social Care Units and the legal entities governed by public law, which exercise activities in the field of health and are either supervised and controlled by the relevant Ministry of Health, or are supervised directly by the Minister of Health; (c) all military hospitals and other related hospitals units, which are active in the field of health and are supervised and controlled by the Ministry of National Defense, as well as the Nursing Institution of the Army Share Fund (N.I.M.TS.); (d) all hospitals and other relevant units that are active



parties and income from property. EKAPY is directed by a board; its president and vice-president are designated by the Minister of Health.

- EKAPY's internal organisation and staffing levels are set in the law.²³⁸

For each CPB, categories and items are defined for which the use of the CPB is mandatory for a specific set of contracting authorities.

Importantly, 2021 procurement reform extended the possibility for Greek contracting authorities to address National Central Purchasing Bodies²³⁹. The intention of the amendment is to make use of central and ancillary purchasing activities in order to take advantage of the competence and know-how of CPBs as well as to participate in cross-border cooperation within the European Union.

Gaps

Procuring entities

Although the legal and regulatory framework provides some rules trying to define the procuring entities, there are ambiguities concerning the identification of the independent operational units within a public entity, as well as the identification of the public entities having the technical competence to procure public works and design contracts. A challenge arises: the law stipulates that more than one unit within the same public entity may purchase independently to the others provided that each unit is independently responsible for the contracts concluded (which is vague and might be confusing).

There are no general rules specifying the necessary management structure, capacity and capability for public entities to be able to procure and manage public procurement. There are no general rules requiring procuring entities to establish a designated, specialised procurement function with the necessary management structure capacity and capability. There is no concrete indication that the lack of formal rules on setting up a procurement function poses a challenge in practice. Typically contracting authorities, particularly large ones, do set up such a procurement function despite the lack of formal rules. Examples include the Ministry of Infrastructure and Transport that sets out responsibilities for public procurement in its organisational set-up (as defined in P.D. 123/2017). Similar examples include the Democritus University of Thrace, the Decentralized Administration of Attica, as well as the Attica Metro A.E.

There are no general rules on mandatory delegation of decision-making authority. Every contracting authority is free to delegate decision-making responsibilities, depending on its organigram and relevant provisions regulating the functioning of the specific contracting authority. The assessors have limited information on the extent to which decision-making authority is delegated to the appropriate competent level, as there are no general rules. Given the overall issues with timely execution of procurement procedures (see Indicator 9), it could be worth examining if the current process of delegation (or subsequently any lack of proper delegation) in decision-making represents a source of inefficiencies in the execution of procurement procedures.

There are no reporting obligations specific to the contracting authority beyond obligations in the context of HSPPA's monitoring activities²⁴⁰. Based on available information and feedback from

in the field of health and are supervised by the Ministry of Education and Religions; (e) all public primary health care providers whether they are part of the organizational structure of the Health Regions or their decentralized organic units or are autonomous, and; (f) all legal entities governed by private law, that are active in the field of health and supervised by the Minister of Health.

²³⁸ L. 4865/2022, article 16 and 18

²³⁹ Article 8 of Law 4281/2021 amended Article 43 of Law 4412/2016

²⁴⁰ Article 340 L. 4412/16



stakeholders, the assessors were unable to determine whether the current staffing levels and financing are adequate to the tasks.

No data was available to assess the minimum / mandatory quantitative indicator, i.e. procuring entities with a designated, specialised procurement function (in % of total number of procuring entities).

Substantive gaps

Centralised purchasing bodies

The assessors were unable to triangulate more practical aspects related to the implementation of the work of the CPBs, such as whether funding, powers and standing are sufficient to fulfil their role.

As stated during the interviews, EKAPY, although established, is not operating. Reasons remained unclear. EKAPY was established to streamline health expenditure. Some stakeholders mentioned that EKAPY had been unable to fulfil its tasks. This hints to deficits in the institution's status, funding, powers and standing in the government.

Media articles and industry observers indicated widespread corruption in Greece's healthcare system, including related to the purchasing of healthcare supplies. EPY, EKAPY's predecessor, was exposed to this as well, reportedly. In the centre of scrutiny are the extraordinarily high prices for medical supplies and equipment when compared to other EU countries. Allegations also include inadequate professionalism and skills in the CPB's staff. In addition, it seems to have faced challenges related to contracting splitting by contracting authorities to avoid using the health CPB. Speculations persist that EKAPY "inherited" this situation and was therefore not functioning.²⁴¹ A 2016 study by HSPPA entitled "Report on public procurement in the field of health" identifies the most important malfunctions of the health system and the submission of proposals to improve the framework of public contracts for the supply of goods and services in the field of health of the entities supervised by the Ministry of Health.

Risk assessment

A non-operational CPB for the health sector, and continuing malfunctions in the health procurement area present a high risk to the procurement system. Given the longstanding nature of this issue, the assessors deem that shortcomings cannot be immediately mitigated through actions in the procurement system, and hence a red flag is assigned.

Table 3: Summary of substantive gaps and risk assessment

	Substantive gap	Risk	Red flag
6 (b)	Non-operational health CPB	High	Yes

²⁴¹ Several media reports document the longstanding challenges in health procurement: <https://m.naftemporiki.gr/story/1463953>; <https://www.onmed.gr/ygeia-politiki/story/354474/promitheies-esy-entones-antidraseis-apo-toys-manatzers-ygeias-provlepoyn-proanakritiki-epitropi>; <https://www.kathimerini.gr/905698/article/epikairothta/politikh/antidraseis-gia-tis-allages-stis-promh8eies>; <https://www.healthweb.gr/editorial/21817-apokalypsi-apopobi-proedrou-ekapty-protofanis-katangeliess-gia-skandalo-2>; <https://www.healthweb.gr/protoselido/24140-paraskinio-ta-nosokomeia-agonioyn-kai-i-ekapy-anapayetai>; <https://www.healthweb.gr/editorial/17927-diaploki-diafthorasti-sumvasi-gia-tin-kathariotita-tou-gna-evangelismos>; <https://www.healthweb.gr/protoselido/23998-paraskinio-o-promitheytis-poy-xepoyypolyazei-to-asklipieio-voylas>; <https://kokkinoslawfirm.com/2018/11/%CE%B1%CE%B3%CE%BF%CF%81%CE%AC%CE%B6%CE%B1%CE%BC%CE%B5-%CF%84%CE%BF-%CE%B1%CE%BA%CF%81%CE%B9%CE%B2%CF%8C%CF%84%CE%B5%CF%81%CE%BF-%CF%86%CE%AC%CF%81%CE%BC%CE%B1%CE%BA%CE%BF-%CF%83%CF%84%CE%BF%CE%BD/>; <https://www.fsmagnesia.gr/cgi-bin/pages/index.pl?arlang=Greek&type=article&argenkat=%CE%A4%CE%B1%20%CE%BD%CE%AD%CE%B1%20%CE%BC%CE%B1%CF%82&arcode=160913201608>



Recommendations

Structure of procuring entities

The Greek public procurement could benefit from clarifying aspects related to the structure of the procuring entities.

Greek authorities could consider providing guidance and good practices examples on the set up of procurement functions in different types of public agencies through dedicated tools that take into account the specificities of an organisation (e.g. competency frameworks, size and mandates).

Authorities could examine whether the delegation of decision-making to the lowest competent level represents a source for inefficiencies in procurement execution.

Effectiveness of CPBs

The most important recommendation is to enhance Greece's central procurement bodies (CPBs) (see also indicator 9.) Greece could consider an in-depth evaluation of the work of the CPBs, and how their potential in contributing to a state-of-the-art public procurement system in Greece could be fully realised. As a next step, such analysis should highlight how the framework could be adapted to allow all CPBs to achieve greatest impact for Greece's citizens. Part of such analysis should be to gather more granular information on the actual level of staffing in the CPBs, and conduct an evaluation where (if any) capacity shortages occur. In addition, the legal and regulatory framework should specify more clearly, which institutions may act as procurement entities.

Indicator 7. Public procurement is embedded in an effective information system.

The objective of this indicator is to assess the extent to which the country or entity has systems to publish procurement information, to efficiently support the different stages of the public procurement process through application of digital technologies, and to manage data that allows for analysis of trends and performance of the entire public procurement system.

The Greek public procurement system partially complies with this indicator. Greece has a public procurement system with many functionalities covering a good part of the public procurement cycle. The system also gathers information about public procurement analysis. However, the e-procurement system is very fragmented, with different systems applicable for different aspects of public procurement, without interoperability. Reportedly, the system is not user friendly and uptake of e-procurement is lower than advisable. Functionalities are missing.

Findings

Publication of public procurement information supported by information technology (sub-indicator 7 (a))

Greece has six electronic tools (databases or systems) that serve to manage procurement information:

Abbreviation	Full Name	Owner	Purpose
KIMDIS	Central Electronic Registry for Public Procurements	Ministry of Digital Governance	Sharing information about public procurement procedures (opportunities, decisions, etc.) publicly; applies to procedures above EUR 2 500
ESIDIS	Electronic System for Public Procurements	Ministry of Digital Governance	Conducting the public procurement process electronically; not public



		Ministry of Infrastructure and Transport	ESIDIS is further sub-divided into two sub-systems: ESIDIS for public works and OPS-ESIDIS for supplies and services
EBDDISY / NPPDB	National Public Procurement Database	HSPPA	Sharing information about the legal and regulatory framework for public procurement, as well as guidance
OPS	Integrated Information System	Ministry of Development and Competitiveness	Collecting data on National Strategic Reference Framework (NSRF) projects; tool for management, monitoring, control and evaluation ²⁴²
OPS-PDE	Integrated Information System for Public Investments	Ministry of Development and Competitiveness	Collecting data on the Public Investment Program according to the provisions of the EU Regulations (1303/2013/EU); tool for the management, monitoring, control and evaluation of Operational Programmes (OPs).
Diavgeia ²⁴³	(no abbreviation)	General Secretariat for Information Systems of the Public Administration of the Ministry of Digital Governance	Registering all administrative acts electronically; public at diavgeia.gov.gr

The most relevant databases are KIMDIS, ESIDIS and the NPPDB and will be discussed in further detail in the following paragraphs.

Albeit not relevant in terms of accessing procurement-specific data, it is worth mentioning the transparency platform DIAVGEIA. This platform serves to post all administrative decisions and acts. When a procurement document is registered in KIMDIS it is automatically posted on DIAVGEIA, too. It runs in a more open format compared to KIMDIS/ESIDIS.

The **Central Electronic Registry for Public Procurements (KIMDIS)** serves to publish procurement opportunities valued more than EUR 2 500.²⁴⁴ KIMDIS is established under the Ministry of Digital Governance²⁴⁵ in order to collect, process and publish data related to public supply and services contracts, regardless of the procurement process. Procurements above EU thresholds must be published on TED prior to publication on KIMDIS.²⁴⁶ KIMDIS is accessible through the ESIDIS Internet Portal at the website www.promitheus.gov.gr.²⁴⁷ Procurement data and documents are required to

²⁴²<http://www.ops.gr/Ergorama/>

²⁴³Diavgeia means clarity, transparency

²⁴⁴ VAT excluded; L. 4412/2016, article 63

²⁴⁵ L. 4412/2016, article 38 as amended by L. 4781/2021

²⁴⁶ L. 4412/2016, article 65

²⁴⁷ MD 57654/2017, article 3 (2)



be registered without delay.²⁴⁸ The acts registered in KIMDIS come into force upon registration.²⁴⁹ By law KIMDIS should be connected with (a) with the transparency platform DIAVGEIA and (b) the Commitment Register of the General Accounting Office of the State. However, to date, these interoperability connections are not functioning, i.e. when a procurement document is registered in KIMDIS it is not automatically posted on DIAVGEIA, because no interoperability exists between them.

KIMDIS registers defined minimum data²⁵⁰ from contracting authorities and the CPBs regarding:

- the primary and the approved requests, i.e. the decisions to undertake the obligation and / or the decisions of the body responsible for the budgetary commitment;
- the procurement documents;
- the award decision;
- the contract and;
- the payment order or any other document corresponding to it.

The following documents are mandatory to be registered:²⁵¹

- primary requests for a public procurement need, prior to its budgetary approval and commitment;
- approved requests, i.e. the decision approving the expenditure associated with a primary request;
- prior information notices, procurement notices and relevant documents and their amendments;
- the award decisions and their amendments;
- the contracts and their amendments / extensions;
- the payment order, i.e. the document by which the legally competent body orders the payment of a specific expense to the beneficiary.

Documents in KIMDIS are published in pdf format. Identifiers and classifications are used. Research can be carried out based on the contracting authority's name and / or registry number; CPV; time period; value threshold; and ADAM number (a number to identify each public act.) Searches are separate for different parts of the procurement cycle and the associated documents, i.e. contracts have to be searched separately from tenders, etc.

The **Electronic System for Public Procurements (ESIDIS)** is a tool to manage the transactional aspects of procurement procedures between the contracting authorities and economic operators, i.e. the e-procurement platform. ESIDIS is further divided into two sub-system: OPS-ESIDIS covering supply and services, and ESIDIS Works covering public works transactions. The Administrator of OPS-ESIDIS is the Ministry of Digital Governance, while the Administrator for ESIDIS Works subsystem is the General Secretariat of Infrastructure of the Ministry of Infrastructure and Transport. ESIDIS contains more comprehensive information, namely the full set of bidding documents and evaluation reports, including requests for reviews and decisions on them. ESIDIS is not accessible to the general public, however, and only to the economic operators participating in the specific procurement procedure. The assessment team tested the registration process for ESIDIS and did not face any hurdles in using it. The automated messages inform participants of important steps and the availability of training in using ESIDIS.

With the introduction of L. 4782/2021, contracting authorities are obliged to use ESIDIS for procedures covered by the public procurement law valued at more than EUR 30 000.²⁵² Previously, this threshold was EUR 60 000. For public procurement valued at less than EUR 30 000, the use of ESIDIS is optional.

²⁴⁸ MD 57654/2017, article 10

²⁴⁹ L. 4412/2016, article 38 (7)

²⁵⁰ MD 57654/2017, article 5

²⁵¹ MD 57654/2017, article 6

²⁵² L. 4412/2016, article 36 (1); VAT excluded, as amended by article 4 L. 4782/2021



In the utility sector, contracting authorities can use their own electronic system.²⁵³ Namely, five Contracting Bodies (DEH, DEDDHE, ADMHE, DESFA and ARIADNE) are excluded from the mandatory use of ESIDIS and make use of privately owned / private Systems-Bidding Platforms.

KIMDIS and ESIDIS cover the procurement cycle up to the award of the contract (with the exception of needs analysis, where only consultation is possible). Both systems are accessible only to those participating in the procedure. Both KIMDIS and ESIDIS are accessible at no cost. With the adoption of rules for electronic invoicing²⁵⁴, contracting authorities must accept electronic invoices for contracts above the thresholds.

With respect to the governance of KIMDIS and ESIDIS, it should be noted that the business owner is the Ministry of Development and investment, while the system owner is the Ministry of Digital Governance. As highlighted in Indicator 5, this split in responsibilities does not favour a streamlined functioning of the e-procurement system as a whole.

HSPPA's **National Public Procurement Database (NPPDB)** provides for relevant information on procurement rules, guidance and statistics and is accessible to all interested parties on HSPPA's website at no cost. Procurement data in the NPPDB is based on KIMDIS, ESIDIS, and additional information processed by HSPPA's Directorate for National Databases of Public Procurement and Electronic Support. HSPPA collects and publishes information on the legislative and regulatory framework of public procurement and related case law of European and national courts on the NPPDB.

HSPPA also monitors and evaluates the collection, processing and publication in KIMDIS of data produced by the contracting authorities and the competent public bodies²⁵⁵.

Appeals are not registered in KIMDIS and there are no linkages to rules and regulations and other information relevant for promoting competition and transparency. However HSPPA's (former AEPP) decisions on requests for reviews regarding public procurements of value of more than EUR 30 000 are posted on HSPPA's (former AEPP) website and linkages to rules and regulations can be found on HSPPA's website.

Use of e-procurement / uptake (sub-indicator 7 (b))

In interviews, stakeholders stated that ESIDIS was easy to use and government officials have the capacity to use the system as it is intended. Generally, companies are participating in e-procurement as well.

According to the EU Single Market Scoreboard, in 2018, Greece published procurements valued at 2.5% of GDP on TED. This is a comparatively low rate in the EU, but represents an increase compared to previous years (1.4% in 2017)²⁵⁶. While publication in TED is not equivalent to national uptake of e-procurement, this analysis can provide an indication of the extent of e-procurement use as publication in TED tends to increase with national uptake of e-procurement overall.

Strategies to manage procurement data (sub-indicator 7 (c))

HSPPA is responsible – inter alia– for keeping the National Public Procurement Database (NPPDB).²⁵⁷ For the exercise of the above responsibilities, data are collected from several discrete systems:

- public procurement information systems

²⁵³ L. 4412/2016, article 258 (11)

²⁵⁴ L. 4601/2019, articles 148-154 transposing Directive 2014/55/EU

²⁵⁵ L. 4013/2011, article 2 (2) (j)

²⁵⁶ European Commission, Single Market Scoreboard, Public Procurement https://single-market-scoreboard.ec.europa.eu/policy_areas/public-procurement_en

²⁵⁷ L. 4013/2011, article 2 paragraph 2



- by sampling by the contracting authorities themselves
- from audit bodies
- from the elaboration of decisions of the competent courts

In order to improve the quantity, quality and reliability of the collected data, the Joint Ministerial Decision²⁵⁸ (as per article 340 of law 4412/16) specifies rules for a better and in-depth analysis of the data. In particular the above JMD determines the required data / information provided to HSPPA, those responsible for providing this information, the time and manner of their submission and the disciplinary responsibilities of those responsible in case of non-submission or late submission of the required data. The data collected supports HSPPA's obligation to report the European Commission every three years.

Public procurement data and reports are also published on HSPPA's website:

- the monitoring report as per article 340 of law 4412/16
- data from the National Public Procurement Database

The public procurement portal promitheus.org serves to publish the analyses conducted by HSPPA's Directorate for National Databases of Public Procurement and Electronic Support. It also serves to publish analysis by the General Directorate of Public Procurements. The portal visualises and allows searches for data on:

- published procurements;
- value;
- items;
- contracting authorities;
- procurements procedures carried out;
- tenders submitted;
- economic operators participated;
- economic operators registered.

In addition, the search allows for a search by:

- year;
- services / supplies / both;
- type of contracting entity (contracting authority in the central administration, other contracting authorities, local authorities, contracting authority in the health sector);
- name of the contracting authority;
- territory (all, Attica, Aegean Islands and Crete, Northern Greece, Central Greece)
- region.

The database appears to be updated regularly.²⁵⁹

There are no specific procedures in place to ensure the reliability of data.

Given the lack of interoperability between KIMDIS and ESIDIS, a specialised department within the General Directorate of Public Procurements of the General Secretariat of Commerce analyses information from ESIDIS/KIMDIS systems and sends procurement reports to interested procurement stakeholders, including to HSPPA.

On procurements with EU funds, handled through OPS and OPS-DPE, the information management and analysis is conducted by the Ministry of Development. These data are required to comply with

²⁵⁸ JMD No. 70362/30.6.2021 of the Ministers of Development and Investments and of the Interior

²⁵⁹ When the assessors visited the page in mid-April, the database had been last updated on 16 March 2020.



dedicated EU requirements.²⁶⁰ The National NSRF Coordination Authority²⁶¹ has the mission to act as liaison and to provide information to the Commission, to coordinate the activities of the other relevant designated bodies and to promote the harmonised application of Union and national law. Inter alia, the National NSRF Coordination Authority has the responsibility to keep the Integrated Information System, which shall comply with the regulatory requirements of EU and national law regarding the monitoring of Operational Programmes, in particular per category of region and thematic concentration.

The following quantitative information was retrieved to assess the quantitative assessment criteria:²⁶²

- general government procurement as share of total general government expenditures: 18.73 percent (2020)
- general government procurement as share of GDP: 11.36 percent (2020)

The assessors were unable to retrieve data to compile the remaining aspect of the quantitative assessment criterion: total value of contracts awarded through competitive methods in the most recent fiscal year.

Substantive gaps

The assessors note several substantive gaps relative to the MAPS Methodology. The gaps relate to four broad areas:

- incomplete functionalities of the e-procurement system
- limitations in the usability of the e-procurement system
- low uptake of e-procurement in practice
- limitations in the quality of procurement information

Incomplete functionalities of the e-procurement system

The system to manage public procurement projects (i.e. ESIDIS) does not cover the entire procurement cycle. Namely, the planning and contract management phase do not seem to be fully covered in ESIDIS, and e-procurement systems are not automatically connected with the budgeting process. The MAPS methodology calls for an e-procurement system that covers the entire procurement cycle. That means that any management of procurements that remains either fragmented or paper-based should be minimised, as in turn it risks jeopardising the efficiency of any electronic procedure and disincentives its use.

Another functionality called for by the MAPS is a mechanism to verify the information in the e-procurement system. In Greece, there are no such information verification procedures available. In addition, based on reviews of the information in KIMDIS, assessors found indications that information is fed into the central electronic registry system (KIMDIS) with a delay.

Information in the Greece e-procurement system is not provided in an “open” format, nor following any data standard such as the Open Contracting Data Standard (OCDS). This is closely linked to the gaps related to limitations in the quality of procurement information. Documents uploaded in the system are often scans of paper-based documents; there is no full-text search. ESIDIS is not accessible to anybody besides the parties participating. Through ESIDIS, up to date information is found only up

²⁶⁰ According to Law 4314/2014 “(A) on the management, control and implementation of development interventions for the programming period 2014-2020, (B) Transposition of Directive 2012/17 of the European Parliament and of the Council of 13 June 2012 (EU L 156 / 16.6.2012), amendment of Law 3419/2005 (A 297) and other provisions”, article 14 (3) (k); article 15 (4)

²⁶¹ Law 4314/2014, article 14

²⁶² Source: OECD National Accounts Statistics in stats.oecd.org



to the award of the contract. In addition, information on implementation and information on past procedures is not publicly available. In KIMDIS, only the specific documents set out in the law are registered and the system does not provide for up-to-date information. The public can access procurement related information in KIMDIS. Albeit the existing search functions, the openness remains very limited. The database stores documents as individual instances, identifying the associated procurement through a number, but not linking any of these instances. According to stakeholders, this approach was reminiscent of the (non-electronic) registration of administrative acts (registration of tender, registration of the contract), but provides very limited use. There is no possibility to automatically see all documents and activities associated with the same public procurement process. This information could be constructed by searching for the identifier, but this is a cumbersome task as documents for different phases of the procurement cycle are dispersed over different search masks.

Limitations in the usability of the e-procurement system

Several gaps relate to the adequacy of the e-procurement system for its intended purpose and the ease of use of the systems. As a general note, the existence of several platforms and systems for e-procurement provides for a fragmented environment, hindering an efficient use and hindering accessibility of information. Information remains fragmented, and therefore difficult to use analytically. For both users and the general public, a fragmented system hinders access to information and thus the transparency of the e-procurement system. For contracting authorities, a fragmented system results in unnecessary repetition and therefore higher transaction costs.

Concretely, integration between ESIDIS and KIMDIS is limited and organised via identifiers that have to be manually entered in both databases, but there is not automated integration allowing for cross-sharing information. The lack of interoperability poses administrative burden to contracting authorities, as they have to publish a number of documents multiple times on separate platforms. According to the Ministry of Digital Governance, the interoperability of KIMDIS with other platforms is close to completion, but at the time of writing it is not provided.

Although information is available in the system as a whole, this information is fragmented across different platforms. This does not necessarily represent a gap with regards to the assessment criterion, but weakens the effectiveness of the information system to an extent.

ESIDIS is accessible only to the ones participating in the specific procurement procedure. In addition, information on implementation and information on past procedures is not publicly available. The public can access procurement related information in KIMDIS. However, this information is listed in a fragmented way that requires complicated searches to compile several pieces of information or documents for the same procedure. There is no comprehensive information published related to the entire public procurement procedure (namely, the full set of bidding documents and evaluation reports, including requests for reviews and decisions on them). While this is in line with the legal framework (despite smaller gaps on timely publication of required information), this aspects is considered a substantive gap, given the limited publication of comprehensive information along the procurement cycle (see also above).

In addition, several contracting entities are allowed to use their own electronic system for procurements in the utility sector. This increases fragmentation further and makes monitoring more difficult, while economic operators already familiar with one electronic system have to register for, learn and adjust to a different electronic system per contracting authority. Stakeholders noted that these platforms may host large tenders.

In interviews, suppliers reported on challenges related to the use of the e-procurement system. They stated that the system was at times not operational. In addition, suppliers responded that they had



been pushing for increased digitalisation vis-à-vis the government. In the eyes of the suppliers, the requirement to submit “almost all” documents as a hard copy was creating unnecessary burden.

While the responsibility for the different databases is clearly assigned, there seem to be challenges in managing the e-procurement system overall, since there is no unambiguous attribution of responsibility for e-procurement and information management. Systems, including data flowing into the NPPDB could be fully integrated and automated in real-time. To date, aspects of e-procurement remain the responsibility of different institutions, for example information management assigned to the line ministry vs. the technical platform assigned to the Ministry of Digital Governance. As mentioned in other points in this report, this is problematic, as, for instance, the lack of interoperability renders the e-procurement system less effective and efficient. However, the assessors note that due to reasons that lie beyond the public procurement system, unambiguous attribution of responsibility for the e-procurement system as a whole might be difficult to achieve.

Low uptake of e-procurement in practice

The assessors found indications that the actual use of e-procurement is lower than it ideally should be. As a consequence of limited uptake of e-procurement, outcomes, results and performance cannot be monitored by interested parties. This aspect is compounded by the gaps related to the missing functionalities of the e-procurement system. In this area, gaps relate to a) a proactive use of available functionalities, and b) limited compliance with required procedures.

Prior to the reform lowering the e-procurement threshold to EUR 30 000, e-procurement uptake was already relatively low below the threshold of EUR 60 000²⁶³, as the use of ESIDIS for these procedures was optional. As experience in other countries shows, e-procurement can have efficiency and effectiveness benefits for procurements of all value categories. However, in Greece, e-procurement is only used to a very limited extent for lower value procurements. This might be related to the relatively cumbersome management that KIMDIS entails for contracting authorities and suppliers. Even prior to the reform, stakeholders noted that contracting authorities would not use ESIDIS for contracts below EUR 60 000 because small sized enterprises were not familiar with it and would find it difficult to use. In this context, it should be noted that in order for an economic operator to participate to an electronic procurement procedure it is required to have an electronic signature and be familiar with electronic transactions. These conditions are not usually met by small enterprises that may consist of only one employer of advanced age, who finds it difficult to use the internet. Against this background, Greek authorities need to carefully consider a strategy to ensure uptake of e-procurement in line with the new legislative changes.

Delays of document registration in KIMDIS regarding contracts (among others) seem to appear on a regular basis, according to cursory review by the assessment team. The registered documents do not correspond to all those documents usually issued during procurement procedures and they do not include evaluation and performance reports. Likewise, given that the system does not provide for a contract management function, for this stage of the public procurement cycle, e-procurement is relatively little used.

Albeit the general ability to use the existing e-procurement system, these findings, such as late filing of required data, and stakeholder feedback indicate challenges in the capacity of procurers in using the e-procurement system. The assessors were unable to ascertain whether this is because the system is constructed in a way that it makes use difficult, or whether the capacity to use e-procurement in general is lacking.

The assessors did not have access to information to evaluate the capacity of government officials to plan, develop and manage e-procurement systems or in order to draw deeper conclusions about

²⁶³ VAT excluded



uptake of the e-procurement system at national level, such as quantitative indicators on this topic (see also the following paragraphs.) The fact that the e-procurement platforms are currently operating is a demonstration of the existence of some degree of such capacity. However, the quality of government officials' capacity to plan, develop and manage e-procurement systems remained unclear. Shifts in the responsibilities related to the management of e-procurement systems may also represent a barrier to effectively build such capacity.

Limitations in the quality of procurement information

Although responsibilities to analyse information has been assigned and a system for collecting and processing data is operational, the actual analytical insight that can be drawn from it remains limited. Analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements as called for by the MAPS methodology is not entirely possible. For example, the available data is not structured in a way that would allow assessing many quantitative indicators in the MAPS Indicator Framework.

For most of the quantitative indicators in the MAPS methodology, the assessors did not have access to the data needed for an evaluation. This evidences the limitations of the data and information gathered in the e-procurement system, including the quality and amenability for performance analysis.

The following quantitative indicators were not assessed, due to a lack of data:

Minimum indicators:

- procurement plans published (in % of total number of required procurement plans)
- key procurement information published along the procurement cycle (in % of total number of contracts)
- share of procedures where an invitation to bid was extended (in % of total number of contracts)
- contract awards (purpose, supplier, value, variations/amendments)
- details related to contract implementation (milestones, completion and payment)
- appeals decisions posted within the time frames specified in the law (in %)
- uptake of e-Procurement
- number of e-Procurement procedures in % of total number of procedures
- value of e-Procurement procedures in % of total value of procedures

Recommended indicators:

- bids submitted online (in % of all bids submitted)
- bids submitted online by micro, small and medium-sized enterprises (in %)

Available data on e-procurement uptake is not complete, as per MAPS requirements. Namely, there is information about the absolute number of e-Procurement procedures²⁶⁴ (7.903 in 2019), but the total number of procedures is unknown. Similarly, the value of e-procurement procedure in 2019 was EUR 4 285 853 492, but the total value of procedures is unknown.

The assessors identified many instances of gaps and delays with regards to the information available in KIMDIS. For example, contracts signed in 2016 were registered in 2018, two years after signature or even later. This means that KIMDIS is not used properly and that the data it provides is not accurate. The assessors did not find any indication that contracting authorities' obligation to provide information in KIMDIS is monitored or enforced, or reviewed whether information is provided in an adequate way. Therefore, the assessors conclude that the system presents gaps with regards to data collection and provision.

²⁶⁴ Procurement procedures with deadline for the submission of the offer in 2019



Risk assessment

Substantive gaps identified in Indicator 7 vary in terms of the risk (in terms of probability and severity) they present to procurement system as a whole, as listed in Table 4 below.

Table 4: Summary of substantive gaps and risk assessment

	Substantive gap	Risk	Red flag	Explanation
7 (a)	Gaps in the completeness of records available in the e-procurement system (e.g. contracts registered in KIMDIS)	Low	No	There is evidence of incomplete records, despite the legal obligations to post information without delay. Overall, it is difficult to assess the extent to which these data gaps apply throughout KIMDIS, hence the risk is considered low.
7 (a)	Full access to e-procurement information across the procurement cycle is not provided (ESIDIS access is limited to participants in the procurement procedure);	Medium	No	Limited accessibility of procurement information through one platform decreases transparency and the ability to use procurement data for analytical purposes. A moderate risk is estimated, since some access to information is possible to certain users, but it fragmented and not easily accessible.
7 (a)	Information fragmented across ESIDIS and KIMDIS platforms; lack of interoperability	High	No	Lack of interoperability and information fragmentation have an impact on the performance of the procurement system. Nonetheless, no red flag is assigned, as procurement objectives can still be achieved in the current environment.
7 (a)	Information is not available in 'open' format	High	No	This applies for the entire procurement system with significant drawbacks, in particular for transparency and further analysis of procurement data. No red flag is assigned as this gap can be addressed within the procurement system.
7 (a)	Responsibility for management of the platform is split;	Medium	No	The split in responsibilities of the platform reduce the Greek government's ability for developing a coherent and integrated procurement system. The overall risks for the procurement system are considered moderate.
7 (b)	Low uptake of e-procurement, particularly for low value procurement; SME suppliers do not favour e-procurement	Medium	No	The risk of this gap in terms of severity of is considered moderate since the e-procurement system is being used, though less than to its full potential.



7 (b)	E-procurement functionalities do not cover the contract management phase	Medium	No	An expansion of procurement functionalities would enhance the procurement system. The severity of this gap is considered moderate as essential functions of the e-procurement system are provided.
7 (c)	Incomplete data: delays with information available in KIMDIS	Low	No	There is evidence of incomplete records, partly related to delays in when records are posted on KIMDIS. Overall, it is difficult to assess the extent to which these data gaps apply throughout KIMDIS, hence the risk is considered low.
7 (c)	Limited opportunity for analysis of e-procurement data; data does not cover the full procurement cycle	High	No	Same rationale as 7(a) "Information is not available in 'open' format".
7 (c)	No verification of information procedures	Medium	No	The quality of data may be sub-optimal since there are no procedures to verify the reliability of information in the e-procurement system. This is considered a moderate risk to the overall procurement system, as instances of incomplete data have been recorded.

Recommendations

Given the crucial role of e-procurement in increasing the efficiency and effectiveness of public procurement, an emphasis should be placed on enhancing Greece's information system for public procurement and e-procurement. This should focus on two main areas to meet international good practice fully: by streamlining the overall system, and by improving the quality of available data.

Streamlining the e-procurement environment

First, the e-procurement and information system overall could be streamlined, to tackle challenges arising from the dispersed nature of the e-procurement system, and to make it more user-friendly. All information systems (KIMDIS, ESIDIS, HSPPA's database) should be consolidated, integrated and (for the area of procurement) replaced by one single system in the long-term. The aim should be an e-procurement system that truly supports procurers, thus making it worthwhile to use e-procurement for all types of procedures (low- / high-value, different sectors, etc.) In this comprehensive overhaul, users of the system (procurers and companies) should be involved to determine their needs and potential for improvement. A streamlined system should be equipped with expanded functionalities for the entire procurement cycle, adequate for use in all types of procedures, including utilities.

Governance of the e-procurement system

Greece could consider assigning the responsibility for all aspects of the e-procurement system, including information management, to one institution, including all platforms or tools, to facilitate an integrated, consistent and comprehensive approach.

Improving data quality



Second, data should be collected, processed, and stored in an enhanced manner to facilitate analysis of trends, levels of participation, efficiency and economy of procurement. This would include functionalities in the system that allow storing more granular information about each procurement process, and building systems to analyse the gathered information. In addition, enhanced data quality requires monitoring of compliance with requirements to provide information, and routine verification of data quality. Data standards such as OCDS could be helpful in this regard. Using incentives, such as making the upload of data in KIMDIS mandatory for validity of contracts, could represent an effective way to increase the completeness of e-procurement information. This aspect is linked to user-friendliness of the system: the greater the uptake among buyers and suppliers, the higher the potential quality of data and its potential for analytical insights. Finally, better data quality could be used for monitoring purposes, notably monitoring of sustainable procurement including green and climate indicators.

Interoperability

In the short term, Greece could gain in efficiency from making the existing e-procurement platforms interoperable and apply the “Once-Only Principle” for contracting authorities and economic operators, thus reducing administrative burden.

Indicator 8. The public procurement system has a strong capacity to develop and improve.

This indicator focuses on the strategies and ability of the public procurement systems to develop and improve. Three aspects should be considered: i) whether strategies and programmes are in place to develop the capacity of procurement staff and other key actors involved in public procurement; ii) whether procurement is recognised as a profession in the country’s public service; iii) whether systems have been established and are used to evaluate the outcomes of procurement operations and develop strategic plans to continuously improve the public procurement system.

Greece partially complies with this indicator. Public procurement training and capacity building is available in the Greek public procurement system, and first steps have been undertaken towards professionalising the public procurement workforce. Some data analysis and visualisation is conducted and published. The assessors were unable to assess to what extent available training is adequate, and stakeholders reported capacity constraints. Data lacks granularity to conduct advanced analysis to inspire strategic public procurement.

Findings

Training, advice and assistance (sub-indicator 8 (a))

Training on public procurement is provided in cooperation by HSPPA. The main training provider is EKDA, the National Centre for Public Administration. Other relevant institutions include the Centre of International and European Economic Law (KDEOD) as well as the General Secretariat of Commerce and Tourism of the Ministry of Development. The latter are responsible for consulting-advisory responsibilities.

HSPPA’s main task in the area of professionalisation according to the law²⁶⁵ is to provide advice on public procurement. While HSPPA itself does not deliver extensive training, professionalisation or capacity building, other institutions have to coordinate with HSPPA on content. That said, HSPPA trains public executives independently by organising workshops and seminars in Audit Authorities and / or Ministries upon their request. At the same time, executives of HSPPA belong to the register of trainers of EKDA participating in the training programmes of INEP for public contracts.

²⁶⁵ L. 4013/2011, article 2 (2), (9)



EKDA is Greece's training institution for public servants. A specific programme for public procurement is part of EKDA's training offer, according to interviews. Every employee in the public sector can enrol. There are some selection criteria, such as the relevance for the official's tasks and training needs. In 2018, EKDA trained 2 508 participants in public procurement courses. In addition, 44 students of the National School for Public Administration and Self-governance have followed a procurement-specific programme. In 2017, EKDA restructured the public procurement programme. The focus of this programme is on awarding contracts (recently redesigned from four- to five-day programme.) Emphasis is on legal protection and implementation. A specific programme has been developed to cover the planning stage, preparation and market research.

During the interviews, EKDA's representative stated that training programmes are annually evaluated by trainees who are requested to fill in a questionnaire stating their needs, whether the seminar was useful and whether they implemented the information obtained or not and why. In accordance with the feedback, training programmes are being adjusted accordingly for the next year. There is no regulation on evaluation and periodic adjustment of training programmes based on feedback and need.

The Public Procurement Monitoring Unit (MoPADIS), operated by the Centre of International and European Economic Law (KDEOD) is an advisory structure that provides the Greek contracting authorities with legal advice on public procurement under the scope of EU law. According to interviews, KDEOD received approximately 800-900 calls on the helpdesks, and issues 150 written responses per year.

For goods and services procurement, the responsibility to provide circulars, instructions and other information is placed with the General Secretariat of Commerce and Tourism of the Ministry of Development.²⁶⁶

Recognition of procurement as a profession (sub-indicator 8 (b))

At present, there is no dedicated strategy on increasing the capacity of public procurers, although it appears to be an issue that has been considered, according to interviews. Furthermore, strengthening the administrative capacity of contracting authorities is addressed in the current National Public Procurement Strategy 2021-2025, and was already part of the previous strategy 2016-2020. The current strategy foresees the development and subsequent implementation of an action plan for professionalisation of public procurements aligned with the EU recommendation. The action plan shall be dedicated to both contracting authorities and economic operators.

Efforts have been made to coordinate training offers. For example, HSPPA, EKDA, and the General Secretariats for Commerce, Infrastructure and Health engage in what stakeholders have termed a "strategic alliance" to provide training.

Procurement is not recognised as a specific function. EKDA provides certification for civil servants, but there has yet to be a certification system for public procurers. Contracting authorities are responsible for hiring and promoting procurers. The contracting authorities also determine job descriptions and any career path. Procurers are not generally permanent in their position but rotate between procurement- and non-procurement functions. Harmonised job descriptions are available for directors' positions and employees. As discussed in Indicator 5, the Register of Certified Public Employees which shall certify staff capable of preparing and execute procurement contracts has not been established yet, and the presidential decree for its establishment has not yet been issued. Such a Register, if developed effectively, would contribute to the professionalisation of the procurement profession.

The general rules on appointments and promotion of public servants apply to procurers. Civil servants have to take exams as part of the recruitment procedure, which is conducted by the Supreme

²⁶⁶ PD 147/2017



Personnel Selection Council. Selection is based on clearly defined and objective criteria, including experience.²⁶⁷ Promotions are made following a relevant decision of the service council. Employees are promoted if they have completed the required time stated in the law at the level they are and can demonstrate substantive qualifications through their evaluation reports.²⁶⁸ Performance evaluations follow the general rules for civil servants as well. Staff development, including participation in training, in general is managed by the contracting authority.²⁶⁹

Monitoring performance to improve the system (sub-indicator 8 (c))

The law (article 340 of L. 4412/2016) assigns responsibility for monitoring the implementation of the procurement law to HSPPA. The results of monitoring activities are made available to the public by posting on its official website and are sent to the competent Directorate of the European Commission.

Since the summer of 2021, with the introduction of JMD No. 70362/30.6.2021 of the Ministers of Development and Investments and of the Interior, a monitoring system of public procurement has been created. Namely, the quantitative and qualitative monitoring information has been defined, as is reported yearly to HSPPA.

The monitoring system is based on the requirements set out by the European Commission. Indicators includes, as appropriate, information on the most common causes of wrong application or lack of legal certainty, including possible structural or recurring problems in the application of the rules, the level of SMEs' involvement in public procurement procedures, as well as prevention, detection and reporting of cases of fraud, corruption, conflict of interest and other similar serious irregularities in the field of public procurement.

On the basis of the information collected, HSPPA prepares and sends a monitoring report to the European Commission every three years in accordance with the law²⁷⁰. Monitoring reports have been issued for the years 2021, 2020, 2019 and 2018.

According to interviews, analysis is used to support strategic policy making on public procurement, but the extent and the type of data analysis remained unclear. HSPPA aims at developing and promoting the national strategy, policy and actions in the field of public procurement.²⁷¹ There is no regulation describing or defining the way information shall be used to this purpose.

The National Public Procurement Strategy 2021-2025 (see indicator 3) includes goals, as well as an action plans, which details timelines, indicators and assigns responsibilities for action. Among others, the Action Plan contains specific activities related to the continuous monitoring and simplification of the institutional framework as well as actions to track the implementation of secondary legislation. HSPPA is tasked with monitoring the central administration with regards to public procurement, notably in the context of promoting the national strategy, policy and action in the field of Public Procurement, as well as to develop activities to implement the National Strategy.

Gaps

Professionalisation and training

An overarching gap in this indicator relates to the lack of a strategic approach to procurement professionalisation and capacity, including lacking a general framework for professionalisation and a lacking strategic approach to planning and providing trainings to meet concrete needs, although there are plans to address professionalisation in procurement in the National Strategy.

²⁶⁷ Law 3528/2007, "Code of Status of Public Civil Servants and Employees of Legal Persons Governed by Public Law", article 12

²⁶⁸ L. 3528/2007, article 83

²⁶⁹ L. 4369/2016, articles 14 and following

²⁷⁰ L. 4412/2016, article 340 (2)

²⁷¹ L. 4412/2016, article 347 (1)



Similarly, with regards to concerted efforts to build procurement capacity through trainings, a strategic approach is missing. Although stakeholders mentioned that a training strategy is being elaborated, there is no strategy available yet.

Insights from interviews with stakeholders indicate that such a strategy might be highly beneficial towards increasing the capacity of the Greek public procurement system. Stakeholders mentioned that HSPPA was sometimes contacted about inconsistencies being taught at the different institutions, for example in the courses by EKDA in comparison with the guidance provided by HSPPA.

There is limited insight (analysis or data) as to whether the trainings globally are sufficient to maintain a knowledgeable public procurement workforce. Beyond the designation in the law, the assessors were unable to establish to what extent obligation and high standard for training are actually implemented, notably on the level of the contracting authorities. Stakeholder interviews indicated that not all contracting authorities might have the capacity to ensure adequate training for their procurers.

Given that there is no data available on the numbers of procurers, it is difficult to determine to what extent existing training programmes meet the needs of the system in a satisfactory manner. During interviews, stakeholders noted that available training programmes were not sufficient. According to stakeholders, public officials have predominantly basic knowledge and that were not adequately specialised on public procurement.

There is no dedicated advisory service or help-desk function to resolve questions by suppliers and the public, with the exception of technical questions while using ESIDIS. Instead, advisory services are provided by the Ministries with legislative initiative in public procurement as well as by Professional Chambers. No verification was possible on whether these existing helpdesks work in practice and in particular how quickly the advisory services respond to the questions.

Performance monitoring

Important steps have been taken in Greece to introduce procurement monitoring on a consistent and regular basis. While quantitative and qualitative information to be collected have been defined, Greece would further gain from integrating the available information into an overarching performance measurement framework based on clearly defined indicators. Furthermore, Greek authorities could further strengthen the monitoring system by making it fully electronic, as well as covering additional aspects, in particular strategic public procurement. Given the relatively recent time of implementation, the assessors are unable to analyse whether information on public procurement performance was used to inform policy making. Assessors were unable to determine that contracting authorities use results frameworks to advance their work strategically.

Substantive gaps

Recognition of procurement as a profession

Procurement is not recognised as a specific function and procurement positions are not defined. Public officials conducting public procurement are unable to follow a specific career path that develops their competencies and maintains them for the benefit of the system. There seems to be limited awareness of the needs for specialisation in public procurers in line with the different tasks along the procurement cycle (e.g. category specialist, contract manager, autonomous buyer, etc.). As stakeholders noted, it is important to hire procurement staff that is willing to grow in a career dedicated to procurement.

As discussed in Indicator 5, another gap relates to delay in implementing the Register of Certified Public Employees, which has not been established yet. The presidential decree required in the law for its establishment has not been issued. Also, note that there is no certification mechanism for procurers yet.



Appointments and promotions

Another gap in this context, relates to the career path, appointment and promotion. These decisions are based on general rules for civil servants and do not take into account any procurement-specific aspects. Appointment and promotion are based on qualifications and professional certification, but since procurement is not recognised as a profession, those qualifications and certifications are not relevant for public procurement. The assessors were unable to triangulate, for example through interviews, how these rules are implemented in practice.

It should be noted that there are significant restrictions to the hiring of civil servants, including procurers. In the aftermath of the 2008 economic crisis and Greece's deteriorating fiscal situation, hiring of public officials was restricted to the existing pool of civil servants. That means that effectively, no new hires are possible and contracting authorities have to recruit procurers from among the civil servants already employed by the state. This means that in practice, appointments are not necessarily based solely on the applicant's fitness for the position of public procurer – put differently, at times, contracting authorities might be faced with the choice between no staff or staff that might not be optimally skilled to be a public procurer.

Risk assessment

The lack of recognition of procurement as a specific function has negative implications for the overall functioning of the procurement system and is therefore considered a high risk. This risk assessment also takes into account the fact that the Greek procurement system has initiated but not completed reforms in this area (i.e. the Register of Certified Public Employees). It is not, however, deemed a red flag as this gap could be addressed within the procurement system, and has been identified as an area of work in the National Strategy for Public Procurement.

Similarly, challenges in considering procurement-specific aspects in appointments and promotion have a significant impact on the performance of the system. Nevertheless, the likelihood of this gap is deemed moderate since the restrictions in public sector recruitment have been eased.

Table 5: Summary of substantive gaps and risk assessment

	Substantive gap	Risk	Red flag
8 (b)	Procurement is not recognised as a specific function	High	No
8 (b)	Appointments and promotions do not take into account procurement-specific aspects	Medium	No

Recommendations

Professionalism is key to achieving effective and efficient public procurement performance. Strategic analysis and insights can point the direction for developing a professional approach to public procurement.

Recognition of procurement as a specific function

Greece could recognise procurement as a specific function with its dedicated career track in the civil service code of the public administration, including a comprehensive training strategy. This would include defining procurement positions at different professional levels and specifying job descriptions and the requisite qualifications and competences.



Professionalisation strategy and training

In addition, closely linked to this professional concept of the procurers, HSPPA could develop a comprehensive training strategy. Such a strategy should harmonise efforts to build capacity in the public procurement system and should be grounded in an overarching analysis of training needs and existing offers, in line with national priorities and strategies on public procurement. Training on public procurement could be expanded, gathering information about participants to inform future trainings. An advisory service or help-desk function to resolve questions by suppliers and the public would complete a comprehensive professionalisation framework.

Digitalisation of procurement monitoring

In order to enhance decision-making on public procurement (including policy reforms), Greek authorities should aim at integrating data collected as part of its monitoring efforts into an overarching performance measurement framework with clearly defined indicators that are regularly tracked. It should also aim at making the comprehensive performance measurement system fully electronic to facilitate data collection and analysis. Monitoring of procurement performance should cover the strategic use of procurement, in particular sustainable public procurement.

3.3. Pillar III - Public Procurement Operations and Market Practices

This Pillar looks at the operational efficiency, transparency and effectiveness of the procurement system at the level of the implementing entity responsible for managing individual procurements (procuring entity). In addition, it looks at the market as one means of judging the quality and effectiveness of the system in putting procurement procedures into practice. This Pillar focuses on how the procurement system in a country operates and performs in practice.

Overall, the efficiency of procurement operations and market practices show significant potential for improvement. Namely, there are multiple gaps around the implementation procurement procedures starting with limited planning and extending throughout the procurement cycle. Contracting authorities make very high use of lowest price, which deters suppliers and often causes delays during the implementation stage. Lengthy contract award and contract implementation processes are common. Challenges emerge also related to the lawful choice of procurement procedures, as well as the use of procurement documents.

From the supplier's perspective, major gaps lie in the long delays for payments as well as the focus on lowest price in the award. Instances of collusion have also affected public procurement markets. While there is dialogue and cooperation with the private sector, this practice could be expanded, and strategies for improving procurement practices in certain sectors need to be implemented more effectively.

Indicator 9. Public procurement practices achieve stated objectives.

The objective of this indicator is to collect empirical evidence on how procurement principles, rules and procedures formulated in the legal and policy framework are being implemented in practice. It focuses on procurement-related results that in turn influence development outcomes, such as value for money, improved service delivery, trust in government and achievement of horizontal policy objectives.

Overall, contracting authorities in Greece struggle with implementing efficient and compliant procurement procedures. Weaknesses are present at planning stage, with limited use of market analysis and clear definition of procurement outcomes, i.e. through tight product/service specifications or functional requirements. At contracting stage, there are deficiencies in the choice of procurement methods as well as in the development of clear procurement documentation. The award



process is slow, and techniques to drive value for money are used to a limited extent. Finally, at contract management stage major gaps result in lengthy payment processes as well as contract amendments and additional works.

Findings

It should be noted that the assessment is based on information available to the assessors. Findings in Indicator 9 reflect procurement practices from contracting authorities in Greece, as per the information shared during fact-finding interviews, as well as data and information gathered from published sources. The sample of contracting authorities interviewed during the fact-finding included several ministries, central purchasing bodies, as well as selected municipalities and prefectures and other contracting authorities. The analysis of public procurement practices is complemented by quantitative indicators on procurement procedures drawn from 15 contracting authorities in various sectors (health, ICT, transport, infrastructure and buildings, energy) and on different governmental levels²⁷².

The findings cover the entire public procurement cycle, focusing on three key stages, i.e. planning, selection and contracting, and contract management.

Box 2: Methodology note on sample case analysis

As per MAPS methodology, the assessment team carried out an analysis of sample procurement cases to supplement the analysis of indicators related to public procurement practices. Data was collected directly from contracting authorities via a dedicated survey. The survey covers the entire procurement cycle (planning and tendering phase, contract implementation and delivery) as well as overarching questions related to transparency, accuracy of records, and civil society engagement.

Specifically, 15 selected contracting authorities were asked to provide data related to 10 of their procurement procedures conducted during the years 2017-2018. The specific procedures have been determined in a randomised way by the assessment team, mirroring the expenditure profile of the contracting authority.

In total, data was received for 128 procurement procedures, however complete data was available for 63 public procurement procedures. To avoid inconsistencies in the analysis, the sample with complete information (63 procedures) was used for the calculation of MAPS indicators. Namely, the final sample allowed for the calculation of composite indicators (i.e. share of responsive bids, time between advertisement/ solicitation and signature, time overruns, cost overruns).

Planning (sub-indicator (a))

With respect to procurement planning, i.e. conducting needs analysis and market research to inform the development of optimal procurement strategies, it emerges that such practices have potential for improvement and greater uptake. Indeed, based on the information available to the assessors, there is no indication that contracting authorities have developed any specific approaches or strategies in

²⁷² The sample for quantitative indicators consists of five to ten cases reviewed per a selected number of up to 15 contracting authorities, amongst: Ministry of the Interior; National Central Purchasing Body for goods and services (General Secretariat for Commerce); National Central Purchasing Body for public works, studies and technical support (General of Secretariat of Infrastructure); National Central Authority for Health Procurement (EKAPY); Large municipalities: Athens, Thessaloniki; Prefectures: Attika, Central Macedonia, Peloponnesus; State-owned enterprises (utilities) from Ministry of Environment or Ministry of Infrastructure; universities; hospitals



the area of needs analysis and market research to guide the identification of optimal procurement strategies.

The legal framework allows contracting authorities to consult with the market, to prepare the procurement procedure and to inform economic operators about their plans and requirements concerning public procurements. Typically, contracting authorities carry out consultations on the draft of the procurement notice and collect comments and suggestions on the tender specifications and requirements. To support the uptake of market consultations, HSPPA issued a Technical Instruction on "Preliminary market consultations" in 2019 providing a concise explanation of how such consultations are conducted and managed. The provisions of L. 4281/2021 attempt to further promote preliminary market consultation for high value contracts by allowing their mandatory use based on ministerial decision²⁷³. However, to date such ministerial decisions have not been issued.

However, in practice, a broad range of contracting authorities often does not conduct such types of consultations. In fact, input from the fact-finding suggests that some contracting authorities do not have sufficient resources to monitor and engage with the market, hence they rely on information and experiences from previous tenders. Nevertheless, based on information from the fact-finding mission, it appears that central purchasing bodies have developed additional practices of needs analysis and market analysis.

Furthermore, there is limited evidence on contracting authorities clearly defining desired outcomes and results of contracts in line with environmental or social impacts of national policy objectives. Technical and functional specifications and the deliverables of a contract are drawn up and submitted to procurement departments either by the requesting services, or by a dedicated working group, or by an external consultant.

To specify requirements, contracting authorities use procurement templates developed by HSPPA, which can be either compulsory in the case of public works and studies, or optional for supplies and services (the full list of templates is detailed in the indicator matrix). There is also a set of standard specifications, which appears to be used by contracting authorities. Suppliers stated that the use of these standard specifications facilitated clear communication of requirements. The use of so-called Uniform Technical Specifications issued by National CPBs may also made mandatory, as per L. 4281/2021. This is subject to the decision of the competent Minister²⁷⁴. During fact-finding mission, some contracting authorities described difficulties with developing technical specifications.

Overall, there is limited evidence to suggest that sustainability criteria are used widely, despite favourable developments in the legal and policy framework (see Indicator 3). In fact, contracting authorities apply price-only criterion in the vast majority of cases (90%)²⁷⁵, leaving little room for sustainability consideration in the award. The assessors have limited information regarding the use of sustainability criteria in the selection phase. In most cases, contracting authorities do not seem to have comprehensive policies and approaches in place, but some contracting authorities have shared their experience with sustainability considerations for specific contracts, for instance regarding energy efficiency in buildings or lighting.

Selection and contracting (sub-indicator (b))

This sub-indicator focuses on the objective of achieving value for money through appropriate determination of procurement methods and approaches, competition, transparency and fairness in selecting suppliers, including the quality of procurement documents and process efficiency.

Use of multi-stage procedures

²⁷³ Law 4281/2021, article 11

²⁷⁴ Law 4281/2021, article 17 amending L. 4412/2016 article 54 (9)

²⁷⁵ European Commission (2020), Country Report Greece 2020 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0507&from=EN>



Multi-stage procedures should be used for complex procurements to ensure that only qualified and eligible participants are included in the competitive process. In Greece, as a general rule, any public procurement procedure above EU thresholds requires a pre-qualification stage, whereby suppliers must fulfil selection criteria dedicated to a) suitability to pursue the professional activity, b) economic and financial standing, c) technical and professional ability. Other procedures defined in the EU legal framework include a pre-selection stage, in which suppliers have to qualify in order to be allowed to submit a bid. Such procedures are typically used for more complex public procurements that may require increased interaction and negotiation with suppliers. However, TED data (above EU thresholds) shows that Greek authorities make overwhelming use of open procedures, and little use of more complex procedures that require pre-selection of suppliers²⁷⁶. To support the use of complex procedures, HSPPA issued Guideline Instructions on the design and implementation of Framework Agreements and the Development of the Competitive Dialogue in 2014 and 2017, respectively.

Procurement documents

Assessors found a mixed picture with regards to the practical implementation and performance in the area of procurement documents. Several standardised procurement documents are available to Greek contracting authorities, such as procurement notice templates, which are either compulsory (works, studies), or optional (supplies, services). The templates for both compulsory (works, studies) and optional (supplies, services) procurement procedures are updated as soon as there is a change in the legal framework. These templates and model documents by HSPPA are generally accepted by contracting authorities and provide important support. Additional available templates include a contract template with specific contract performance conditions. Furthermore, several models for technical specifications exist. Notably, the General Secretariat of Commerce and Consumer Protection has developed a registry of technical specifications accessible to contracting authorities.

Nevertheless, stakeholders repeatedly called for greater standardisation with tools such as registry of suppliers, items, and technical specification, particularly for complex areas such as health. In fact, the drafting of technical specifications appeared to be a challenge. For complex procurement cases, contracting authorities often need to outsource the preparation of tender documents to external consultants. From the private sector side, the limited quality of technical specifications were mentioned as a challenge. Specifically, stakeholders mentioned lack of clarity, the need for greater streamlining and the suspicion of rigged specifications as problematic areas.

Procurement methods

Procurement procedures, both above and below thresholds, are designed in accordance with the provisions of the public procurement legal framework (L. 4412/2016 and 4413/2016). Some exceptions exist. For instance, the Ministry of Immigration and Asylum has established flexible procedures for concluding contracts up to the EU thresholds in order to deal with the urgent migration flows. Derogations from L. 4412 are provided by other legislative acts, and they mainly concern the addressing of exceptional situations (e.g. COVID-19, immigration crisis) and have a specific period of validity related to extraordinary events.

The choice of procurement methods in compliance with the legal framework is an area, in which some weaknesses have emerged. Specifically, artificial splitting of project budgets is an issue of concern, particularly for infrastructure projects funded with EU Funds. Namely, authorities have identified a practice of segmentation of the budget/project, which allows for the direct award of contracts²⁷⁷. This

²⁷⁶ In 2019, Greek contracting authorities carried out 5251 open procedures, 74 restricted procedure, 30 negotiated procedures with publication, 11 negotiated procedures without publication and 9 competitive dialogues. Source: Open Tender, Greece, Market Analysis <https://opentender.eu/gr/dashboards/market-analysis>

²⁷⁷ European Parliament (2018) EU-funded large-scale infrastructure: deficient project preparation and procurement processes? https://segm.gr/wp-content/uploads/2018/11/Public-procurement-study_EN.pdf



finding was reflected by stakeholders during the fact-finding, who expressed concerns about overly high levels of direct awards being carried out.

Some positive developments are underway. In 2019, KIMDIS has been configured so that contracts awarded directly are explicitly declared²⁷⁸. The same applies for contracts concluded by negotiation without prior publication²⁷⁹. Accurate data on direct award has been published for 2020-2021. Using such data, HSPPA will make the appropriate proposals to promote transparency and centralisation of public procurement, and will carry out sampling audits in contracting authorities within its remit. However, recent amendments that allow for certain consulting services²⁸⁰ to be procured via a negotiated procedure without publication (and do not require publication on KIMDIS) may undermine these efforts²⁸¹.

In addition to lack of compliance with the choice of procurement methods in some instances, contracting authorities also make limited use of procurement techniques to drive value for money. In part, this is related to the fact that some techniques are not yet supported by the national e-procurement system, e.g. electronic catalogues. At the same time, other techniques such as framework agreements are not sufficiently exploited, as contracting authorities often lack the skills or the confidence to make use of them. Nevertheless, implementation of efficiency tools is picking up. For instance, the General Secretariat of Commerce has already implemented six Framework Agreements and framework agreements are being designed for a variety of goods and services. In addition, the implementation of the electronic catalogues using ESIDIS is planned. Furthermore, updated training programmes of the National Centre for Public Administration and Local Self-Governance, in collaboration with HSPPA, now include didactic units for the training of executives in techniques such as Framework Agreements and Dynamic Purchasing Systems.

Contract clauses for performance and sustainability

The use of contract clauses to provide incentives for exceeding defined performance levels and disincentives for poor performance seems limited, based on the information available to assessors. Nevertheless, available model documents and templates provide the possibility to define special conditions for the execution of a contract. Furthermore, consideration of sustainability aspects in procurement procedures appears relatively low, which also renders the respective contract clauses unnecessary. In specific sectors (such as vehicles, street lighting) sustainability considerations have been used, including in contract clauses. This applies in particular to street lighting, where the use of energy-efficient LED technology is common. Overall, assessors could not identify the frequency of use of sustainability considerations, and overall procurement practices suggest that such use may be limited.

Bid submission and award

As per the information gathered from stakeholders, the process of bid submission, bid evaluation and related confidentiality is mostly carried out in compliance with legal provisions. As per amendments of the Greek law, attendance of the bid opening is only open to the contracting authority. In fact, in the European context, civil society is rarely involved in the monitor of bid submission, receipt or opening, though representatives of tenderers are often allowed to participate in the opening. Importantly, the public has the opportunity to be informed through KIMDIS and Diavgeia about all stages of the procurement process. The lack of machine-readable data and sometimes delays in complying with KIMDIS transparency requirements, however, do pose some hurdles in this area (see Indicator 7).

²⁷⁸ Article 118 and 328 of L. 4412/2016

²⁷⁹ Article 32 and 269 of L. 4412/2016

²⁸⁰ Consulting services in case of public works or works concessions or PPPs of estimated value over EUR 30 000 000 and in particular for the planning, study, design review, management and monitoring of the works or contracts

²⁸¹ Article 56 of L. 4782/2021 amending article 128 of Law 4412/2016



One of the key weaknesses in the practices of Greek contracting authorities pertains to the overwhelming use of lowest price as opposed to best price – quality ratio (most economically advantageous tender). As a result, the economic efficiency of public procurement is limited. Namely, 90% of contracts awarded exclusively based on the lowest price in 2018, compared with 47% at EU level²⁸². Nevertheless, procurement procedures awarded on the basis of quality criteria, are evaluated according with the criteria stated in the procurement notice, each of them specified with a relative weighting.

It should be noted that a large number of low value procurements are awarded directly based on lowest price. Since procurement reform of March 2021, the threshold for direct award increased to EUR 30 000 (from EUR 20 000) and to EUR 60 000 in case of social and other specific services in the meaning of article 74 of Directive 2014/24/EU. The reform also introduced provisions about direct award of contracts of minor value up to EUR 2 500.

Tender committees are set up at the beginning of the procurement procedure to evaluate procurements. These committees are designated by the contracting authority for supplies and services, but more detailed provisions apply for public works²⁸³. As noted by stakeholders in the fact-finding mission, the randomised electronic designation of tender committees in design and works contracts slowed down the award, often due to lacking skills and an established process to deliver outcomes. It should be noted that the public procurement reform has addressed these challenges. Namely, the L. 4782/21 adopted in March 2021 amended provisions on the establishment of works and design tender committees. In principle, tender committees are now set up with members from the technical staff of the contracting authority. The contracting authority may resort to another public service for a member to be appointed, if necessary. As a last resort, the contracting authority may draw the tender committee through the tender committees members register (MIMED). Provisions for the skills of committee members as well as deadlines for the completion of their tasks have been included in the law.

In the case of procurement procedures above EUR 30 000, confidentiality regarding the tender assessment is ensured through policies, techniques and security methods of the procurement electronic platform (ESIDIS). In contrast, regarding procedures below EUR 30 000, it is contracting authority's responsibility to ensure confidentiality.

Award processes are very slow. On average, award procedures take 236 days compared with an EU average of 86 days²⁸⁴. Delays are often due to the legal remedies process, as highlighted during the fact-finding interviews. The successful tenderer and the rest of the participants are informed about the contract award by means of electronic communication through ESIDIS.

Transparency requirements are met through the publication of information through KIMDIS and Diavgeia systems throughout all procedure stages. The contract award is uploaded on the information systems of DIAVGEIA and KIMDIS allowing any interested stakeholder to access this information. However, despite relatively broad transparency requirements, contracting authorities may be delayed in uploading contracts to KIMDIS (other documents are generally uploaded on time). Furthermore, new legal provisions exclude some contracts from the publication on KIMDIS (see Indicator 1). Nevertheless, improvements have occurred. For instance, in 2019, HSPPA requested a configuration in KIMDIS that made it mandatory (instead of optional) to provide information on the award process.

²⁸² European Commission (2020), Country Report Greece 2020 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0507&from=EN>

²⁸³ Article 221 of L. 4412/2016

²⁸⁴ European Commission (2020), Country Report Greece 2020 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0507&from=EN>.



The sample analysis conducted within the framework of the MAPS assessment sheds further light on procurement practices. The sample includes 63 procedures, further divided in 27 open procedures, 33 direct awards, 2 restricted procedures and 1 negotiated procedure without prior publication.

The following quantitative indicators have been assessed based on the samples:

Number of days between advertisement/solicitation and contract signature (average days)	
Open procedure	318
Direct award	117
Restricted procedure	410
Negotiated procedure without prior publication	8
All procedures	208

Average number of bids that are responsive	
Open procedure	4.6
Direct award	1.6
Restricted procedure	4.0
Negotiated procedure without prior publication	3.0
All procedures	3

Share of bids that are responsive	
Open procedure	85.9%
Direct award	92.4%
Restricted procedure	100%
Negotiated procedure without prior publication	100%
All procedures	90.2%

Share of processes that have been conducted in full compliance with publication requirements	
Open procedure	100%
Direct award	87.9%
Restricted procedure	100%
Negotiated procedure without prior publication	100%
All procedures	93.7%

Number of successfully awarded procedures	
Open procedure	27
Direct award	32



Restricted procedure	2
Negotiated procedure without prior publication	1
All procedures	62

Share of successfully awarded procedures	
Open procedure	100%
Direct award	97.0%
Restricted procedure	100%
Negotiated procedure without prior publication	100%
All procedures	98.4%

Centralisation

Several centralised purchasing bodies (CPBs) operate in Greece to ensure aggregation of procurement expenditure, as described in Indicator 6. Namely, the National Central Purchasing Body within the General Secretariat for Commerce is responsible for centralised purchases of goods and services, while the National Central Purchasing Body within the General Secretariat of Infrastructure is in charge of centralising procurement of public works, studies and technical support. Finally, the National Centralised Health Procurement Authority (EKAPY) was introduced in 2017.

While central purchasing bodies overall have more advanced practices for instance regarding procurement planning and market engagement, centralisation of public procurement could be carried out more effectively, in particular for the area of health. Specifically, the central purchasing body for the health sector EKAPY has been set up but it has not been operational²⁸⁵. As a result, efficiency gains from centralised spending in health are current not fully exploited. Furthermore, Greek CPBs are not making use of strategic public procurement in their framework contracts. As reported in the OECD, Greek CPBs only rarely use green award criteria, and never use criteria related to innovative public procurement²⁸⁶.

The provisions of L. 4281/2021 would allow for the mandatory use of the e-auction for goods and services or for medical, health and pharmaceutical goods and related services, in order to achieve competitive prices in the contracts of procurement and general services, if a ministerial decision is issued in this sense by the Ministry of Development and Investment or the Ministry of Health, respectively.

HSPPA, in collaboration with the Ministry of Health, has planned the adaptation of the Procurement Documents Model using the Dynamic Purchasing System to the needs of hospitals and YPEs (Health Regions).

²⁸⁵ European Commission (2020), Country Report Greece 2020 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0507&from=EN>

²⁸⁶ OECD (2019), Report on the Implementation of the Recommendation of the Council on Public Procurement [https://one.oecd.org/document/C\(2019\)94/FINAL/en/pdf](https://one.oecd.org/document/C(2019)94/FINAL/en/pdf)



Contract management (sub-indicator (c))

This sub-indicator focuses on the effectiveness of the contract management phase including procedures for contract modifications and amendments, acceptance of goods, services and works, payment procedures and record keeping.

Contract modifications, additional works and final acceptance

It is common for contracting authorities to modify or extend of contracts to adjust for possible delays. Contract modifications may be necessary as a consequence of inadequate planning. These practices, however, have negative repercussions on the timely execution of contracts, as they often result in lengthy extension of procedures.

Furthermore, contract management systems that allow monitoring progress from tendering to delivery and invoice do not appear to be widely used. Indeed, some contracting authorities reported using less elaborate systems that would require collaboration with financial departments to follow up payment schedules etc. It should be noted that in the ESIDIS System, there is a relevant contract monitoring subsystem, which however is not mandatory for contracting authorities and therefore it is not being used.

Supervision, quality control and final acceptance of products, services, works and designs is carried out according to the value of the public contract, either by the competent authority or the dedicated Monitoring and Acceptance Commission. In case of complex public contracts, the appointment of special experts is foreseen by the law. The appointment of experts is not mandatory. It is recommended in cases where the Monitoring and Acceptance Committee is unable to evaluate the deliverables of the contract. Furthermore, the appointment of a special Committee for guaranteed supply operation or supervisor for service monitoring is also foreseen in the legal framework. While the regulatory framework appears to be comprehensive in the area of inspection, quality control, supervision and final acceptance, stakeholders during the fact-finding mission expressed reservations about the correct execution of contracts.

As per the law, contracting authorities must upload on KIMDIS all contract amendments without delay.

Statistics on public procurement are available on the National Public Procurement Database Portal (www.eaadhsy.gr) and on National E- procurement System Portal (epromitheus.gov.gr). However, these systems are often not user-friendly to extract data and its use for statistical purposes, as further developed in Indicator 7 and 8.

Based on the sample data, quantitative indicators below complement the assessment, as per MAPS requirements.

The sample analysis provides the following information regarding time overruns:

Average time overruns (in days)	
Open procedure	284
Direct award	8
Restricted procedure	378
Negotiated procedure without prior publication	59
All procedures	139



Average time overruns by category of procurement	
Goods	22
Services	32
Studies	1084
Works	663

In total, the share of delayed procedures amounted to 33.3%.

The sample analysis provides the following picture with respect to quality control and final acceptance:

Share of procedures applying quality control measures	
Open procedure	77.8%
Direct award	69.7%
Restricted procedure	100%
Negotiated procedure without prior publication	100%
All procedures	74.6%

Share of procedures for which an acceptance certificate was issued	
Open procedure	69.2%
Direct award	90.9%
Restricted procedure	50%
Negotiated procedure without prior publication	100%
All procedures	80.6%

The results regarding quality control and final acceptance are considered unexpected, as these steps are mandatory step to complete payment. Limited understanding of the survey question may have contributed to the result.

The sample analysis provides the following picture regarding contract amendments and cost overruns:

Share of contracts with 1 or more contract amendment	
Open procedure	51.9%
Direct award	0.0%
Restricted procedure	50.0%
Negotiated procedure without prior publication	0.0%
All procedures	23.8%

The data for direct awards on contrasts with the data on time overruns. Given that 8 direct award procedures experience time overruns, related contract amendments would be expected.



Cost overruns occur in 9.5% of procedures and amount to 27% on average. It should be noted that for all procedures cost overruns are 2.7% negative, i.e. the final contract volume is lower than the contract volume at signature.

Direct involvement of external stakeholders

As discussed in Indicator 9 (a) contracting authorities may consult with the market, so as to prepare the procurement procedure and to inform economic operators about their plans and requirements concerning the contracts. External stakeholders can comment on draft procurement contracts via promitheus.gov.gr. According to the sample analysis, civil society is consulted in less than 10% of sample procedures analysed. It should be noted that involvement of civil society is relatively uncommon in European countries.

The sample analysis provides the following picture with regards to involvement of civil society in public procurement:

Share of procedures, in which civil society was consulted	
Open procedure	7.4%
Direct award	9.1%
Restricted procedure	0%
Negotiated procedure without prior publication	0%
All procedures	7.9%

Payment processing

The legal framework establishes that the invoices of the successful tenderer shall be paid within 60 days commencing from the date of issue. The central administration has more favourable payment terms, namely 30 days from the receipt of the invoice. If an invoice is sent earlier than the final receipt of goods and services, the delay of 30 days applies as of the final receipt of goods and services, and not the invoice issuance²⁸⁷. As noted by stakeholders, the average payment time amounted to 40 days in 2019, a 10 day delay compared to the payment terms. However, average payment delays appear to be significantly higher for works, as payment time amounts to 80 days according to the World Bank's Doing Business 2020²⁸⁸.

In many cases, failing to deliver supporting documents needed to process an invoice can lead to delays. If the electronic delivery of supporting documents is in place, the payment usually occurs without hurdles. Regardless of electronic procedures, the second pay-out frequently involves delays due to a mandatory cross-check by the tax authorities. At this stage, tax authorities are verifying compliance with tax payments and are able to stop procurement payments, in case the contractor has open debts to the State or to Social Security Organisations. This means that the contractor may be paid the amounts due reduced or not be paid at all if its debts exceed the amount due. Recently, the online control of tax clearance of Economic Operators has been implemented allowing to speed up payment execution. The challenges with payment delays are often exacerbated at regional level.

The introduction of e-invoicing since September 2020 contributes to the digitalisation of the payment process and is expected to reduce payment delays. It should be noted, however, that e-invoicing digitalises only one aspect of the payment process, whereas contracting authorities may still be required to print and store file in paper. As e-invoicing is entering into full operation in the first quarter

²⁸⁷ YPOIK / 21.2.2019 / 2/16563/0026

²⁸⁸ World Bank, Doing Business 2020, Contracting with the Government, https://www.doingbusiness.org/content/dam/doingBusiness/excel/db2020/DB2020_CwG_Data.xlsx



of 2021, i.e. during the execution of the assessment, the assessors are not able to ascertain its effectiveness.

Record keeping

The record keeping to date is not easily accessible in a single file and varies depending on the value of the contract. The public procurement file is kept in physical form (CA) and electronically. As for the electronic part, it is provided in law 4782/21 that it shall be kept in ESIDIS. The e-procurement platform ESIDIS is meant to support contract management operations through a relevant subsystem. Until today, however this subsystem has not been activated.

Procurement documents for contracts over EUR 30 000 (prior to L.4782/21 the threshold was EUR 60 000) are stored in ESIDIS, in form of a pdf file. The same contract file is also uploaded on KIMDIS. It should be noted that while several records are available on ESIDIS, this platform has not been conceived for the purpose of record-keeping.

In addition to the above, the following data is registered in KIMDIS for all procurements above EUR 2 500 since entry into force of L. 4782/21 (previously EUR 1 000):

- The primary requests (requests of the service of the contracting authority / body by which the need for a public contract is established before the relevant credit commitment takes place) and approved requests (the decision to undertake an obligation or the decision of the competent body for the commitment of credit and its inclusion in the corresponding budget or any similar procedure, by which the expenditure of the primary request is approved)
- Procurement announcements and documents
- Contract assignment or award decisions
- Contracts
- Payment orders

For data relating to the whole procurement management including acceptance protocols, payments, invoices, the following applies:

- Acceptance protocols are stored and kept locally (outside the ESIDIS/KIMDIS system).
- Payment orders are uploaded and stored in KIMDIS
- Invoices and delivery notes are stored and kept through the access point of the Greek state (Interoperability Center - KED of the General Secretariat of Public Sector Information Systems).

With the recent implementation of E-Invoice, electronic invoices of contracts above the EU thresholds will be transmitted to the systems of contracting authorities through the access point of the Greek state. The Interoperability Center - KED of the General Secretariat of Public Sector Information Systems has been designated for this purpose.

The following table sums up the record keeping above and below EU thresholds:

Above thresholds	Public Procurement Documents	KIMDIS and ESIDIS
	Contract documents	KIMDIS and ESIDIS
	Invoices and delivery notes	New system: KED of the General Secretariat of Public Sector Information Systems (upcoming)
Below thresholds	Public Procurement Documents	CA (stored locally) and KIMDIS above 2 500 Euros
	Contract documents	KIMDIS



	Invoices and delivery notes	CA – stored locally (optional use of the e-invoicing system as above thresholds)
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The sample analysis provides the following picture with respect to completeness and accuracy of records, based on responses reported by contracting authorities.

Share of procedures with accurate records	
Open procedure	88.9%
Direct award	87.9%
Restricted procedure	100%
Negotiated procedure without prior publication	100%
All procedures	88.9%

Gaps

Gaps have been recorded in the procurement practices of contracting authorities at all stages of the procurement cycle. These gaps can often be linked to limited capacity and overall low levels of professionalisation of the procurement workforce. In other instances, the gaps are related to weaknesses in the integrity and transparency of procurement practices. Overall, the analysis highlights how the deficiencies at planning stage have a ripple effect throughout the procurement cycle, such as requiring adjustments and delays at contract management stage. Limited planning is compounded by lack of technical expertise in the development of fit-for-purpose technical specifications, choice of suited procurement methods and best-price-quality-ratio award criteria to ultimately drive value for money. Frequent legal changes (over 200 modifications of the L. 4416/2016) make it difficult for public buyers to familiarise themselves with the legal provisions in force, and therefore limit the full use of opportunities provided by the legal framework.

Integration of sustainability

There are important gaps regarding the integration of sustainability in public procurement. In fact, awareness about sustainability criteria and their use in practice appears very limited, especially as procuring entities make high use of the lowest price award criterion. Similarly, stakeholders indicated that contract clauses related to sustainability considerations are not sufficiently developed.

Limited technical expertise throughout the selection and contracting process

Lack of technical expertise has an impact throughout the procurement cycle, limiting the potential for conducting procurement procedures that deliver value for money. As a starting point, procurement practitioners may not choose the most suitable procedure for their procurement. In fact, data on the use of procedures suggests that practitioners are not familiar with procedures that involve a pre-selection stage (e.g. competitive dialogue), which are more complex and require greater technical skills from procurement practitioners due to heavy interaction with bidders. Findings from the Court of Auditors also highlight lack of technical expertise and limited administrative capacity to conduct procurement procedures²⁸⁹.

The development of procurement documents and technical specifications is also affected by limited technical expertise. Suppliers complain about limited quality of procurement documents, while contracting authorities struggle with their creation. Often, tender specifications are overly specific, thereby reducing the participation of suppliers. This issue has been highlighted in particular for the

²⁸⁹ Court of Auditors, Annual Report for the financial year 2016



health sector, as assessed by the European Commission.²⁹⁰ As mentioned above, Greek contracting authorities frequently rely on a register of technical specifications that is not sufficiently extensive to meet demand. Similarly, outsourcing the preparation of tender documents for complex procedures is a common practice.

Additional gaps apply in the area of procurement documents. Weaknesses emerge regarding the clarity and completeness of procurement documents submitted by suppliers. In fact, suppliers voiced concerns about the lack of clarity regarding documentation to be provided in support of a bid. Contracting authorities often must reject bids due to missing documents, while suppliers point to limited clarity and standardisation in the requests for supporting bid documentation. At the same time, contracting authorities face challenges in developing clear and integrated procurement documents, often due to limited skills.

As per information available to the assessors, clauses to strengthen the performance of procurement contracts do not appear to be widely used. Available model documents with performance incentives may prompt contracting authorities to make use of such incentives.

Contract execution

There appear to be gaps in the practice of contract execution, with stakeholders expressing the need for better mechanism to ensure correct delivery of public contracts (e.g. inspection, quality control, supervision and final acceptance). At the same time, comprehensive rules seem to be in place. The sample analysis underscores the fact that there may be gaps in this area. Indeed, quality control measures are carried out only 74.6% of cases, while acceptance certificates are issued in 79.4% of procedures.

Statistics and record keeping

The record keeping shows potential for improvements regarding completeness and availability of records in one place as the system is currently set up. Records are scattered between the two system ESIDIS and KIMDIS, as well as the Interoperability Centre (for E-Invoice) while some documentation is not available on neither platform (e.g. acceptance protocols). Gaps in compliance with publication requirements seem to occur (e.g. delayed uploads on KIMDIS), particularly as evidenced by the fact that some procurement procedures have been legalised ex post on the grounds of not meeting transparency requirements. Most records are not available in machine-readable formats. Substantial gaps in the availability of data have been highlighted in Indicator 7 and 8. Comprehensive data is difficult to obtain and does not have a user-friendly format.

The sample analysis confirms that there are gaps in the accuracy and completeness of records for 11.1% of procedures analysed.

Beyond the challenges at system level, practices on the ground appear mixed with respect to using procurement data to improve outcomes. Some contracting authorities have advanced systems in place, but this seems to be the exception rather than the rule. Also, it is not clear whether contracting authorities have established mechanisms to take into account statistics to improve their practices. Specific aspects of procurement such as sustainability are not measured.

Substantive gaps

Planning, market analysis, and definition of requirements

Overall, the procurement planning stage presents substantive gaps across several dimensions such as inadequate planning, limited use of market analysis and moderate skills in the definition of

²⁹⁰ European Commission (2020), Country Report Greece 2020 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0507&from=EN>



requirements. Namely, based on the information collected during the fact-finding mission, it appears that contracting authorities conduct needs analysis and market research to a limited extent, and as a result, optimal procurement strategies are not necessarily identified. Contracting authorities prefer to rely on existing information about their tenders and the market, rather than engage in extensive consultations. According to a European Commission study of professionalisation of public procurement in Greece, there is often limited focus on the pre-award phase.²⁹¹

Private sector stakeholders expressed the need for greater planning of public procurement. From the suppliers' perspective, poor planning is linked to incorrect assessment of needs and resulting skewed budget calculations, which in turn may pave the way for overly low bids. Inadequate planning is also echoed by findings by the Court of Auditors as a source of irregularities.

There is little indication that contracting authorities are sufficiently skilled in defining requirements and desired outcomes of contracts in tight product/service specifications or through an output/outcome-based definition of requirements (functional specifications). In fact, the contracting authorities face challenges in defining technical specifications. As reported during the fact-finding interviews, an existing register of technical specification is used by contracting authorities, but does not sufficiently fulfil their needs.

Selection and contracting

The selection and contracting stage shows several substantive gaps, linked to both lack of compliance as well as persistent inefficiencies in carrying out procurement procedures. At this stage, many elements suggest an overall low level of professionalisation of contracting authorities, as indicated by e.g. the high prevalence of price-only award criteria.

Procurement methods

Procurement techniques to deliver efficient outcomes are not fully exploited, as demonstrated by the overall low use of framework agreements. Indeed, stakeholders have pointed out that these instruments have proven valuable when applied, but are still used to a limited extent, despite available guidance.

The use of procurement methods in compliance with the legal framework presents deficiencies, which include unlawful procurement methods, repeated irregularities and weak internal control systems. Namely, there is evidence documenting the lack of compliance in co-financed projects in the infrastructure sector by artificially splitting contracts in order to allow for direct award, as reported in a study by the European Parliament²⁹². While these findings are limited to a specific area of procurement, this represents a very significant gap, as it could be a signal for corrupt practices. Furthermore, stakeholders during fact-finding interviews suggested that direct awards occur too frequently.

The continued implementation of ex ante controls for contracts above certain thresholds²⁹³ may also be considered as evidence for the fact that there are concerns with respect to compliance with legal framework, including regarding the choice of procurement methods. Indeed, audit findings by the Court of Auditors indicate significant lack of compliance with procurement rules. In the year 2016, the share of illegal procurements rose to 5.57²⁹⁴. Furthermore, the Court of Auditors observes weaknesses in the execution of internal controls as well as limited capacity of public entities to improve their

²⁹¹ European Commission, ProcurCompEU - Study on professionalisation of public procurement in the EU and selected third countries, June 2020, https://ec.europa.eu/info/policies/public-procurement/support-tools-public-buyers_en

²⁹² European Parliament (2018) EU-funded large-scale infrastructure: deficient project preparation and procurement processes? https://segm.gr/wp-content/uploads/2018/11/Public-procurement-study_EN.pdfG_P.pdf

²⁹³ Article 324 Law 4700/2020 thresholds for pre-contractual audit: EUR 300,000 (Public, local self-governed authorities and their legal entities, as well as other legal entities governed by public law); EUR 1,000,000 (legal persons governed by private law, Societes Anonymes (excluding local self-governed authorities), public enterprises); EUR 5,000,000 for contracts co-financed from EU funds

²⁹⁴ Court of Auditors, Annual Report for the financial year 2016



capacity, as irregularities are repeated, and recommendations are often not taken properly complied with. At the same time, the repeated need by Parliament to legalise public procurement procedures ex post is also a strong indication for contracting authorities' struggles in complying with procurement rules.

Use of MEAT

In the vast majority of cases, contracting authorities award procurement contracts based on the lowest price instead of the best-price-quality-ratio (MEAT), underscoring the need for improving procurement practices and workforce's skills. As discussed in Indicator 10, this has negative repercussions for market participants, as well as important limitations in delivering quality results through procurement procedures. Namely, as reported during the fact-finding mission, suppliers may have an incentive to price their products or services below cost, driving away suppliers that focus on quality. Thus, the lowest price criterion may reward poor quality goods or services that may need costly reparations or replacements down the line. Not least, the focus on lowest price may also provide an incentive for companies to bid excessively low only to renegotiate the terms via additional works at a later stage. Thus, by not using the best-price-quality-ratio contracting authorities are foregoing important opportunities to deliver value for money with procurement.

As reported during stakeholder interviews, abnormally low bids also occur in the Greek context, in particular as a result of the heavy use of the lowest price criterion.

Bid submission and award procedures

There are important gaps in Greek public procurement practices with respect to effectiveness, efficiency and transparency of the selection and award process. The award of procedures is very slow compared to other European countries (233 days, representing the highest among EU countries²⁹⁵), indicating inefficiencies. Frequent recourse to appeals further slows down the award process. Efficiency gains through centralisation are not fully exploited, particularly in the health sector. Similarly, framework agreements are rarely used by contracting authorities, thus foregoing economies of scale from aggregation. Transparency may be sometimes be incomplete, due to delays in fulfilling transparency requirements (i.e. upload of contracts in KIMDIS).

The sample analysis confirms some of the gaps, in particular relating to the length of the procurement processes. Namely, on average, the time between advertisement of a tender and the contract signature amounts to 208 days. In contrast, the sample analysis does not show any particular gaps regarding the responsiveness of bids, as the average number of responsive bids amounts to 3 and the average share amounts to 90%.

Delays resulting from the electronic designation of tender committees in design and works contracts should be addressed with the amendments to the procurement law. However, assessors lack the feedback from the implementation in practice to conclude definitively that previous issues (i.e. long delays, lack of skills) no longer apply.

Centralisation

There are serious gaps in the effective implementation of centralisation, notably in the health sector, with important consequences on the overall efficiency of the procurement system. Namely, there are serious concerns about consistent price increases compared to OECD countries for procurement in the health sector that have been denounced by media²⁹⁶. As reported by media, malpractice and opportunities for corruption in the health procurement are not sufficiently addressed by efforts to

²⁹⁵ European Commission, Single Market Scoreboard, Public Procurement, https://single-market-scoreboard.ec.europa.eu/policy_areas/public-procurement_en

²⁹⁶ <https://kokkinoslawfirm.com/2018/11/%CE%B1%CE%B3%CE%BF%CF%81%CE%AC%CE%B6%CE%B1%CE%BC%CE%B5-%CF%84%CE%BF-%CE%B1%CE%BA%CF%81%CE%B9%CE%B2%CF%8C%CF%84%CE%B5%CF%81%CE%BF-%CF%86%CE%AC%CF%81%CE%BC%CE%B1%CE%BA%CE%BF-%CF%83%CF%84%CE%BF%CE%BD/>



reform and introduce centralised procurement. Namely, obligations for transparency also appear to have been relaxed for procurement in this sector following the law that established the central purchasing body for health EKAPY. Similarly, the leadership of the organisation appears largely political instead of technical, and the organization lacks sufficient institutional connections to anticorruption authorities²⁹⁷. The recent transformation of EKAPY into a legal person governed by private law, whilst revising its goals and structure aims also at addressing the above problems.

Contract management

Procurement practices at contract management stage highlight key deficiencies including shortcomings in timely implementation of contracts (delays due to frequent modifications and additions), inefficient procedures of supervision and final acceptance, substantial delays in payments, as well as partially incomplete record keeping.

Such deficiencies have severe repercussions on the time it takes to execute procurement contracts, in particular in the area of works. Namely, Greece is the worst performing country in the European Union, with an average of 705 days to conclude the contract management phase. By comparison, Latvia performs best with the same procedures taking 115 days²⁹⁸.

Contract modifications, additional works and final acceptance

Several gaps emerge in the area of contract management, when it comes to contract modifications, additional works and final acceptance. Indeed, extension or modification of contracts are common practices, highlighting the need to adjust for delays. Furthermore, not all contracting authorities have streamlined processes for contract management, and are therefore capable to implement contracts in a timely manner.

The sample analysis shows a clear pattern of substantial delays in contract implementation with over a third of procedures exceeding the expected delivery date by an average of 202 days. Delays apply to all types of procedures analysed. Works and studies are more heavily subject of delays (accounting for 663, and 1084 days of delays respectively).

Based on findings by the Court of Auditors, important gaps appear in the area of contract management and contract amendments. Namely, the Court of Auditors in its annual report on the financial year 2016 finds irregularities at this stage concerning the modification, extension or expansion of the subject-matter of contracts and the conclusion of supplementary contracts. Inadequate procurement planning is often considered cause of the subsequent irregularities at contract management stage.

The sample analysis shows that contract amendments are a relatively frequent occurrence, in particular for open procedures that are amended at least once in over 50% of procedures analysed. The number of contract amendments can reach as many as 8 amendments per one contract. Cost overruns do occur in approximately 9.5% of procedures and amount to a 27% increase in contract volume. However, overall the sample cases show an average of 2.7% reduction in the final contract volume compared to the volume at signature.

Payment delays

Major gaps occur with respect to payment delays. As noted, for the central administration, the average payment time amounted to 40 days in 2019, a 10 day delay compared to payment terms²⁹⁹.

²⁹⁷<https://www.kathimerini.gr/905698/article/epikairothta/politikh/antidraseis-gia-tis-allages-stis-promh8eies>

²⁹⁸ World Bank, Doing Business 2020, Contracting with the Government, https://www.doingbusiness.org/content/dam/doingBusiness/excel/db2020/DB2020_CwG_Data.xlsx

²⁹⁹ Data provided during the fact-finding mission



Payment times for works are significantly higher, averaging 80 days according to the World Bank's Doing Business 2020³⁰⁰. At regional level, payments may be even slower.

Furthermore, a major gap occurs with respect to ex post legalisation that allow to unblock payments on certain procedures. Occasionally, ad-hoc legislation is introduced to legalise ex-post unlawful procedures, which would otherwise not have been cleared for payment. Such legislation stipulates that the procedures carried out by a particular contracting authority in a particular sector is considered to be legal. These kinds of practices undermine the consistency of the legal framework, and set a concerning precedent.

Risk assessment

Several high-risk substantive gaps are present in Indicator 9. In the majority of cases, these gaps can be addressed within the procurement system and therefore do not merit a red flag. Further details on the rationale for the assessment is provided in Table 6 below.

Table 6: Summary of substantive gaps and risk assessment

	Substantive gap	Risk	Red flag	Explanation
9 (a)	Limited market and needs analysis; limited or inadequate planning; challenges in defining technical specifications	High	No	The elements identified pose challenges in achieving procurement objectives and are thus classified high risk.
9 (b)	Evidence with lack of compliance with procurement methods	High	No	Lack of compliance with procurement methods poses a high risk to the procurement system, though available evidence points to limited cases.
9 (b)	High prevalence of price-only award criteria	High	No	Achieving quality in public procurement requires the use of best-price-quality ratio. A high risk is assessed also because there is a widespread use of price-only.
9 (b)	Slow award of tender procedures	High	No	Evidence of lengthy award procedures combined with high prevalence of such procedure account for high risk.
9 (b)	Ineffective implementation of centralisation (see Indicator 6)	High	No	Centralisation in particular in the health sector poses a significant risk to the effective functioning of the procurement system.
9 (c)	Substantial delays in contract implementation	High	No	Long delays in contract implementation point to potential issues in previous phases of the procurement process and are an

³⁰⁰ World Bank, Doing Business 2020, Contracting with the Government, https://www.doingbusiness.org/content/dam/doingBusiness/excel/db2020/DB2020_CwG_Data.xlsx



				impediment to achieving procurement objectives.
9 (c)	Frequent amendments, contract including irregularities	High	No	These aspects point to weaknesses in the preparation of the procurement and are an impediment to achieving procurement objectives.
9 (c)	Payment delays; ex post legalisation to allow for payments	High	Yes	As discussed in Indicator 1 and 4, ex post legalisation has severe consequences in different areas of the procurement system and merits a red flag.

Recommendations

As an overarching observation, many challenges and gaps in the practices of Greek contracting authorities stem from their limited technical skills throughout the procurement cycle. As a result, inefficiencies occur in the development of procurement documents, in the award to the lowest bidder, and ensuing difficulties at contract management stage. At the same time, a number of gaps are also linked to the lack of a strong internal control frameworks, and patchy transparency. Finally, slow and burdensome administrative procedures also represent a major area of inefficiency in procurement operations. Gaps in the consistency of the legal framework does not provide an incentive for compliance with existing rules. The following recommendations address the challenges along the procurement cycle and additional areas for improvement.

Professionalisation throughout the procurement cycle

As an overarching observation, limited technical skills have an impact in sub-optimal procurement practices throughout the procurement cycle. As a result, Greek authorities need to build on ongoing efforts to professionalise the procurement workforce as a key driver for efficiency. A strategy for professionalising public buyers should take into account the specific weaknesses identified in this assessment, notably the lack of focus at planning stage, the limited use of MEAT criteria, the challenges in drafting procurement documents, the use of complex procedures, as well as the use of advanced procurement techniques such as framework agreements, among others.

Planning

At the planning stage, HSPPA needs to raise awareness about the importance of adequate planning, including needs analysis and market analysis, as well as the implementation of appropriate procurement strategies. This could entail introducing specific guidance on needs analysis, market analysis and identification of procurement strategies. Better procurement planning is also essential to avoid unnecessary modifications of contracts at contract management stage. To this end, tender committees could be tasked to provide feedback and recommendations from the contract execution to strengthen the planning stage.

Contracting authorities could benefit from training and awareness-raising about defining outcomes of public procurement contracts. This shall include training on the use of design of technical specifications, including functional specifications.

Greek authorities could support capacity building related to sustainability for contracting authorities, including the concept of sustainability and its links to value for money. This may require trainings to acquire the theoretical foundations as well as support tools, such as LCC calculation tools, and GPP criteria.



Selection and contracting

Regarding the procurement stage, procurement practitioners would benefit from training on the use of best-price-quality-ratio (MEAT) in contract award to take into account quality in public procurement, and ensure value for money. Similarly, practitioners could receive practical training on the use of more complex procedures and the use of functional specifications, when appropriate. This would allow them to better include complementary policy objectives in public procurement, such as sustainability or innovation. Namely, the ability to make use of complex procedures gives buyers the flexibility to choose the optimal procurement strategy that maximises value for money, or takes into account complementary policy objectives. For instance, innovation procurement requires the use of procedures that allow for dialogue with the market. Functional specifications focus on expressing needs as performance requirements (including related to sustainability) instead of rigid technical requirements. This gives suppliers the flexibility to innovate, while achieving desired results for the contracting authority. In short, the more buyers are familiar with the full public procurement toolbox at their disposal, the better they can adapt to meet the goals of the contracting authority.

Public procurement officials would also benefit from tools to better perform their function and reap the benefits of competition, as they often lack the specific technical skills and market knowledge. In particular, they would benefit from model documents that better respond to contracting authorities' and supplier's needs. Authorities could focus on enhancing the skills of practitioners with regards to designing technical specifications. This may include the expansion of a register for technical specifications, or greater involvement of functional areas in the definition of their needs.

The functionalities of the e-procurement system could also be upgraded to capture all procurement techniques (e.g. e-catalogues). Efficiency tools such as e-catalogues would simplify the task for procurement officials, reducing time as well as the risk of mistakes. Greek authorities could capitalise on preparatory work already conducted in this area (i.e. project on the definition of requirements for an e-catalogues system by the General Directorate of Public Procurements).

Authorities could gather evidence on the use incentives for performance in contract clauses.

Centralisation and efficiency

Authorities could focus on effectively centralising public procurement as a means to drive efficiency and effectiveness. In particular, authorities should address inefficiencies related to contract awards in the health sector. This entails introducing measures to effectively operationalise and carry out oversight of the central purchasing body EKAPY, or any newly established entity. Authorities should implement planned efforts to introduce efficiency tools in health procurement (e.g. DPS). Furthermore, authorities could explore greater centralisation for low-value procurement via dedicated e-procurement solutions.

Greek authorities could investigate potential administrative burden or lack of capacity linked to the slow conclusion of procurement procedures.

Contract management

Increased professionalisation and administrative capacity is needed to strengthen the contract management stage. Specifically, HSPPA could identify current gaps in the practice of contract implementation, regarding the need to ensure the delivery of the ordered goods, services and works. It could also mainstream mechanisms for monitoring contract performance and implementation. This could include providing incentives to make use of the available contract monitoring sub-system in ESIDIS. Contract management could be fully supported by e-procurement tools, namely as an integrated as a module in the e-procurement system, allowing monitoring of contract implementation, performance and payments against a set of well-defined indicators. This could be a real-time management tool that enables proactive measures to avoid issues and challenges in contract



implementation. Such a module could also provide a citizen interface to keep them updated on contract status.

Addressing payment delays is a major aspect needed to improve the performance of procurement practices. Full digitalisation of a means to speed up payments (beyond e-invoice) could be encouraged. Ad-hoc legislation that enables the legalisation and payments of unlawful public procurement procedures should be banned.

Greek authorities could also ensure that effective mechanisms are in place for compliance with transparency requirements, particularly timely upload of contracts in KIMDIS. For instance, contracts could only have legal validity once there are uploaded in KIMDIS. User-friendly access to records should be ensured, including below EU thresholds. Data should be available in user-friendly format (machine-readable).

At the level of contracting authorities, the use of statistics to improve procurement practices should also be encouraged. Good practice exchanges could be organised with contracting authorities that are advanced in this area. The expansion and development of the National Public Procurement Database Portal could support this.

Compliance with procurement rules

As discussed in Indicator 12, it is key to strengthen the audit and control framework to limit the potential for circumventing public procurement rules, particularly regarding the choice of procurement procedures and the splitting of contracts to use direct award.

This could include increased disclosure of information regarding irregularities of public procurement (e.g. audit findings) to allow for greater accountability. Additionally, increased controls are needed to avoid potential unlawful expansion of the contract scope and addition of supplementary contracts.

Indicator 10. The public procurement market is fully functional.

The objective of this indicator is primarily to assess the market response to public procurement solicitations. This response may be influenced by many factors, such as the general economic climate, policies to support the private sector and a good business environment, strong financial institutions, the attractiveness of the public system as a good, reliable client, the kind of goods or services being demanded, etc.

Overall, there are weaknesses in the private sector's ability to access and compete in public procurement markets. One of the major challenges from the perspective of suppliers lies in the competition based on price, which drives out market participants. Payment delays and inefficiencies tied to the e-procurement system represent further barriers to market access, particularly for SMEs. Policy dialogue exists but could be more regular, and go beyond consultations for legal reforms. This could entail a stronger strategic focus on relevant sectors and procurement markets, particularly considering that some sectors appear to be fraught by specific challenges such as corruption and collusion.

Findings

Findings reflect market practices from the perspective of suppliers. These include shortcomings in public procurement markets pertaining to limited competition in certain sectors, some constraints to market access, and poor implementation of national strategies targeted at key sectors in public



procurement. At the same time, SMEs appear well integrated in procurement markets, and there are established mechanisms for dialogue with the private sector.

Dialogue and partnerships between public and private sector (sub-indicator 10 (a))

Overall, some forms of dialogue between market participants and the authorities are established, particularly in the wake of reforms. Furthermore, HSPPA is continuously collaborating with chambers, associations and representatives of economic operators. This consultation process does not appear to be formalised in a structured manner, i.e. there are no regular meetings or exchanges.

Specifically, consultation processes were held during the preparation of the public procurement law 4412/2016. As stipulated in the law (Law 4048/2012), the draft law was posted on the website opengov.gr and anyone interested could post comments and proposals. It is a process with specific requirements and consultation rules set in the law. The assessors retrieved the mandatory report that was formulated about this consultation.

Similarly, consultations were held during the preparation of new public procurement law 4782/2021. A standard consultation process was put in place, i.e. the draft law was posted on opengov.gr. Any interested stakeholder had the opportunity to provide comments. During the consultation phase, 333 comments were posted by a variety of stakeholders, including individuals and interest groups³⁰¹.

According to the National Strategy, an open consultation with economic operators and associations took place before its completion by posting the initial draft of the Plan on HSPPA's website. The public consultation received a significant response with comments and remarks submitted by market stakeholders, such as the Association of Businesses and Industries, the National Council of Infrastructure and Construction Industry, social partners such as the National Confederation of People with Disabilities, as well as government agencies, such as the Ministry of Digital Governance, the Deputy Minister of Development and Investment, the General Secretariat for Trade and Consumer Protection, the Ministry of Defence and NTA. All comments submitted, were analysed and taken into account for the final Proposal of the Draft National Strategy for Public Procurement 2021-2025.

Regarding capacity-building for private companies and SMEs, efforts appear to be limited and not targeted specifically at small companies. There is a special training programme on using ESIDIS for economic operators. The content of the training program is focused on (1) the signing-in procedure (2) the bid e-submission and (3) the use of the Dynamic Purchasing Systems module. It is free of charge, and it is targeting any economic operator. Relevant educational material is posted and publicly available on the portal promitheus.gov.gr. Beyond training on e-procurement, efforts to build capacity of the private sector on public procurement appear to be limited.

Private sector's organisation and access to the public procurement market (sub-indicator 10 (b))

As an overarching observation, the Greek private sector shows capacity and willingness to participate in procurement markets, despite a number of major hurdles with respect to limited competition, and high focus on price in the award, which deters several market players.

³⁰¹ Comments have been posted by: a) individuals; (b) the Association of Owners of Daily District Newspapers; (c) the Panhellenic Federation of Associations of Civil Servants Engineers ; (d) tow enterprises in the construction field; (e) the Panhellenic Association of Environmental Protection Enterprises; (f) an enterprise in the defense field; (g) the Directorate of technical works of the Region of Central Macedonia; (h) the Hellenic Association of Management Consulting Firms; (i) the Panhellenic Association of Engineers Contractors of Public Works; (j) the Municipality of Monevasia; (k) the Public Benefit Municipal Enterprise of Piraeus; (l) the Regional Union of Municipalities of Crete; (m) the Association of Greek Study Companies-Offices; (n) the Panhellenic Federation of Engineers in the Technological Sector Highly Educated Civil Servants; (o) a Payment services enterprise (VIVA); (p) the Athens Water Supply and Sewerage Company (EYDAP SA); (q) the Hellenic Association of Informatics and Communications Enterprises; (r) Transparency International - Greece; (s) Network of Solid Waste Management Agencies.



Capacity of the private sector

The Greek private sector is broadly responsive to the public procurement market, although some limitation with respect to competition have been registered. According the EU Single Market Scoreboard, the share of contracts with a single bids accounted for 34% in 2018, and 40% in 2019³⁰². This indicates overall low levels of competition for more than a third of public contracts.

Private sector representatives stated that the focus on price limits their willingness and ability to compete in public procurements. According to private sector stakeholders, several studies showed that the criterion price was weighted at 80%. This is line with analysis conducted by the European Commission on TED data, where the lowest price is used in 90% of procedures³⁰³. This runs the risk of prompting abnormally low tenders and delivery of poor work by contractors. Furthermore, technical standards have not been updated since the 1970s. As a result, contracting authorities receive sub-par quality for their procurements. In the L. 4782/21, article 84 provides for the establishment of a Unified System of Technical Specifications and Pricing of Technical Works and the establishment of an Electronic System for Determining Costs of Factors of Production of Technical Works.

In terms of organisation and participation from SMEs, the Greek procurement system seems to perform well, indicating the presence of a competitive and capable market. Greek SMEs account for 92% of the value of public contracts awarded according to the SME Performance Review³⁰⁴. Other positive aspects regarding SME participation include the share of tenders that are split into lots (41.2%) and the proportion of bids coming from an SME (77.4%)³⁰⁵.

Regarding quantitative indicators as recommended by MAPS, the following data has been retrieved:

	2016	2017	2018	2019	2020
Number of registered suppliers as a share of total number of suppliers in the country (in %)					
Economic operators registered in ESIDIS for supplies and services:	3382	2623	2346	1726	2085
Economic operators registered in ESIDIS for public works:		2087	3758	4476	4885 (until 20/10/2020)

Share of registered suppliers that are participants and awarded contracts (in % of total number of registered suppliers)	
For supplies and services	29.72%
For public works	65.66%
Total number and value of contracts awarded to domestic/foreign firms (and in % of total)	
2018	
Total number of contracts awarded to domestic firms	189,058
Total value of awarded contracts to domestic firms	EUR 6,224,377,136

³⁰² European Commission, Single Market Scoreboard, Public Procurement https://ec.europa.eu/internal_market/scoreboard/performance_per_policy_area/public_procurement/index_en.htm

³⁰³ Ibid.

³⁰⁴ European Commission, 2019 SBA Fact-sheet Greece <https://ec.europa.eu/docsroom/documents/38662/attachments/13/translations/en/renditions/native>

³⁰⁵ Ibid.



Total number of contracts awarded to foreign firms	1,510
Total value of awarded contracts	EUR 50,008,733
The percentage of awarding to foreign firms	0.8% both in terms of number of contracts and in terms of value of contracts.

Systemic constraint to market access

Overall, the assessors found a mixed picture with regards to systemic constraint to accessing public procurement opportunities. While not in all dimensions of access, the Greek public procurement system shows some indication of systemic constraints affecting participation to the public procurement market, despite relatively strong participation from key groups such as SMEs. Indeed, the heavy use of lowest price at the expense of quality criteria and slow payment procedures are cases in point. Supplier representatives also consider that the system has improved over the past years, particularly with the introduction of e-procurement. The electronic registry of economic operators for ESIDIS is considered another important development as it allows easier access to public procurement opportunities.

Nevertheless, important challenges persist. It should be noted that Greece presents a relatively low publication rate (i.e. value of procurement advertised on TED as a share of GDP) of its procurement (2.5% in 2018)³⁰⁶. This entails that access and openness to procurement markets is considered sub-optimal. Furthermore, the access to the e-procurement system requires a digital signature for signing documents, which poses a challenge for some supplier groups as some lack the capacity to adequately use the e-procurement system. This is particularly true for very small sized economic operators.

Other constraints to participation were highlighted by supplier representatives during the fact-finding mission. These include the prevalence of low-value tenders, in particular for public works. Supplier representatives stated that tenders are issued up to 40% below the estimated value of the project. This can be a deterrent to participation. Indeed, the limited focus on quality and the prevalent use of lowest price as award criterion is considered a major issue for suppliers, and limits the participation from those that focus on quality. This issue is particularly severe in the field of studies, as reported by private sector stakeholders.

On top of that, suppliers also denounce non-transparent surcharges that are added to the tender. These pose a particular barrier to market entry from outside the country, as foreign suppliers are not familiar with these kinds of local practices.

In addition to the constraints above, additional barriers affect access to participation in Greek procurement markets. Namely, suppliers mentioned administrative burden resulting from the obligation of submitting documentation in electronic and paper format (see Indicator 7). Suppliers also raised concerns about rigged technical specifications. Indeed, the perception of corruption and malpractice can be a deterrent for participation to procurement markets. As reported by HSPPA, submitted complaints are investigated and if specific evidence emerges, the legal procedure is followed.

Payment delays pose a further major challenge for suppliers, particularly small ones, as Greece is among the slowest in processing payments in the European Union with a timeframe of 80 days to process payments, according to data by the World Bank. This compares poorly to the average payment time across the EU (48 days)³⁰⁷.

³⁰⁶ European Commission, Single Market Scoreboard, Public Procurement https://ec.europa.eu/internal_market/scoreboard/performance_per_policy_area/public_procurement/index_en.htm

³⁰⁷ World Bank, Doing Business 2020, Contracting with the Government, https://www.doingbusiness.org/content/dam/doingBusiness/excel/db2020/DB2020_CwG_Data.xlsx



Finally, limited effectiveness of the court system also presents a barrier for suppliers, in particular when dealing with cases related to claiming payments. In particular, suppliers experience severe time lags in receiving a decision due to high number of court cases and the understaffing of the courts.

Key sectors and sector strategies (sub-indicator 10 (c))

The main instrument to recognise key sectors in public procurement is the National Strategy for Public Procurement 2021-2025 developed by HSPPA, and approved in 2021. The adoption of a National Strategy is considered a good practice by Greek stakeholders, allowing to enhance the efficiency of the procurement system with well-designed and measurable goals. Given their role in the Greek economy, SMEs are recognised in the National Strategy for Public Procurement with targeted actions. Beyond the Strategy, the General Directorate for Public Contracts and Procurement in its capacity as CPB is in regular contact with SMEs, taking into account particular needs for their participation to framework agreements. It holds special informative meetings on administrative and technical matters on upcoming procurement opportunities³⁰⁸.

Public procurement in the health sector has also received specific government attention to address persistent deficiencies. According to TED data, Greece publication rates as a share of GDP for health-related procurement are among the lowest in the EU (0.1% compared to an EU average of 0.56%)³⁰⁹. Indeed, the health sector is addressed by L. 4865/2021³¹⁰. The new law transforms the EKAPY from a legal person governed by public law to a legal person governed by private law, trying to address some of these challenge and render the Health CPB operational. The law foresees the preparation every three years of a Central Procurement Strategy of Health Products and Services, which shall refer to³¹¹:

- the vision, which will have as its centre the patient, the health professionals, improving procedures and increasing resource efficiency;
- procurement policy and systems, hierarchy, procurement costs and suppliers;
- controlling and monitoring the implementation of procurement policy, procurement tools reporting mechanism and annual reports, progress and;
- the cooperation of government agencies with universities, supplier associations and other stakeholders.

Innovation is also identified as a strategic direction in in National Strategy for Public Procurement 2021-2025.

Gaps

Implementation of sectoral strategies and risk assessment

While sectors are targeted in the National Strategy for Public Procurement, there are gaps with the implementation of actions pertaining to these sectors, notably the health sector. As discussed in Indicator 9, the CPB for health, EKAPY, is not yet operational in performing its functions. This points to key weaknesses in implementation of critical actions needed to improve public procurement markets.

The assessors did not have access to information indicating that the government assesses risks and opportunities related to sector markets.

³⁰⁸ OECD (2018) SMEs in Public Procurement: Practices and Strategies for Shared Benefits, <https://www.oecd.org/fr/publications/smes-in-public-procurement-9789264307476-en.htm>

³⁰⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0507&from=EN>

³¹⁰ L. 4865/2021 titled "Establishment and organisation of a legal entity under the name "National Centralised Health Procurement Authority", a central strategy for supplies of health products and services and other urgent provisions for public health and social welfare"

³¹¹ L. 4865/2021, Article 6



Substantive gaps

Competition in public procurement markets

Based on limited interviews and secondary analysis, there seem to be gaps with respect to competition, ability and willingness of Greece's suppliers to participate in public procurement market. As expressed in interviews, suppliers voiced inability to compete in some competition dominated by price. The prevalence of tenders with a single bid is high.

Challenges related to competition in Greek procurement markets are underscored by evidence of major collusion. Namely, a complex case of alleged collusion against major Greek and international companies in the construction sector spanning several years has been brought forward by the Hellenic Competition Commission, which led to the imposition of a EUR 80 million in fine in 2017³¹². Such case sheds light on the potential lack of competition within certain procurement markets.

Multiple allegations of corruption in public procurement in the health sector also show limitations of competition in particular procurement markets. As discussed in Indicator 9, this sector has been characterised by consistent price increases that are not in line with e.g. comparisons with OECD countries.

Access to opportunities

Gaps in the area of access to public procurement opportunities were found in relation to the prevalent procurement methods and procedures used by procurers in practice, weak compliance with payment procedures, a slow judicial system as well as administrative burden related to the use of the e-procurement system.

As noted, procurement opportunities above EU thresholds are less frequently published than in peer countries. In addition, procurers place high emphasis on price, which was found to discourage competition. Suppliers stated that model documents are used infrequently by contracting authorities, and this would be beneficial. Suppliers also noted positive experiences with framework agreements, and would welcome their increased use.

Stakeholders from the public and private side noted delays in payment. Over the past years, companies have found themselves frequently obliged to go to court to receive payment – which in turn are often overwhelmed with the high caseload and have very slow processing time lasting up to several years. Improvements in this area have occurred, as past cases are being resolved, and the current legislative framework no longer allows for proceeding with a contract without the commitment of funds.

While no barriers to its use exists, suppliers noted that the e-procurement system was not user-friendly. In addition, stakeholders noted that especially smaller suppliers might lack competencies to fully use it.

Risk assessment

The substantive gaps identified under Indicator 10 are similar to those under Indicator 9 and are assessed similarly in terms of the risk they pose to the procurement system's ability to achieve its objectives.

Low levels of competition generally produce sub-par outcomes in public procurement and are therefore considered a high risk for the system. Nevertheless, no red flag is assigned since this gap can be addressed within the procurement system, notably by strengthening the use of best-price-quality ratio and engaging the market.

Similarly, constraints in accessing procurement opportunities presents a high risk to the procurement system, as it limits competition and achieving value for money. Furthermore, the economic benefits

³¹²<https://www.lexology.com/library/detail.aspx?g=cb209dfa-0378-402b-896c-399b0aea6b5c>



for suppliers available through public procurement may be limited due to factors such as payment delays or high administrative burden. However, this gap does not amount to a red flag partly because several actions can be addressed within the procurement system, and partly since aspects of market access appear to be working reasonably well or have improved (e.g. expansion of e-procurement).

Table 7: Summary of substantive gaps and risk assessment

	Substantive gap	Risk	Red flag
10 (b)	Limitations to competition, partly due to use of price-only criterion; evidence of collusion	High	No
10 (b)	Access to procurement opportunities hampered: payment delays, price-only competition, slow judicial system, administrative burden with e-procurement	High	No

Recommendations

Overall, limitations to competition, ability and willingness of Greece's suppliers to participate in public procurement market persist, despite the fact that some aspects of the market seem to function relatively well, such as SME participation. Indeed, the Greek procurement market presents some potential for improvements in terms accessibility and competition, consultation with stakeholders and targeted strategies to address specific sectors.

Dialogue and consultation

Specifically, HSPPA could formalise ongoing consultation processes with public procurement stakeholders, going beyond the policy discussion, and including technical and operational aspects. A dedicated platform for dialogue between HSPPA with the private sector could support could facilitate such ongoing consultation.

Addressing constraints in access to procurement markets

Furthermore, it is important to address remaining constraints in the access to public procurement markets. A range of measures, already highlighted in other parts of this assessment, should be employed together to this purpose. In particular, the several actions could be prioritised, such as the increase the awareness and capacity of the procurement workforce to run public procurements with an emphasis on quality or MEAT criteria, and enabling them to develop framework agreements (see indicator 8, 9). In parallel, emphasis on needs and market analysis, as well as structured market dialogue could contribute to an increase competition (Indicator 9). Training on the identification of bid-rigging could also contribute to ensuring additional competition in procurement markets and avoid the risk of collusion as it was evidenced in recent years.

Furthermore, authorities could evaluate the reasons behind slow payment times and adopt changes accordingly (see indicator 4, 9).

Streamlining the e-procurement system

HSPPA and other relevant authorities could also consider streamlining the e-procurement system into a coherent, open and interoperable system. In doing so, close collaboration with the system's users on the public and private side can ensure that the improved e-procurement system meets their needs, including those of SMEs.



Performance of procurement sectors

Finally, HSPPA and other relevant Greek authorities could consider focusing on targeting specific sectors to improve the overall performance of procurement markets. As mentioned in indicator 9, an increased focus on the effectiveness of procurement in the health sector is key to address shortcomings in performance. In this respect, Greek authorities need to ensure that the actions foreseen in their strategies are implemented and receive appropriate follow-up, e.g. centralisation of health procurement.

3.4. Pillar IV - Accountability, Integrity and Transparency of the Public Procurement System

Pillar IV includes four indicators that are considered necessary for a system to operate with integrity that has appropriate controls that support the implementation of the system in accordance with the legal and regulatory framework, and that has appropriate measures in place to address the potential for corruption in the system. It also covers important aspects of the procurement system, which include stakeholders, including civil society, as part of the control system. This Pillar takes aspects of the procurement system and governance environment to ensure they are defined and structured to contribute to integrity and transparency.

Mixed compliance was found in this pillar.

Some transparency and oversight through civil society have enhanced the integrity of the public procurement system, but impact is hindered through an e-procurement system that hinders use of information. The audit and control system shows several weaknesses, particularly in the areas of internal control and internal audit, as well as limited transparency of audit findings. The appeals system overall is well-established, with challenges relating to performance. Previous analysis has highlighted Greece's progress in the area of anti-corruption, but perceptions of corruption remain and public procurement-specific rules, guidance and practices remain scarce.

Indicator 11. Transparency and civil society engagement strengthen integrity in public procurement.

Civil society, in acting as a safeguard against inefficient and ineffective use of public resources, can help to make public procurement more competitive and fair, improving contract performance and securing results. Governments are increasingly empowering the public to understand and monitor public contracting. This indicator assesses two mechanisms through which civil society can participate in the public procurement process: i) disclosure of information and ii) direct engagement of civil society through participation, monitoring and oversight.

There is some transparency of the public procurement system, established through the e-procurement portals. Civil society has the possibility to comment on policy changes and several organisations exist that cover public procurement. However, available information is not presented in a way that facilitates societal oversight.



Findings

Enabling environment for public consultation and monitoring (sub-indicator 11 (a))

HSPPA has responsibilities to coordinate among different government bodies with regards to public procurement.³¹³ This entails convening coordination meetings with representatives of central government bodies and setting up working groups involving representatives of all relevant ministries, as well as making suggestions to national institutions.

The process of amending the public procurement system at the legislative level is initiated at ministerial level (depending on the type of procurement, see indicator 5.) Informal consultations with the stakeholders are usually carried out as part of reforms. Draft laws are posted on the website opengov.gr and anyone interested can post comments and proposals. It is a process with specific, legally defined requirements and consultation rules.³¹⁴ Following the public consultation, a public consultation report is drawn up; the report presents the comments and suggestions of those who have participated in the consultation in an aggregated manner, noting whether or not they have been incorporated into the final provisions.³¹⁵

The assessors were able to locate the report on the consultation for the public procurement law 4412/2016 and conclude that the government does take into account any input that was provided as part of the structured consultation process on legislation as described in the methodology.

Building awareness and capacity of stakeholders with regards to public procurement seems to be limited to this general consultation on draft laws, and does not entail any further training or awareness raising.

Adequate and timely access to information by the public (sub-indicator 10 (b))

Greece publishes certain information in its e-procurement systems and all administrative acts are published on the transparency portal Diavgeia (see indicator 7). Requirements are recorded in the law in line with the EU directives and comply with those requirements for publication of procurement information (see sub-indicator 1a).

Direct engagement of civil society (sub-indicator 10 (c))

The legal framework theoretically allows citizens to participate in the monitoring of public procurement processes through publicly available information in the e-procurement system (i.e., information about closed contracts and payments via KIMDIS.) Citizens can comment on draft procurement contracts via promitheus.gov.gr (the only part of the procurement process where direct participation is possible.) Citizen participation in the planning of public works is possible, too. This is provided for the projects of the NSRF, but also of the National Development Programme. In these cases, forums and open events are organised, where anyone can propose projects. The same holds for the Development Conferences that are organised in all the Regions. Citizens are also allowed to submit complaints to various authorities (e.g. HSPPA, NTA). The submission of complaints is anonymous, free of charge and does not require the existence of a legal interest.

As part of the tendering stage, citizens are informed through initial procurement documents. Aside from that, participation is restricted to economic operators (i.e., companies interested and able to bid.) The assessors reviewed on-going consultations. At the time of gathering evidence for the MAPS assessment, there were 83 draft procurement contracts and very few comments (one or two on a very limited number of draft procurements.) Most of the drafts had no comments at all.

No other form of direct participation is regulated.

³¹³ L. 4013/2011, article 2 (2a)

³¹⁴ L. 4048/2012

³¹⁵ L.4048/2012, article 6



Gaps

Consultation

Previous evaluations commented on the transparency of legislative procedures. In its fourth evaluation round on Corruption prevention regarding members of parliament, judges and prosecutors in Greece, GRECO (Group of States against Corruption) commented on the transparency of legislative procedures. GRECO found that legal amendments and the associated processes lacked clarity. It recommended to further improve clarity and noted that efforts to address previous recommendations had only partially addressed their concerns. It should be noted that these observations apply to legislative processes in general, not to the area of public procurement specifically.

Assessors did not find any information to indicate that competent bodies undertake efforts to build the capacity of external stakeholders to understand, monitor and improve public procurement in a structured or organised way.

Direct participation by citizens

Based on available information, citizen participation in public procurement in Greece appears to be very limited and practically, hurdles do exist. The assessors found very limited evidence for citizen participation in the procurement process. No citizen involvement is possible for stages beyond planning. The assessors did not find any information to indicate that citizens were regularly involved to inform planning. Concepts like citizen monitors, social witnesses or observers to procurement processes and specifically bid opening are not common in the public procurement systems of Greece's peers in the OECD and the EU and are applied only to a very limited extent in Greece (pilot projects). However, these instruments have proven useful in similar contexts with high corruption risk to increase citizens' trust in the public governance system. An example of such instruments is the Integrity Pact that has been piloted in the Attica Region, as a cooperation between Transparency International-Greece, the European Commission and the contracting authority³¹⁶.

Substantive gaps

Access to public procurement information

It should also be noted that the format of publicly available information does not facilitate citizen involvement. While providing for the publication of a considerable amount of information, the practicality of Greece's e-procurement systems remains limited when considering features of international good practices like the open data standard (see also indicator 7.) For example, not all information is publicly available; the search function on these system has limited dimensions; information is stored in the form of scanned PDF documents that are not machine readable; the filing logic is based on administrative acts and not procurement procedures, so that information pertaining to the same procurement procedure cannot be easily identified. These features mean that a) the use of information for effective participation is limited, and b) there are limited benefits for safeguarding integrity in public procurement. Nevertheless, since 2021, with the introduction of JMD 76928 / 09.07.2021, users are able to search through the metadata posted in KIMDIS, including elements such as budget, value of the award, CPV code, etc.

Risk assessment

Limited access to publicly available information on public procurement (including due to technical restrictions such as no open data format) presents a high risk in terms of achieving transparency

³¹⁶ The Integrity Pact in Greece, <http://integritypact.gr/en/to-symfono-akeraiotitas/to-symfono-akeraiotitas-stin-ellada/>



objectives for the public procurement system. These aspects can be addressed within the procurement system, and hence do not warrant a red flag.

Table 8: Summary of substantive gaps and risk assessment

	Substantive gap	Risk	Red flag
11 (b)	Format of publicly available information hampers citizen involvement	High	No

Recommendations

Stakeholder engagement

Greece's public procurement system would benefit from targeted actions to engage stakeholders and facilitate their meaningful contribution to an improved public procurement system.

Citizen and civil society participation in procurement

Several measures could aim at increasing participation of individual citizens and civil society organisations in concrete public procurement processes, such as programmes to building the capacity of stakeholders in the area of public procurement and potential legal or regulatory changes allowing citizen participation in defined ways. HSPPA could consider piloting the proactive involvement of citizens in a complex or high-stakes procurement project, as well as gather evidence and lessons learnt from ongoing pilots. As demonstrated by practice in other OECD countries, promising phases of the procurement cycle to include external stakeholders are the planning stage (where citizens can share insights about their needs) or the monitoring of contract implementation. Citizens' input should be documented and published in order to maintain transparency.

Streamline e-procurement to improve data quality

As recommended in indicator 7, Greece should consider streamlining the e-procurement system substantially. Benefits from this goal will enhance transparency and civil society's role in monitoring government activity.

Indicator 12. The country has effective control and audit systems.

The objective of this indicator is to determine the quality, reliability and timeliness of the internal and external controls. Equally, the effectiveness of controls needs to be reviewed. For the purpose of this indicator, "effectiveness" means the expediency and thoroughness of the implementation of auditors' recommendations. The assessors should rely, in addition to their own findings, on the most recent public expenditure and financial accountability assessments (PEFA) and other analyses that may be available.

Recent reforms have streamlined the system of control by substantially reducing the number of specific institutions involved in audit of public procurement. While this represents a positive development, findings suggest that the system lags behind in terms of performance, mostly due to systemic weaknesses in the framework for internal control and audit. The role of the Court of Auditors is central to efforts in overseeing public procurement expenditure, but it could focus more on auditing performance instead of compliance or ex ante legality. Limited transparency of audit findings, gaps in enforcement of audit recommendations, as well as lack of a clear professionalisation strategy of auditors also contribute to reducing the effectiveness of the control and audit system.



Findings

Legal framework, organisation and procedures of the control system (sub-indicator 12(a))

The legal framework establishes a control framework comprised by several audit and control institutions, each governed by different laws and regulations. The control framework includes the General Directorate for Financial Audit, internal audit units within ministries and decentralised administrations, the National Transparency Authority (NTA), the Decentralised Administration, the Court of Audit as well as HSPPA. Additional bodies are involved in the control and audit of EU-funded projects, namely the Managing Authorities for co-financed projects of the NSRF and Recovery Fund, the Managing Authorities of the National Development Programme (NDP), as well as the General Directorate for Auditing of co-financed projects (EDEL).

With its current set-up, the institutions cover the main functions related to public procurement controls, namely centralised financial audit, integrity and accountability, sectorial inspections, as well as central audit over public procurement. Among the bodies involved, HSPPA and GDFA have a mandate linking the audit function and public procurement³¹⁷.

In 2019, a major reform simplified the control system by merging several bodies³¹⁸ under a newly created entity, i.e. the NTA. This reform streamlined a previously highly complex institutional framework comprised of dedicated inspectorates for specific areas (e.g. public administration, public works, transport). The NTA is now responsible for planning and taking concrete actions to better coordinate, remove duplication of responsibilities and exploit synergies between public bodies and agencies involved in the fight against fraud and corruption. It also responsible for strengthening the internal audit function.

The NTA was set up as an independent authority with the aim of enhancing transparency, integrity and accountability in the action of government bodies, authorities, government agencies, and public bodies and preventing, avoiding, detecting and addressing fraud and corruption in public and private entities and organisations through implementation of various horizontal and sectorial audit, inspection or investigation activities³¹⁹. NTA enjoys operational independence, administrative and financial autonomy and is not subject to control or supervision by government agencies, bodies or other administrative authorities, except parliamentary control. It has been designated as the Greek Anti-Fraud Coordination Office (AFCOS).

Centralised audit is performed on public sector budgets execution as well as financial inspection by the General Directorate for Financial Audit (GDFA) of the Ministry of Finance³²⁰. The main role of this institution is to ensure sound financial management of the state budget and to examine public expenditures and financial activities by providing legality and regularity audits or inspections, to verify adequacy of the management and control systems of the public organisations, and provide reasonable assurance regarding public sector budgets to the Minister of Finance. The Directorate can impose financial corrections accordingly. GDFA's mandate comprises performance audits. Furthermore, the General Directorate for Financial Audit develops standards and methodologies for financial audit/inspection and for the management and control systems and internal audit of the public sector. The GDFA conducts annual audits through a programme that is risk based. It also audits public

³¹⁷ GDFA's mandate on public procurement audit derives from Law 3492/2006 in combination with the Decision of the Minister of Finance on the GDFA Regulation of Audits and Investigations.

³¹⁸ The following responsibilities were transferred to the Authority in 2019: The General Secretariat for the Fight against Corruption of the Ministry of Justice, The Body of Public Administration's Inspectors – Auditors, The Office of the Inspector General of Public Administration, the Health and Welfare Service Inspectorate, the Public Works Inspectorate, the Transport Inspectors – Auditors Body.

³¹⁹ (Law 4622/2019 "Executive State: Organisation, functioning and transparency of the government, governmental institutions and central public administration")

³²⁰ Law 3492/2006 "Organizing an auditing system to ensure the sound financial management of the State Budget and other non-State Budget entities and other provisions"



contracts for legality and conformity. The Audit Reports are finalised by the Audit Coordination Committee (ESEL)³²¹.

The General Directorate for Audits of Co-financed Projects has responsibility for audits of EU co-financed Projects and the Financial Mechanism of the European Economic Area. Namely, the General Directorate for Audits of Co-financed Projects acts as the Audit Authority for programmes and projects co-financed by EU funds, which works with the European Commission's audit services to coordinate audits and their methods according to applicable EU regulations. The General Directorate approves audit strategies based on the international auditing standards and ensures that system audits, operation audits and accounts audits are carried out to verify the effective operation of the EU management and control systems. It monitors and evaluates the measures and corrective actions taken by the competent authorities.

The Audit Reports are finalised by the Financial Audit Committee (EDEL). It should be noted that EDEL was designated as the competent Audit Authority both for the programming period 2014-2020³²² and for the programming period 2021-2027³²³ and is the EU interlocutor.

The legal framework also established internal audit units in ministries and decentralised administrations³²⁴. Internal audit activity mostly comprises compliance, financial, regularity audits, also various investigations and some control duties. Since 2019, the NTA is responsible for the development, coordination and monitoring of a public internal audit system. Specifically, NTA has the power to plan and develop models, methodology and instruments of internal audit, as well as to coordinate and support the operation and auditing activity of the Internal Control Units³²⁵.

With respect to internal audit, the Law 4795/2021 "Internal Control/Audit System of the Public Sector, Integrity Advisor in Public Administration and other provisions regarding public administration and local self-government" was adopted in April 2021. The law aims at comprehensively regulating the Internal Control System and the operation of the Internal Audit Units in the public sector to support them in reaching their objectives based on the principles of good governance and administration, in conformity with the international standards. With the enactment of Law 4795/2021, previous provisions on the establishment of internal audit/control units in every Ministry and Decentralized Administration and their competence of will cease to apply³²⁶.

The provisions of the new law ensure:

- clarification of the scope of internal audit. Previously the legal framework was characterised by fragmentation of regulations and conceptual contradictions;
- development and operation of an effective National Internal Audit System, in accordance with the requirements of Law No. 4622/2019 defining the organisation, operation and transparency of the Government, governmental bodies and the central public administration;
- compliance of the internal audit rules and activities with the International Standards on Internal Control and international best practices;
- establishment of modern and effective Internal Audit Units in all public sector bodies;
- clarification of the responsibilities of the bodies and authorities that have audit, supervisory and coordinating powers (Court of Auditors, Ministry of Finance, National Transparency Authority);

³²¹ Article 53 (d) of p.d. 142/2017 "The imposition of sanctions after the finalization of the audit reports by the Audit Coordination Committee

³²² L. 4314/2014), article 11 (1)

³²³ L. 4914/2022, article 17 (1)

³²⁴ Law 3492/2006

³²⁵ L. 4795/2021, article 22 (1)

³²⁶ Law 3492/2006 (A' 210), article 12



- certification, continuous training and professional upgrading of the Internal Auditor.

The implementation of L. 4795/2021 also provides for the issuance of a ministerial decision, which will regulate the assignment of internal audit or the award of contracts for the provision of supporting services to natural or legal persons.

The Court of Auditors acts as external auditor conducting audits the financial statements and accounts, as well as the accounting and financial reporting systems for all general government bodies³²⁷. The main duties include ex-post audits -mandatory ex-post audits over all accounts or final accounts of General Government bodies. Among others, the Court of Auditors checks the compliance with the principle of sound financial management and in particular financial efficiency and effectiveness as well as the body's compliance with the Court's prior recommendations. The Court of Auditors is also responsible for mandatory ex-ante legal controls (legality review)³²⁸ on supplies, works and services contracts of high economic value³²⁹ (from EUR 300 000). Contracts that have not been subject to such review are invalid. This legality review was established with a view to protecting the public interest from possible errors, failures and irregularities committed by administrative bodies in the procurement process, and on the other hand to preserving transparency and confidence of citizens in public administration's actions. Further details to the pre-contractual audit are defined Article 325 of Law 4700/2020³³⁰.

External ex-ante control in municipalities are conducted by the Separate Authority for the Supervision of Local Self-governed Authorities (OTA) as exercised at the stage before the commencement of the performance of the contracts and is aimed at preventing any infringements of the applying legislation.

As per Law 3852/2010, the decisions of the collective bodies of OTA and their legal entities concerning, public procurement awards, are obligatorily sent to the Coordinator of the Decentralised Administration. This body audits the legality of the decision within an exclusive time period of thirty (30) days from its receipt (provided that the completeness of the administrative file is ascertained) and issues a special act³³¹.

Finally, the Single Public Procurement Authority (HSPPA) is tasked with, among others, the responsibilities for monitoring and evaluating the efficiency and effectiveness of public entities actions in the field of public procurement; conducting sample audits, seeking information and details about

³²⁷ As per article 98 par. 1 b of the Constitution and the relevant provisions of Laws 2145/1993, 2741/1999, 3060/2002, 4820/2021, 4270/2014

³²⁸ Article 98 (1) (e) subparagraph (b) of the Constitution and Article 324 "Submission to precontractual audit" of Law 4700/2020 (Government Gazette 127 A/29.06.2020)

³²⁹ Generally, high economic value is considered above EUR 300 000 for contracts concluded by the state and the legal persons governed by public law subject to a mandatory preventive (ex ante) expenditure audit. For co-funded public contracts, this threshold is set at EUR 5 000 000.

³³⁰ Further detailed provisions apply :

- General Category - Contracts for the supply of goods, execution of works and provision of services concluded by the State, Legal Entities governed by Public Law (NPDD) and public enterprises, with a budgeted expenditure of more than 1 000 000 Euros (excluding VAT), legality audit is carried out by the Court of Auditors.
- In the categories of contracts that are concluded by the State and those subject to preventive control of expenses of Legal Entities governed by Public Law (NPDD), of budgeted expenditure over EUR 300 000 and up to the threshold of EUR 1 000 000, mandatory legality audit by the Commissioner of the Court of Auditors.
- For the co-financed contracts for the supply of goods, the provision of services and the execution of works, a legality audit is carried out before their conclusion by the Court of Auditors, if the budgeted expenditure exceeds the amount of 5 000 000 Euros (excluding VAT).
- Dynamic Purchasing System (DPS) (article 33 par. 11 Law 4412/2016): The first contract regardless of its value is subject to preventive legality audit, according to the provisions in force on the Court of Auditors, provided that the total estimated value of the DPS exceeds the applicable thresholds, as well as each sub-contract if it independently exceeds the applicable thresholds.
- Framework agreement (article 39 par. 9 law 4412/2016): Framework agreements are sent for preventive audit to the Court of Auditors, according to the relevant provisions, while their executive contracts only if their value independently exceeds the applicable thresholds.

³³¹ L. 3852/2010, articles 225 and 238



ongoing procurement procedures, awarding and performing public contracts procedures by contracting authorities and public and private entities involved; detecting infringements related to public procurement. The Authority may order the competent audit authorities to collect data and submit conclusions in the field of public procurement. HSPPA supervises and evaluates, as appropriate, the competent audit bodies in the field of public procurement in the performance of their duties in accordance with the applicable national and European legislative and regulatory framework and the guidelines of the Authority. These bodies must comply with the instructions of the Authority³³².

A Presidential Decree, issued on the basis of a proposal by the Minister of Development, Competitiveness and Maritime Affairs and an opinion of the Authority, may specify the bodies and the procedure for the supervision and evaluation of the above-mentioned control bodies. It should be noted in this regard: a) that the envisaged presidential decree has not been issued since 2011 and b) that this competence has been transferred as it is to the recently enacted Law 4912/2022 (A '59) and defined the responsibilities of the new Authority. In this context, the Authority indexes the audit findings of other auditing bodies, which fall within the scope of public procurement. It also sends a Monitoring Report to the EU every three years, which includes information on the most common causes of poor implementation of public procurement legislation³³³.

Each year the Court of Auditors reports to Parliament on the outcome of its work along with its observations on the comparison of revenue and expenditure under the relevant laws. Prior to releasing its annual report to Parliament, the Court of Auditors submits relevant observations on financial management to the authorising ministers. The responses of ministries are also submitted to Parliament together with the annual report.

In addition to the report by the Court of Auditors, the Audit Coordination Committee under the General Directorate for Financial Audit also submits its annual report to the Minister of Finance, the Prime Minister and Parliament, presenting the most important findings of public sector budgets audits, evaluating the work of auditors and making proposals on how to improve their functioning and performance³³⁴.

While the legal framework foresees reporting to Parliament on audit findings, assessors lack clarity on the availability of a mechanism to ensure that there is a regular follow-up on the findings by audit and control bodies.

Coordination of controls and audits of public procurement (sub-indicator 12(b))

This sub-indicator assesses the extent to which internal and external audits follow a standardised approach through the availability of written procedures (e.g. manual), as well as the availability and regularity of internal and external audits. Clarity of reporting lines are also analysed.

As a general observation, guidance material including written standards and procedures, is available to harmonise audit work. However, standards for the field of internal control appear to be underdeveloped. Typically, such written procedures state requirements for internal controls either for general matters, or for public procurement. Similarly, internal control manuals for public organisations provide guidance to internal auditors, but none of these types of documents have been identified.

According to L. 4795/2021 on internal audit, the NTA is now responsible for designing and developing standards, methodologies and internal audit tools as well as coordinating and supporting the operation and audit activities of the Internal Audit Units³³⁵. A number of tools, standards, methodologies and guidelines have been developed to support the practical application of internal audit in public sector entities. These include:

³³² Article 2 par. 2 (H) OF I. 4013/2011

³³³ L. 4412/2016, article 340

³³⁴ Law 3492/2006, article 10

³³⁵ L. 4795/2021 article 22 (1)



- template of the Consultancy project report
- model consultancy project mandate
- model Internal audit Mandate
- model Interim Audit Report
- model Final Audit Report
- model Internal Audit Unit Operating Regulations

All Internal Audit standards and tools have been posted on the Internal Auditors Network of Public Administration of the NTA, which is an active platform for communication and exchange of views among the Internal Auditors of the public sector.

In addition, important tools have been developed by the NTA to assist the work of internal auditors.

In this context, the following documents have been developed:

- template for recording procedures of the Internal Control System of Financial Management, in which eleven procedures of financial interest followed by the entities of the Central Administration have been recorded, in steps, with the risks inherent and the controls put in place
- recording of procedures of the Internal Control System of Financial Management for the first-tier local authorities, in which 20 procedures of financial interest followed by the first-tier local authorities have been recorded, in steps, with the risks inherent and the control mechanisms put in place. The continuation of the mapping and other procedures is underway.
- internal audit manual for local authorities
- performance audit guide
- code of conduct for internal auditors

In the context of its advisory work to the Internal Audit Units, NTA is also conducting a number of activities, such as establishing formalised cooperation with many public sector institutions (Ministries, Universities, Universities, local authorities, legal entities of the public and private sector) which include, among others, training activities. It is also raising awareness, and providing tools and advice for internal control but also for strengthening integrity and anti-fraud mechanisms. Finally, NTA conducts webinars on a regular basis in order to inform staff of all levels serving in public sector bodies on Internal Audit issues, as well as to train and guide staff serving in Internal Audit Units.

As the Authority responsible for the planning and undertaking of specific actions for better coordination, the removal of overlapping responsibilities and the exploitation of synergies between public sector bodies exercising inspection and control responsibilities, NTA participates in the National Coordination Body for Audit and Accountability (ESOEL). The ESOEL is a collective body, which plans and implements joint actions between executives of participating authorities, bodies and services and active in the control of the activities of public institutions and in the fight against corruption. Among the objectives of the ESOEL is the standardisation and modernisation of audit procedures and methodologies, making use of scientific training, professional experience and experience in the field of corruption and corruption prevention.

Guidance for the conduct of external audits is more developed. Namely, in 2017, the Court of Auditors issued an audit manual to assist the Court's auditors to carry out high quality financial audits as well as compliance audits, specifying the principles governing the Court's approach to such audits and the procedures applied. The purpose of the manual is to assist auditors in performing financial and compliance audits in a cost-effective, efficient and effective way. The manual focuses on a "risk-based approach", which is intended to steer auditors' attention to areas of high risk, and aims at supporting auditors in their judgment.

Furthermore, the Court of Auditors also issued a practical guide regarding the ex-ante review of high-value contracts for the review of public procurement in municipalities, regions and their legal persons.



Finally, for EU funded programmes, specific guidance has been developed, too. The Financial Audit Committee for the EU 2014-2020 programme has issued an Operations Audit Questionnaire, which includes questions regarding the audit of public procurement procedures and the General Directorate for Financial Audit has developed procurement audit questionnaire and Financial Corrections Guidance. The Authorities / entities designated in the framework of the Management and Audit System of the NSRF 2014-2020 apply specific Procedures, in order to ensure the sound financial management of the resources of the NSRF 2014-2020. These Procedures are accompanied by standard forms and guides. The set of these documents is the "MAD Procedures Manual" which is provided to all Authorities / entities³³⁶.

Public procurement processes were audited by the Directorate-General for Financial Audits and the Court of Auditors. Conversely, internal audit activity is very limited with only a few internal audit cases that related to public procurement.

With respect to the regularity of audits, it should be noted that availability of annual reports on audit activities appears patchy in some instances. Namely, annual reports on audit activities are available a yearly basis by the Directorate-General for Financial Audits. Specifically, the following audit report was issued most recently: The Annual Report of the Directorate-General for Financial Audits describing the Directorate-General's regular, extraordinary and specific financial or management audits at the national level for the period of 1 July 2020 to 30 June 2021. However, the Court of Audit only makes available its annual report on audit findings for the year 2017 (*Ετήσια Έκθεση Οικονομικού Έτους 2017- Annual Report Finance Year 2017*). Instead, special reports on audits have been issued beyond the year 2017³³⁷. Furthermore, information on the Court's decisions on pre-contractual legality audits issued in 2020-2022 is available.

Reporting lines to oversight bodies are not defined as clearly and reliably, and their effectiveness was difficult to establish based on available information. Nevertheless, some responsibilities related to reporting are established for NTA, as the authority "shall cooperate with the competent judicial and prosecutorial authorities as well as all administrative authorities and bodies exercising responsibilities in the field of financial control, accountability, transparency and the fight against fraud and corruption and shall assist the said authorities, if requested, exercising its powers."

Enforcement and follow-up on findings and recommendations (sub-indicator 12(c))

Overall, there are established systems in place to follow up on implementation of audit recommendations. Indeed, the Court of Auditors shall carry out targeted compliance (follow-up) audits regarding compliance with the findings and previous recommendations it has addressed to the bodies of the General Government in the context of preventive expenditure audits.

According to the annual reports covering the years 2016 and 2017, the Court of Auditors, in the context of these re-audits, monitored the compliance with the recommendations that have been included in reports of audits carried out previously, carried out compliance audits on public procurement procedures, identified whether corrective actions have been taken by the audited bodies, highlights weaknesses, shortcomings and delays and identifies progress made or the need to intensify efforts to implement an effective compliance policy.

Furthermore, evidence on the implementation of audit recommendations is available, although the law does not establish specific timeframes for recommendations to be applied. Specifically, the GDFA carried out an administrative follow-up on the recommendations of regular audits carried out until

³³⁶ All the documents of the Manual are available at the link https://www.espa.gr/el/Pages/SDE_Diadikasies.aspx; The Recovery Fund Management and Audit System is available at the link <https://greece20.gov.gr/systima-diaxeirisis-kai-elegxou/>; The Management and Audit System (MAD) of the National Development Program for the period 2021-2025 is available at the link http://epa.gov.gr/?page_id=244

³³⁷ Special reports after the year 2017 cover the years 2018, 2019, and 2021



the entry into force of P.D.142/2017 on December 2017³³⁸. The administrative follow-up revealed adequate compliance of 58.8% of recommendations, while recommendations remained unaddressed 31.8% of cases. 9.4% of recommendations showed partial compliance or follow-up. Overall, the compliance rate is considered at 68.2%³³⁹.

Administrative follow-up of audits carried out after December 2017, reveal that, at the time of drafting the annual report, approximately 47.61% of all recommendations have been implemented. It should be noted that the monitoring process is ongoing, and for some of the recommendations the compliance deadline set by the auditors has not yet passed and therefore they are open³⁴⁰.

Similarly, the Court of Auditors Annual Report of 2016 assesses compliance with previous recommendations. Based on their findings, the Court concludes that a majority of the audited bodies were found to have complied. However, in some instances a mixed picture emerges. For instance, in the follow up audit of the Municipality of Agios Dimitrios only 21% of targeted recommendations for the audit level were fully implemented, 50% of the recommendations were ongoing, and 18% were not implemented. Recommendations for stakeholders showed even lesser uptake.

The NTA monitors and evaluates the work of Internal Audit Units and submits proposals to address any problems recorded during the audit process. It is informed of the reports and findings of the Internal Audit Units, as well as the progress of the implementation of their recommendations, whenever requested³⁴¹. However, this power will become applicable as of 2022 due to the recent enactment of L. 4795/2021.

Qualification and training to conduct procurement audits (sub-indicator 12(d))

Overall, rules for the selection of auditors are defined, although no specific provisions apply regarding the selection of public procurement auditors that would ensure adequate technical knowledge³⁴². Audits conducted by the Directorate-General for Financial Audit shall be carried out by its auditors. Auditors can be assisted in their work by assistant auditors, as well as by experts. These experts may be civil servants categories as either “university educated” or “technical trained”. Individuals who are registered with the Registry of Experts or Audit Companies may also serve as experts. The assessors did not find information on the requirements for registration.

For Internal Audit of public companies, the Register of Internal Auditors at the Ministry of Finance is established. This register includes internal auditors who hold a Greek University Degree or a foreign degree recognised as equivalent, or a Greek Technical training Degree or a foreigner degree recognised as equivalent and who have a proven professional experience of at least 3 years in the field of internal auditing.

Internal Audit Units are staffed by employees of category University Educated (PE) or Technical Trained (TE) or, as the case may be, by uniformed personnel and special scientific staff (hereinafter: internal auditors) and Second Grade Education (DE) for secretarial support of the service, after taking into account the previous provision of audit services in the public or private sector, as well as any accreditations or certifications related to internal audit. The Internal Audit Unit is headed by employees who meet the selection requirements in a unit of a corresponding level, in accordance with the applicable provisions. More specific provisions of each body that provide specialised qualifications or conditions for the staffing of its Internal Audit Unit continue to apply. The Heads and employees of

³³⁸ Law 4537/15-5-2018, article 137

³³⁹ General Directorate for Financial Audit, Annual Report on the Results of Financial Audits, (Article 22(1) of Law 3492/2006),
Audit period 01.07.2020 - 30.06.2021,
<https://www.minfin.gr/documents/31311/5730106/%CE%95%CE%9A%CE%98%CE%95%CE%A3%CE%97+%CE%91%CE%A1%CE%98%CE%A1%CE%9F%CE%A5+22-2021.pdf/b9ff9f5e-73af-49e3-8144-b66821a9625c>

³⁴⁰ Ibid.

³⁴¹ In accordance with the provisions mentioned in paragraph h) of par. 2 of Article 83 of L. 4622/2019 (paragraph 1 of Article 22 of L. 4795/2021).

³⁴² L. 4151/2013, article 12



the Internal Audit Unit who exercise the duties of internal auditor, are obliged to receive a Certificate of Internal Audit Adequacy, unless they already have accreditation or certification related to internal audit. In case of non-fulfillment of the above obligation, their placement in the Internal Audit Unit is revoked. The duties of the Head and staff of the Internal Audit Unit are incompatible with any other duties not related to the work of the Unit³⁴³.

The NTA actively participated in developing important initiatives in the design, organisation and implementation of the innovative training programme for the certification of the audit competence of internal auditors of the public sector, in cooperation with the Ministry of Interior and the Training Institute of the National Audit Office. The main purpose of the training programme entitled "Certification of Audit Competence of Internal Auditor of Public Sector Internal Auditor" is to provide theoretical and practical training on the knowledge, skills and competences required to perform the duties of Internal Auditor in public sector bodies. The modules taught in the Programme include, among others, the Practice of Internal Audit in the field of public procurement (7 hours). The full programme has a duration of 128 hours.

Attendance of this programme is mandatory in order to obtain the relevant certification, by the staff of the Internal Audit Units performing internal audit functions. In the event of failure to fulfil the above obligation, their placement in the Internal Audit Unit will be cancelled³⁴⁴. Since the start of the training programme in July 2021, seven training cycles have been successfully completed with a total of 172 trainees from various public administration bodies. A total of 153 Internal Auditors were certified upon completion of these cycles.

The Minister of Finance has decision-making authority over several procedural aspects that are meant to guarantee functional independence as well as necessary qualifications. These include decisions on the qualification of Financial Auditors and EU projects' Auditors and of Experts in Financial Audits and EU Audits registered in the relevant Registers, as well as the criteria for the classification of Financial Auditors and EU Auditors and of Experts in Financial and EU Audits. The decisions by the Minister also apply to the procedures for evaluating and selecting candidates as well as the manner in which the Registers are established and kept and the Office responsible for them.

In the context of EU-funded audits, functional independence is guaranteed for the participants in the audit teams by the managing authorities, intermediaries' managing bodies and the Certifying Authority³⁴⁵. The legal framework provides that the internal auditors of the Register of Internal Auditors of the Ministry of Finance are independent, do not hierarchically belong to any department of the auditing bodies, provide services under independent service contracts and do not acquire employee status or subordinate employment³⁴⁶.

To ensure functional independence, the Court of Auditors' defines the standards in its Code of Audit Ethics. Officials are required to uphold the principles and rules of the manual as well as rules for officials of the Court of Auditors, as specified in the Code of Conduct for Judicial Staff (Law 2812/2000 as replaced by L. 4798/2020) and in the Court of Auditors Code (Law 4129/2013 as replaced by L. 4820/2021). Other provisions that govern the behaviour of officials apply³⁴⁷.

The independence of auditors from the General Directorate of Financial Audit of the Ministry of Finance is provided for in paragraph 8 of article 15 of law 3492/2006 (A '210) stipulating that "the staff in general of the Audit Departments of the Directorate-General for Financial Audit (GDDE) shall not be examined, prosecuted or sued on the ground of what is included in an audit report they have drawn

³⁴³ L. 4795/2021, article 9 (8, 10)

³⁴⁴ Law 4795/2021, article 9 (8, 10)

³⁴⁵ L. 4314/2014, article 12

³⁴⁶ L. 3429/2005, article 4, as amended by L. 4465/2017, article 31 (4)

³⁴⁷ Official shall act in accordance with the provisions of this Manual Code of Conduct, supplemented by the provisions of the Code of Ethics of INTOSAI and of the IFAC Code of ethics for professional accountants, insofar as their rules do not contravene this manual's provisions and the provisions of the Greek legislation.



up or co-signed in the performance of their duties.” The independence of internal auditors is defined in Article 9 of L. 4795/2021.

Auditors and members of audit teams and employees of services directly or indirectly involved or providing audit support services must, in the exercise of their responsibilities, comply with the fundamental principles of integrity, objectivity, professional competence, confidentiality and professional conduct. Compliance with the above ethical rules shall be ensured by the competent staff of the Court of Auditors so that the members of the audit teams (Commissioners, auditors) and the staff performing support services in the audit work shall complete immediately upon receipt of their audit mandate, a statement of compliance with these rules.

With regards to trainings, auditors of GDFA are obliged to follow two training seminars of one week duration each. These seminars include audit methodology issues many of which relate to procurement audit.

The National Center for Public Administration and Local Self-Government (EKDDA) organises a special programme of auditing competence of an internal auditor. Attendance is a mandatory requirement for those already serving in the Internal Audit Units who perform the duties of internal auditor, in accordance with the specific conditions hereof.

Gaps

Application of internationally accepted terminology

The application and use of control and audit terminology in the Greek legislation appears misleading, due to national language specificity. Nevertheless, from the international standards point of view, each function has to follow different standards and responsibilities, and to ensure adequate independence. Thus functional responsibilities have to be clarified taking into account defined objectives.

Enforcement of audit recommendations

The assessors were unable to establish the quality and nature of follow up on audit recommendations. From the perspective of the legal and regulatory framework, there does not seem to be a specific regulation regarding the implementation of any received audit recommendations. The legal framework also does not specify any timeframes by which recommendations shall be implemented.

Qualifications for auditors

As a general observation, it appears that qualifications for auditors in the field of public procurement, and procedures for their selection are not defined in detail. The assessors were only able to establish the selection procedure for auditors in general, as provided by the law. The assessors did not have information about the selection of auditors for procurement-specific audits, nor information on how the selection is handled in practice. Auditors shall engage only in those activities for which they have the necessary knowledge, skills, and experience and shall continually improve their proficiency and the effectiveness and quality of their services. Information on how the selection of auditors is handled in practice was also not available to assessors.

Substantive gaps

The main gaps of the control system lie in structural deficiencies in the framework for internal control and audit, covering the responsibility and accountabilities at the entity level. Further weaknesses lie in limited reporting and transparency, better follow-up of recommendations, and a need for greater professionalisation.



Systemic weaknesses in the control framework

At framework level, some important systemic weaknesses limit the performance of the Greece control system. The main gap in this regard lies in its overall weak structures for internal control and internal audit, which have only recently been strengthened through the L. 4795/2021 on internal audit. Namely, the Greek control framework lacked comprehensive central harmonisation of regulations, coordination, development and quality monitoring of internal audit and internal control. This function appears to have been adopted by NTA. This is a vital factor of the framework to streamline, standardise and coordinate internal control and audit throughout the public sector and to ensure necessary developments and quality supervision. However, frequent changes of responsibilities among audit authorities further contributes to the overall weak structures.

The dominating regulatory, compliance and financial reviews implemented by different financial inspection/audit and horizontal sectorial investigations bodies, without an adequate activity analysis, quality review and coordination, create a risk of inefficiencies and overlapping.

The function of internal control is meant to hold each public institution accountable, require that public institutions administer their own integrated internal control system, and is based on the premise that each institution should manage its finances and be accountable for the effectiveness of the policies and services it delivers. An internal control system shall be accompanied with an effective internal audit function. Together, the two systems can aid external audit processes and assist central control agencies perform proactive monitoring. It should be noted that the L. 4795/2021 on Internal Control/Audit System aims at addressing some of these weaknesses. The assessor, however, lack feedback about the practical effects of this reform given its adoption during the time of the assessment.

The assessors were unable to establish that the internal audit units' practice in establishing their scope of work, in implementing risk assessment and in producing risk based planning documents. In addition, the assessors were unable to establish that evaluation of internal control systems over procurement processes in organisations is performed.

With respect to the supreme audit institution, it should be noted that overall the Court of Auditors delivers adequate oversight over public procurement. However, concerns remain about the adequacy of the system as a whole. Namely, whether ex-ante controls present a risk to the independence of the Court as it becomes an actor in specific public procurements. Similarly, there are concerns whether involvement of the Court in ex ante controls unduly impacts the efficiency and effectiveness of the public procurement process, by directing efforts away from other types of audits, such as performance audits.

Finally, another gap at the framework level lies in the lack of clarity of reporting lines, responsibilities and arrangements. Specifically, criteria of reporting to different oversight authorities are not clearly defined. Thus, the effectiveness of the overall reporting arrangements cannot be assessed.

Processes and tools for internal control

Gaps related to internal control processes and tools further undermine the effectiveness of the internal control function. In fact, internal control systems and tools, including, process descriptions and risk management in public organisations to support management decisions have not been developed. As such, it appears that internal control in Greece may not be aligned with international good practice. Namely, according to international good practice, management (the first line of defence) should be responsible for maintaining effective internal controls and for executing risk and control procedures on a day-to-day basis. It should identify, assess, control and mitigate risks, guiding the development and implementation of internal policies and procedures and ensuring activities are consistent with goals and objectives. Management should be supported and overseen by risk managers, compliance specialists, financial controllers, that provide the second line of defence. The third line of defence – internal auditors – provide independent assurance to management regarding



the effectiveness of the first two lines and how effectively risks are managed. Based on the information available to assessors, this kind of set up for internal control does not appear to be standard practice.

Regularity and dissemination of audits

A significant gap lies in the availability of audit reports and findings, including the regularity of their publication and overall dissemination. There is a lack of clarity on whether audit work is conducted, but not publicly accessible, or whether only a very limited amount of audit work is effectively carried out.

Namely, information about the annual audit reports of the Court of Auditors was not available to the assessors except for the years 2016 and 2017. Information on audits by the GDFA prior to 2016 and 2017 was not accessible. Similarly, annual comparison and quantitative information is not available.

Conduct of performance audit and use of risk assessment

Overall, the assessor could retrieve limited information on the use of performance audits and the application of risk assessment methodology in the choice of audits, indicating gaps in their widespread use. The Court of Auditors conducts audits on procurement issues mainly as part of its financial or regularity audit. However, there were no external audit reports on performance or system audits of public procurement available to the assessors. GDFA reported to have recently identified the need to strengthen capacity for performance audits and is currently performing such an audit. Ex ante legality control by the Court of Auditors is applied on the basis of thresholds, instead of using a risk assessment approach.

Risk assessment

Overall weaknesses in the control framework and lack of processes and tools for internal control can be considered to pose a high risk to the functioning of the procurement system, as these represent the “lines of defence” for ensuring compliance. At the same time, reforms of the system have been ongoing during the assessment period, demonstrating that the procurement system is capable of tackling weaknesses in this area.

Another substantive gap pertaining to the limited conduct of performance audits and the use of risk assessment is assessed as medium risk, as capacity for such audits is being built, and the consequence of this gap do not immediately hamper the ability of achieving procurement objectives.

Finally, the lack of dissemination of audit information is assessed as medium considering the relative high observed likelihood of the event, but no immediate severe risks for the procurement system in achieving its objectives.

Table 9: Summary of substantive gaps and risk assessment

	Substantive gap	Risk	Red flag
12 (a)	Systemic weaknesses in the control framework	High	No
12 (a)	Processes and tools for internal control have not been developed	High	No
12 (a)	Limited conduct of performance audit and use of risk assessment	Medium	No
12 (b)	Lack of clarity on regularity and dissemination of audits	Medium	No



Recommendations

Harmonisation of control framework

In the area of audit and control, the Greek public procurement system could be enhanced by continuing work on harmonising its framework, by increasing monitoring and information provision and by professionalising public procurement audit and control.

To ensure harmonised application throughout the public sector, the Greek government could strengthen its harmonised framework for internal control of public procurement. As part of the enhanced framework for internal control and audit of public procurement, the role of the Supreme Audit Institution in the central ex-ante control of public procurement could be reconsidered gradually, proportionately to the progress of developing internal control. The Supreme Audit Institution should place a stronger focus on performance and system-based audits on public procurement.

Information on audit and control, enhanced follow up

Monitoring and information provision on audit and control of public procurement could be enhanced. Improved monitoring should include clarifying the reporting structure, criteria and standards for different oversight authorities, as well as enhanced evaluation and increased data gathering on audit recommendations and their follow up. Resulting information on audit activity should be provided timely, more openly to the public and at a more granular level.

Professionalisation of audit

To professionalise the audit function, Greece could consider establishing guidelines for the selection procedure and core competencies, including necessary knowledge, skills and experience requirements of auditors working on public procurement audits.

Indicator 13. Procurement appeals mechanisms are effective and efficient

Pillar I covers aspects of the appeals mechanism as it pertains to the legal framework, including creation and coverage. This indicator further assesses the appeals mechanisms for a range of specific issues regarding efficiency in contributing to the compliance environment in the country and the integrity of the public procurement system.

Greece partially complies with this indicator. The legal and institutional framework has been mostly adequately established; fees, although levied, seem to be adequate for the system. Some data exists to monitor appeals activity. Important gaps relate to the performance of the appeals framework. Some data foreseen by the methodology is not collected and some timeframes are not established in the law.

Importantly, the recent public procurement reform made substantial changes in the area of appeals for low value procurement (below EUR 30 000) by eliminating the possibility for economic operators to file an objection with the contracting authority, prior to issue judicial proceedings. At the same time, the reform lowered the threshold for review by the appeals body HSPPA from EUR 60 000 to EUR 30 000. These provisions are in effect as of September 2021.

Findings

Process for challenges and appeals (sub-indicator 13 (a))

Procedures for submission and resolution of complaints, namely request for review procedures, are clearly defined in the law. However, procedures are not publicly available. The review mechanism differ according to the value of the contract in question.

For public procurements valued at EUR 30 000 or less (EUR 60 000 in case of works, social and other special services contracts, as well as contracts related to the implementation of ICT projects), the law



does not provide for any administrative challenging procedure. Instead, the economic operator may issue judicial proceeding before the competent administrative courts, within 60 days from the day that the act contested was communicated to the economic operator concerned or from the day the omission occurred³⁴⁸. The economic operator challenging the contracting authority's decision before the administrative courts shall have to pay a fee of 5% of the estimated value of the contract³⁴⁹.

Above the threshold of EUR 30 000 (and for technical assistance contracts valued over EUR 60 000), requests for review are to be filed with the Single Public Procurement Authority (HSPPA) established initially in 2016 as an independent public procurement review body (AEPP), and merged with HSPPA in 2022.³⁵⁰ According to the "Rules of Procedure before AEPP", HSPPA considers the legitimacy of the review, and takes a decision based on the applicant's actual and legal allegations, the views of the contracting authority and, in case of intervention, the allegations of the intervener.³⁵¹ The contracting authority has to provide the entire case file; non-compliance with this requirement is fined.³⁵² Following the promulgation of the new law merging HSPPA and AEPP a new PD on rules of procedure is expected to be issued.

Request for review on procurements valued up to EUR 100 000, are reviewed by one-member units, whilst in case the procurement exceeds the threshold of EUR 100 000 the requests are reviewed by three-member units. For major cases, or in order to avoid the risk of issuance of decisions contradicting each other, requests are reviewed in a meeting of seven members³⁵³.

HSPPA's decisions are final and enforceable, but can be judicially challenged. If judicially challenged, the contracting authority shall abstain from concluding the contract, unless the court decides otherwise.³⁵⁴

An economic operator may file a request for review with HSPPA within ten days from the day that the act contested was communicated to the economic operator concerned if the act was communicated with electronic means or within 15 days from the day that the act contested was communicated to the economic operator concerned if communicated with other means or within 10 days from the day that the economic operator was fully informed about the act. In case that the request for review relates to the procurement documents, full knowledge is presumed after 15 days from the day the procurement documents were published in KIMDIS. In case of omission, the time limit is 15 days from the day that the omission occurred.³⁵⁵ A meeting to discuss a case has to take place within 40 days from the submission of the request. Once this meeting has taken place, HSPPA has to issue its decision within 20 days from the day of this review meeting.³⁵⁶

During the interviews, it was stated that all HSPPA's decisions are issued within the time frames. Assessors were only able to retrieve data about the average time of issuance of HSPPA's decisions according to HSPPA's data on its website. In 2020, the average time for issuing a decision from the day the application was filed was 50 days for requests for review and 8 days for requests for interim measures. In 2019, the average time for issuing a decision from the day the application was filed was 48 days for requests for review and 9 days for requests for interim measures.

The economic operator filing a request for review has to pay a fee equal to 0.50 % of the estimated contract value³⁵⁷ to the State, at least EUR 600 and as much as EUR 15 000. The fee shall be reimbursed

³⁴⁸ Article 127 of L. 4412/2016 in combination with article 46 of PD 18/1989

³⁴⁹ Article 127 of L. 4412/2016

³⁵⁰ L. 4412/2016, articles 360 and following

³⁵¹ P.D. 38/2017, "Rules of Review Procedure before AEPP", article 18.

³⁵² L. 4412/2016, article 365

³⁵³ L. 4412/2016 Article 365 paragraph 1

³⁵⁴ L. 4412/2016, article 372

³⁵⁵ L. 4412/2016, article 361

³⁵⁶ L. 4412/2016, article 367

³⁵⁷ VAT excluded



to the economic operator if the request is fully or partially accepted by HSPPA.³⁵⁸ In case the economic operator challenges HSPPA's decision, a fee equal to 0.1% of the estimated contract value³⁵⁹ shall be paid, at least EUR 500 and as much as EUR 5 000.³⁶⁰ The fee paid shall be reimbursed if the court decides in favour of the applicant. In case of a request that is manifestly unacceptable or groundless and upon the contracting authority's request the court may duplicate the fees to be paid up to the 2% of the estimated value of the contract including VAT, taking into account the harm done to the public interest due to the late award of the contract.

Data on judicial challenge of AEPP's decisions

In 2020, 1 725 decision on requests for review were issued. Out of these, 605 were subsequently challenged in court, i.e. requests for interim measures for the suspension of HSPPA's decision were filed before the competent court and 276 applications for review (annulment). In 2019, 1 414 decision on requests for review were issued. Out of these, 380 were subsequently challenged in court, i.e. requests for interim measures for the suspension of HSPPA's decision were filed before the competent court and 141 applications for review (annulment).³⁶¹

Independence and capacity of the appeals body (sub-indicator 13 (b))

HSPPA is independent of the contracting authorities; it is not involved in any capacity in procurement transactions or in the process leading to contract award decisions.

The Chairman and the Directors of HSPPA are retired higher judges (President, Vice President or Councilors) of the Council of State, the Court of Auditors or retired Presidents or Judges of the Administrative Appeal Courts, in the latter case with experience in public procurement law. In addition to retired judges, directors of the new HSPPA may be assigned also: (a) retired Presidents, Vice-Presidents or legal advisers (counsels) of the Legal Council of the State with experience in public procurement law; b) Emeritus Professors of Law Schools of the Higher Education Institutions of the Country, with a subject of expertise related to the law of public contracts. Members of HSPPA shall be designated persons of recognised prestige and high scientific training. They must have a proven academic or professional specialisation in the field of public procurement and the qualifications laid down in article 2 PD 50/2001, namely they shall be educated and experienced in public procurement law, and know at least one foreign language. HSPPA shall be staffed with 45 employees and 7 legal councils experienced in public procurement law³⁶².

HSPPA's Chairman, Directors and members are committed only to the law and their conscience and they have to observe the principles of objectivity and impartiality. During their term of office, any other professional activity is suspended and they are not allowed to be involved in any activity within the field of public procurements, in particular to be shareholders or involved in any way with any economic operator active in the same field. They are not allowed to be members of any political party. Similar rules apply for the kin of Chairman, Directors and members of HSPPA. A "cool off period" of two years applies, and members are required to recuse from cases in case of a conflict of interest.³⁶³

By law, HSPPA is financially independent, having the resources to cover its expenses and staff wages alone. HSPPA is financed by a deduction of 0.1 % from all public contracts and contract amendments payments above EUR 1 000, no matter the financial source of these procurements.³⁶⁴

³⁵⁸ L. 4412/2016, article 363

³⁵⁹ including VAT

³⁶⁰ L. 4412 / 2016, article 372 par. 4

³⁶¹ <http://www.aepp-procurement.gr/images/Archiki/>

³⁶² L. 4412/2016, article 358

³⁶³ L. 4412/2016, article 349; PD 38/2017, article 7 (The PD 38/2017 is expected to be changed with the new institutional changes)

³⁶⁴ L. 4412/2016, article 350



In 2020, 52% of the decisions issued were in favour of the applicant, annulling the contested administrative act. 89% of the decisions issued suspended the conclusion of the contract.³⁶⁵

Decisions of the appeals body (sub-indicator 13 (c))

Although not explicit stated in the law, from the existing rules and regulations it can be concluded that decisions are rendered on available evidence submitted by the parties. The law requires HSPPA to take justified decisions on the validity of the allegations, the legal claims of the request for review, the allegations of the contracting authority, and, in the event of intervention of third parties, on the allegations of the intervening. As mentioned above, decisions are rendered on the basis of the case file.³⁶⁶

HSPPA can take the following actions:³⁶⁷

- reject the request for review
- accept the request for review and annul the contested decision of the contracting partially or as a whole; in case of contested omission, the omission is annulled and the relevant case is sent back to the contracting to take the appropriate action. HSPPA cannot change or modify a contracting authority's decision.
- on the applicant's request, or ex officio, HSPPA can take interim measures, suspending the contested decision of the contracting authority or the procurement procedure and imposing any other appropriate measures that will remain in force until HSPPA decides on the request of review.
- declare the contract already signed ineffective (null), under conditions.³⁶⁸ HSPPA may alternatively impose a proportionate fine to the contracting authority, not exceeding 10% of the contract value.³⁶⁹ HSPPA can also decide that the amount of the fine shall be paid to the applicant.

HSPPA's decisions are posted on its website in line with the legal provisions and EU rules, albeit not searchable.³⁷⁰ No timelines for publication are specified in the law. Judicial decisions are indexed internally and made known to all judges. Otherwise, only some decisions are published if they are considered important; they are anonymised before being published. According to stakeholders, the aim is to publish five anonymised decisions per month on the website of the General Commission of the Administrative Courts, but the assessors were unable to identify these decisions on this website.

Data on decisions by HSPPA

The following tables summarise data on decisions by HSPPA for the years 2020 and 2019.

2020	Number of requests for review	Number of requests for interim measures
Number of decisions	1 725	275
In favour of the applicant	895 (52%)	246 (89%)
In favour of the contracting authority or dismissed	838 (48%)	29 (11%)
Total number of decisions	2 000	

³⁶⁵ <http://www.aepp-procurement.gr/images/Archiki/>

³⁶⁶ L. 4412/2016, article 367 (1)

³⁶⁷ L. 4412/2016, article 367

³⁶⁸ Under the conditions of L. 4412/2016, articles 368-371

³⁶⁹ VAT excluded

³⁷⁰ L. 4412/2016, article 365 (6); provisions of L. 2472/1997 and the Regulation 45/2001/EU of the European Parliament and the Council of 18 December 2000 (EE L 8 23.11.1995) on data protection



2019	Number of requests for review	Number of requests for interim measures
Number of decisions	1 414	582
In favour of the applicant	687 (49%)	460 (79%)
In favour of the contracting authority or dismissed	717 (51%)	122 (21%)
Total number of decisions	1 996	

Data on decisions of the Administrative Courts of Appeal and Council of the State³⁷¹

According to information in HSPPA's annual reports, the Administrative Courts of Appeal and the Council of State issued 381 decisions in 2020, concerning requests for suspension. Out of these, 140 have been accepted in favour of the applicant. That means that out of all decisions issued by HSPPA in 2020, 8% were suspended.

In 2019, the Administrative Courts of Appeal and Council of the State issued 245 decisions based on requests for suspension. 70 have been accepted in favour of the applicant. The ratio of decisions suspended out of total decisions issued by HSPPA amounted to 4.95% in 2019.

Gaps

The assessors have no information about the impacts on the new institutional make up of HSPPA in performing its role, as these changes occurred during the time of the assessment. Only after a sufficient period of operation of the new Authority will one be able to assess the impact of the merger on the public procurement system. However, stakeholders have reported delays in the issuance of decisions during the transition period between the announcement of the merger between AEPP and HSPPA, and its actual implementation.

Overall, the above findings represent to a large extent the quality of the rules and procedures. The actual extent of implementation remains less clear, as assessors were unable to triangulate this information with economic operators and contracting authorities. This is the case notably for the question whether decisions are based on evidence, capacity, and the general compliance with rules.

Staffing shortages in administrative courts

According to interviews, some administrative courts handling procurement-related complaints face staffing shortages compared to the high amount of challenges being submitted and compared to the level of staff determined in the legal and regulatory framework. Stakeholders also point to the high administrative workload that results from the appeals process. Namely, contracting authorities may be required to provide responses in a very short time frame (two weeks) to lengthy law suits. The frequent request for paper documentation by courts, instead of making use of the available electronic system, further contributes to administrative burden. For HSPPA and the contracting authorities, the assessors were unable to determine the practical implementation of the legal requirements for staffing or whether staffing was sufficient to handle the volume of complaints.

Publication and transparency of appeals

Few aspects remain unregulated. No timelines for publication are specified in the law, and no data on the publication of decisions is available. In addition, procedures for submission and resolution of complaints are not made public.

³⁷¹ Information from HSPPA's annual reports



No data was available to substantiate the following quantitative indicators:

Mandatory indicator:

- share of appeals decisions posted on a central online platform within timelines specified in the law (in %). Source: Centralised online portal.

Recommended indicators:

- share of suppliers that perceive the challenge and appeals system as trustworthy (in % of responses). Source: Survey.
- share of suppliers that perceive appeals decisions as consistent (in % of responses). Source: Survey.

Substantive gaps

No substantive gaps were identified.

Recommendations

Transparency of appeals mechanism

Greece could work towards improving the performance of the appeals mechanism for public procurement, evidenced by timely and transparent resolution of appeals. Several aspects should be explored. Increasing the transparency of the appeals mechanism is crucial for enhancing performance. Procedures for submission and resolution of complaints should be published in an easily accessible manner (i.e., online for example on HSPPA's website.) Publication requirements (for example requirements to publish outcomes of procedures) should be monitored by the competent authorities; for that purpose, a timeline for publication should be set.

Staffing

Staffing being an essential component of high performance, the Greek government should ensure that HSPPA and the administrative courts have sufficient staff to be able to handle their caseload, building on quantitative, evidence-based evaluation of current staffing levels and needs.

Indicator 14. The country has ethics and anti-corruption measures in place

This indicator assesses i) the nature and scope of anti-corruption provisions in the procurement system and ii) how they are implemented and managed in practice. This indicator also assesses whether the system strengthens openness and balances the interests of stakeholders and whether the private sector and civil society support the creation of a public procurement market known for its integrity.

Mixed compliance was found in this indicator. Greece's anti-corruption framework has been object of analysis and internally supported reform in recent years. The legal and regulatory framework seems to be generally well established, although with a lack of procurement-specific guidance and rules. The assessors found indications that the enforcement activity has been picking up in recent years, including in the area of public procurement.

Despite in the increased enforcement activity, corruption perceptions in the Greek population remain negative, and the assessment team identified several aspects in public procurement management that could give rise to corruption (such as ex-post legalisation of procedures, as well as corruption allegations around the central procurement body for the health sector.) Albeit mandated by strategies,



there does not seem to be a comprehensive and practical risk management framework for day to day operations. Previous analysis highlighted the need to adapt aspects of the legal framework most notably (but not limited to) the immunity of the President for corruption. Reporting procedures of wrong-doing remain unclear.

Findings

Legal definition of prohibited practices, conflict of interest, and associated responsibilities, accountabilities, and penalties (sub-indicator 14 (a))

Definitions of fraud and corruption are found in several parts of the Greek legal and regulatory framework, and they are generally aligned with Greek's international commitments in the area. Notably, definitions are found in the Greek Criminal Code³⁷², the Public Procurement Law³⁷³ and other laws that ratified Greek's international commitments, such as Law 2957/2001 on the Ratification of the Council of Europe Civil Law Convention on Corruption. While general, these definitions also apply in the context of public procurement.

With regards to the different prohibited practices, Greece has transposed several relevant directives of the European Union, notably Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, relevant articles of the EU Treaty, and the Council of Europe's on Civil Law Convention on Corruption. As per the methodology, the following focuses on the provisions in the national legal and regulatory framework.

Fraud

The Greek law regulates the criminal prosecution of fraud (see matrix for the detailed provision.)³⁷⁴ Specific provisions exist for computer fraud,³⁷⁵ and grants related fraud³⁷⁶. In addition, specific provisions apply in case the fraud caused low-value damage.³⁷⁷

The Public Procurement Law³⁷⁸ translates these general provisions on fraud into a public procurement context, including conditions for participation aimed at countering fraud effectively.³⁷⁹ The specific arrangements focus on the submission of documents by participants in tenders that would eliminate as many corrupt practices as possible and guarantee their professional "ethics" with a view to limiting corruption and fraud. The contracting authority may ask the candidate to submit any document certifying his professional integrity, morality, business responsibility and financial standing. Economic operators may adopt specific compliance measures to counter fraud and other offenses. A committee summoned by the Minister of Economy, Development and Tourism (the competent ministry for supply and services procurement) determines which measures are appropriate in this context.³⁸⁰

Corruption

Similar to fraud, provisions on corruption are set on general level in line with international agreements (see the indicator matrix for additional details).³⁸¹ The Greek law adopts the definition of the convention.³⁸² The public procurement law provides additional specifications for the area of public

³⁷² L. 4619/2019 (Criminal Code)

³⁷³ L. 4412/2016

³⁷⁴ L. 4619/2019, article 386

³⁷⁵ L. 4619/2019, article 386A

³⁷⁶ L. 4619/2019, article 386B

³⁷⁷ L. 4619/2019, article 387

³⁷⁸ L. 4412/2016

³⁷⁹ L. 4412/2016, article 73

³⁸⁰ L. 4412/2016, article 73, Para 7, para 9

³⁸¹ L. 2957/2001, ratifying the Council of Europe's on Civil Law Convention on Corruption

³⁸² L. 2957/2001, article 2, on the Council of Europe's Corruption Convention: requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, the undue advantage or the prospect thereof.



procurement. It includes specific anti-corruption provisions for preliminary market consultations³⁸³, prior involvement of candidates or tenderers³⁸⁴, electronic procurement³⁸⁵, mandatory and optional exclusion criteria³⁸⁶, self-cleaning rules³⁸⁷, stricter provisions on amending public contracts³⁸⁸, the collection of data on corruption and conflict of interest cases³⁸⁹, as well as monitoring and reporting obligations³⁹⁰.

Other prohibited practices

The Criminal Code includes additional relevant provisions on bribery³⁹¹; trading of influence³⁹²; abuse of power³⁹³; trespassing³⁹⁴; false confirmation, falsification, destruction or embezzlement of documents³⁹⁵; falsification of judicial documents³⁹⁶; breach of official secrecy³⁹⁷; concealment of grounds of non-participating to a case³⁹⁸, unlawful participation to a procedure that falls into the scope of his/her duties³⁹⁹, breach of duty⁴⁰⁰. The procurement law establishes further grounds for exclusion, such as distortion of competition, serious misrepresentation, undertakings to unduly influence the decision-making process of the contracting authority, etc.⁴⁰¹

Responsibilities of civil servants and consequences

No public procurement-specific provisions exist, but the general rules on responsibilities, accountability and penalties apply. The Civil Servants' Code as well as the Guide to Administrative Behaviour establish a list of disciplinary offences that can be considered prohibited practices. Both documents are general provisions and not specifically public procurement related.

Civil servants / public officials, in the performance of their duties, are subject to three different types of liability: disciplinary, criminal and civil liability. There are different conditions for establishing any type of liability and there are different legal consequences.

Criminal liability of officials arises from acts or omissions, which are characterised as offences under the rules of criminal law. Penalties can be either monetary fines, or imprisonment of up to several years, as set out in the Criminal Code. Officials have a particular criminal liability (see the indicator matrix for additional details).⁴⁰² Criminal sanctions are imposed by criminal courts, while the imposition of disciplinary sanctions is an exercise of administrative competence and is carried out by disciplinary officers.

Responsibilities of civil servants, including conflict of interest provisions, are regulated in a specific law on the organisation and operations of the central public administration.⁴⁰³ The law establishes a high

³⁸³ L. 4412/2016, articles 46, 47

³⁸⁴ L. 4412/2016, articles 48, 280

³⁸⁵ L. 4412/2016, articles 34-37

³⁸⁶ L. 4412/2016, article 73

³⁸⁷ L. 4412/2016, article 73, para. 7

³⁸⁸ L. 4412/2016, article 132

³⁸⁹ L. 2957/2001, article 341

³⁹⁰ L. 2957/2001, articles 340, 342

³⁹¹ L. 4619/2019, article 235

³⁹² L. 4619/2019, article 237A

³⁹³ L. 4619/2019, article 239

³⁹⁴ L. 4619/2019, article 241

³⁹⁵ L. 4619/2019, article 242

³⁹⁶ L. 4619/2019, article 243

³⁹⁷ L. 4619/2019, article 252 of the Penal Code

³⁹⁸ L. 4619/2019, article 254

³⁹⁹ L. 4619/2019, article 255

⁴⁰⁰ L. 4619/2019, article 59

⁴⁰¹ L. 4412/2016, article 73

⁴⁰² L. 4619/2019, articles 235 to 263A

⁴⁰³ Law 4622/2019 on the "Organisation, operation and transparency of government, governmental institutions and Central Public administration"



standard of integrity for civil servants, and also specifies how conflicts of interests should be signalled. The law also defines conflict of interest for civil servants⁴⁰⁴, as well as procedures, reporting obligations and timelines to avoid conflicts of interest.⁴⁰⁵ Requirements cover both the official and his / her partner. In case of violating these rules, sanctions can be applied, such as a fine in relation to the officials' remuneration (up to twice) or suspension of duty.⁴⁰⁶

Procurement-specific provisions on conflict of interest are included in the public procurement law, in line with the EU Directives'.⁴⁰⁷ These rules apply to:

- members of the staff of the contracting authority, or of the contracting authority's procurement service provider acting on behalf of the contracting authority, as well as members of the decision-making and / or advisory bodies involved in the public procurement procedure,
- members of the management or other bodies of the contracting authority,
- spouses and relatives by blood or marriage, in straight line, without limitation, obliquely to the fourth degree of persons in cases (a) and (b) that are involved in the procurement process, including the stages of planning, preparation and drawing up the contract documents and / or may influence its outcome.

In this context, interests are defined as personal, family, financial, political or other common interests with bidders, tenderers, their subcontractors or with members of a group of economic operators. It also includes conflicting professional interests, such as membership in the management or administration bodies, holding more than 0.5% of a bidding company's shares, or a contractual relationship (sales or employment) during the twelve months preceding the procurement notice.

The above-mentioned persons are required to signal any conflict of interest, as soon as they become aware of it, to the contracting authority, so that it can take corrective action, and are required to refrain from any activity in connection with the concerned procurement procedure. The contracting authority is required to inform HSPPA and "take appropriate measures" (not specified in the law) to avoid any undue influence on the award procedure and to ensure equal treatment of candidates and tenderers.⁴⁰⁸ In the event that competition was distorted, the candidate concerned may be excluded from any participation in the contract award procedure.⁴⁰⁹ In case of failure to remedy the conflict of interest, a candidate can be excluded from the procedure.⁴¹⁰

Provisions on prohibited practices in procurement documents (sub-indicator 14 (b))

The public procurement law, detailed by circulars, specifies that exclusion grounds and "inviolable conditions" leading to the rejection of the tender must be noted in the procurement documents.

The contracting authority may exclude any economic operator that:

- has been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria;
- has withheld such information;
- has undertaken to unduly influence the decision-making process of the contracting authority, to obtain confidential information that may confer upon it undue advantages in the

⁴⁰⁴ L. 4622/2019, article 71

⁴⁰⁵ L. 4622/2019, article 72

⁴⁰⁶ L. 4622/2019, article 75

⁴⁰⁷ L. 4412/2016, article 24,

⁴⁰⁸ L. 4412/2016, article 341 (1) (i)

⁴⁰⁹ L. 2690/1999, article 4 (4) and (5)

⁴¹⁰ L. 2690/1999, article 73 para. 4 d



procurement procedure or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or award.⁴¹¹

These provisions are not mandatory, but can be drawn upon in the procurement documents.

The assessors conducted a cursory review of a limited number of procurement contracts available online. The majority of procurement documents in case of procurements valued more than EUR 60 000 include the above-mentioned provisions on exclusion of suppliers.⁴¹² Procurement documents valued less than EUR 60 000 usually do not.

Effective sanctions and enforcement systems (sub-indicator 14 (c))

Contracting authorities are required to report allegations relating to fraud, corruption and other prohibited practices. There is no procurement-specific procedure, but general procedures apply that oblige a civil servant to report about a criminal offence to the Public Prosecutor in writing, without delay.⁴¹³ Employees of procuring entities, like any citizen, can choose to report allegations to any competent authority charged with following up on these issues. The procedure may be carried out on paper, electronically or in person, and can be made anonymous. Different reporting structures exist, according to the individual rules on internal organisation and the management system in place. Contracting authorities can investigate further on internal reports of wrong-doing and are required to forward them on to the adequate supervisory, judicial, or regulatory authorities if the case merits further action.

The assessors identified annual reports (general, not public procurement-specific) on the websites of the former auditing authorities evidencing some enforcement activity. The Annual Report of the Inspector General of Public Administration 2017 references an audit conducted into public contracts by “Road Transportation SA” (OSY SA) to procure chemical toilets. This audit noted doubts about the lawfulness of these contracts (see additional details in the indicator matrix) and requested ministerial, disciplinary action; the case was sent to the Prosecutor's Office for criminal prosecution. HSPPA's website included several reports regarding audits of specific public procurements. It remained unclear whether these audits resulted from internal reports.

Greece has a system for suspension and debarment, with processes specified in the public procurement law. Contracting authorities shall exclude an economic operator from participating in procurement procedure when they have verified that economic operator has been the subject of a conviction by irrevocable judgment (see also indicator 1.)⁴¹⁴ Decisions for exclusion are taken jointly by the Ministers of Economy, Development and Tourism, Justice, Transparency and Human Rights, responsible for countering corruption, as well as the Minister of Infrastructure, Transport and Networks. The decision is based on a recommendation by the contracting authority.

Any decisions about debarments have to be reported to HSPPA, which keeps the National Public Procurement Database. This database also includes a list of economic entities, and also has a possibility to record information on exclusions. The assessors identified suspension reports from HSPPA on its website. The National Public Procurement Database does not include any debarred economic operator. No information was found to indicate that any debarment has ever been imposed since promulgation of the public procurement law.⁴¹⁵ Further rules are expected in this area: Law 4782/2021 contains delegating provisions for the issuance of a presidential decree that will specify rules on the horizontal exclusion of economic operators. The presidential decree will provide for the creation of a database where the previous behavior of economic operators will be recorded. The

⁴¹¹ L. 2690/1999, article 73 (4) (g) and (h)

⁴¹² L. 4412/2016, article 73(4) and (h)

⁴¹³ L. 4619/2019, article 38

⁴¹⁴ By verification in accordance with L. 4412/2016, articles 79-81; L. 4412/2016, article 73, para. 1, 2, 4

⁴¹⁵ https://ppp.eaadhsy.gr/index.php/el/?option=com_sppagebuilder&view=page&id=83



information to be entered in the database includes indicative misconducts in the execution of public contracts, disciplinary sanctions, fines and penalties for violations of competition, the environment and labor law, as well as tax and social security law.

According to media reports, there is enforcement action in the area of fraud and corruption as evidenced by ongoing investigations and court cases.⁴¹⁶ Most recently, beginning in 2018, the judiciary has been investigating large-scale bribery allegations against Novartis and high-level (former) government officials in Greece following whistle blower reports. No evidence of bribery was found for most charged individuals.⁴¹⁷ In 2017, the Hellenic Competition Commission fined a large number of construction companies more than EUR 80 million, following its largest ever investigation of collusion.⁴¹⁸

The Working Group on Bribery, in its 2015 Phase 3bis Evaluation Report of Greece with regards to its compliance with the OECD Anti-Bribery Convention, found that enforcement of foreign bribery had improved in the years prior, with about a dozen cases ongoing or completed.⁴¹⁹

Anti-corruption framework and integrity training (sub-indicator 14 (d))

Greece has an anti-corruption framework in place. Greece is part of relevant international instruments in the area of anti-corruption, such as the OECD Anti-Bribery Convention, UN Convention Against Corruption (UNCAC), the Group of States against Corruption (GRECO) and EU rules. As part of the implementation of these international guidelines, corresponding national rules and institutions have been established. Previous analyses, such as part of the monitoring of the international commitments, commend Greece's progress in improving its anti-corruption framework, for example to consolidate dispersed legislation and competencies. Greece has adopted a National Anti-Corruption Plan (first in 2013 and revised in 2015⁴²⁰), which provides the overarching direction for the country's efforts that are implemented through a range of different laws and institutions.

As part of the most recent reform efforts, a new independent authority, the National Transparency Authority (NTA) was established in late 2019, consolidating a number of previously independent institutions tasked with elements related to integrity, transparency and accountability. NTA's purpose is to promote transparency, integrity and accountability of the state and government actions, as well as to prevent and address corruption. To increase effectiveness, NTA now gathers competencies that were previously spread across many individual institutions. NTA is designated as the competent body for planning, implementation and evaluation of the National Anti-Corruption Strategic Plan. NTA also has the horizontal responsibility for enhancing accountability and combating corruption, equipped with the necessary guarantees concerning independence and impartiality. NTA is responsible for the overall planning, coordination, supervision and evaluation of the effectiveness of all audit mechanisms, structures and agencies operating in controlling the action of public bodies and organisations and in combating corruption.

In recent years, efforts have been made to strengthen public-procurement-specific corruption prevention. These efforts follow from the identification of public procurement as high-risk area in the National Anti-Corruption Plan, as well as the perspective taken by international instruments. For example, the EU Public Procurement Directives from 2014 have increased the emphasis on integrity in regards to public procurement; this perspective has been adopted in Greece's Public Procurement

⁴¹⁶ <https://gettingthedealthrough.com/area/2/jurisdiction/12/anti-corruption-regulation-greece/>

⁴¹⁷ <https://www.bloomberg.com/news/articles/2019-03-20/novartis-says-probe-found-no-trace-of-payoffs-to-greek-officials>

⁴¹⁸ [https://www.concurrences.com/en/bulletin/news-issues/august-2017/the-hellenic-competition-authority-fines-undertakings-active-in-the-;](https://www.concurrences.com/en/bulletin/news-issues/august-2017/the-hellenic-competition-authority-fines-undertakings-active-in-the-) <https://tltfnews.wordpress.com/2016/06/27/hellenic-competition-commission-launched-its-largest-investigation-to-date/>

⁴¹⁹ <https://www.oecd.org/daf/anti-bribery/Greece-Phase-3bis-Report-EN.pdf>

⁴²⁰ <http://www.oecd.org/fr/greco/greece-oecd-anti-corruption.htm>



Law. The new law introduced integrity-related provisions that had been missing previously, for example regarding conflict of interest procedures.⁴²¹

Greece's National Strategy for Public Procurement 2016-2020 focused on enhancing integrity in public procurement as it envisioned the creation of several tools:

- improving the effectiveness of control mechanisms:
 - developing risk assessment tools for the detection of threats to the effective operation of the public procurement system;
 - preparing and publishing risk management strategies, for example, red flags systems or programs that report irregularities.
- carrying out “smart” controls using digital tools specific to public procurement:
 - developing electronic control platform in HSPPA, interacting with other information systems,
 - developing common control standards,
 - adopting common codes of ethics in the auditing bodies,
 - adopting further regulations and provisions, in order to avoid overlaps in controls,
 - developing a methodology for the supervision and evaluation of the competent control bodies.

However the creation of the above mentioned tools were never completed, with the exception of the adoption of regulations to avoid overlaps in controls, achieved with the establishment of NTA and the abolition of a number of auditing entities. Therefore the same actions are repeated in the new National Strategy for Public Procurement 2021-2025⁴²².

In 2015, HSPPA introduced the guideline titled “Fighting corruption during public procurement procedures” aimed at presenting the most important new legislative regulations that contribute to the fight against corruption in public procurement and, on the other hand, to encourage good practices for the prevention and detection of corruption in the conduct of public tenders.

For corruption risk management, NTA has general authority. HSPPA is responsible for monitoring the performance of the public procurement system. In most cases, activities seem to take the form of audits or desktop review of specific procurements, as well as hearings with contracting authorities. Audits are carried out in the context of confirming the proper operation of the system. To what extent standardised risk-management and mitigation approach is applied in doing so remained unclear. The assessors were also unable to establish that the risk management efforts envisioned by the National Strategy for Public Procurement 2015-2020 had been implemented.

The Court of Auditors' ex-ante control of procurements valued at or above EUR 300 000 can be considered an element of a risk management system, but beyond the value of the procurement, no other risk-dimension is considered. A previous OECD analysis reported that in 2015, HSPPA had developed a red-flag tool, but that contracting authorities were not using it and no monitoring of its use was undertaken.⁴²³

Statistics concerning corruption-related proceedings are not compiled in an aggregated manner or per year.

⁴²¹ L. 4412/2016, article 24 (as well as in the EU directives)

⁴²² Actions 66-72 under the fourth pillar, strategic direction: enhancing transparency through auditing procedures in public procurement

⁴²³ <http://www.oecd.org/governance/ethics/assessment-greece-anti-corruption-reforms-public-procurement-health-tax-customs-en.pdf>



Integrity training and awareness raising

As part of the general efforts to increase integrity of public procurement, training and awareness raising programmes have been rolled out. A large number of procurers and policymakers seems to participate.

Certified training seminars on combating fraud and corruption are offered at the Training Institute (INEP) as part of the public administration executives training. Seminars of relevant content are also occasionally offered and conferences are held by various bodies, such as the European Professional Training Centre (KEEK-KDEOD), KDEOD's Procurement and Contract Monitoring Unit (MOPADIS), the Managing Organisation Unit (MOD), among others. Concrete examples of integrity-related seminars, trainings and workshops in 2015 and 2016 have been listed in the indicator matrix for this assessment. These activities include targeted integrity-seminars for specific areas of public administration. Assessors received information about two activities per year until 2016. A large number of procurers seems to have participated in these activities.

Stakeholders support to strengthen integrity in public procurement (sub-indicator 14 (e))

There are a number of relevant organisations in Greece that contribute to issues related to public procurement and integrity, according to information provided by HSPPA. Examples include the following:

Transparency International Greece (DDE): According to its website, Transparency International's chapter in Greece is active on various aspects of corruption and the relationships between the public and private sectors. This includes a dedicated focus on public procurement.

Hellenic Anti-Corruption Organization: The Hellenic Anti-Corruption Organisation, registered in 2016, aims at assisting "Greece's governmental -regional and local- authorities as well as the private sector to implement anti-corruption policies, to promote transparency and accountability, in order to ultimately secure the sustainable development of the country", according to its LinkedIn profile. The extent of its procurement-related work remained unclear.

According to information from the authorities, there are currently 86 Organisations listed in the National Register of Greek and Foreign NGOs, whose statutory purpose covers various areas of operation.

The views of these organisations concerning public procurement are recognised and taken into account by government bodies and the ministries, according to public authorities. Civil society organisations publish their views and disseminate information mostly online, with the aim of increasing societal awareness. Communication with public bodies is taking place through government agencies' websites. These interactions are important procedures to receive feedback, and ensure societal consensus and wider acceptance.

Civil society organisations comment on integrity, and also have procurement-specific input (for example Transparency International Greece.) The extent to which these inputs have effects remained unclear.

The majority of suppliers – particularly larger companies operating internationally – have adopted a code of conduct and an anti-corruption policy, according feedback from stakeholders. This is true especially for companies that have sufficient staff and capital and adequate organisational and administrative structures in place. Most commonly, these companies have internal rules of operation that include a code of ethics and integrity within the framework of good corporate governance and responsibility certified by evaluation bodies. Companies are reportedly regularly improving systems and procedures, evaluating and revising tools, consulting experts, training their employees to reduce exposure risk and improve company's integrity level. Increasingly, smaller companies are taking actions as well, as company code of conducts and ethics regimes are becoming a competitive



advantage. Furthermore, as discussed in Pillar I, the law provides for exclusion in cases of conviction, distortion of competition, collusion, etc.

The Business Integrity Forum (BIF) is an initiative developed by Transparency International. BIF is a network, coordinated by Transparency International-Greece, with the participation of 14 member companies, which openly declare their commitment to operate in a transparent manner, adopting specific policies and practices of good governance (see the indicator matrix for a list of companies partaking in the BIF.)⁴²⁴

Secure mechanism for reporting prohibited practices or unethical behaviour (sub-indicator 14 (f))

There are various anti-corruption organisations that have online complaint platforms on their website. These platforms are autonomous external complaint channels, which are secure and at the same time grant confidentiality for the receipt and management of information provided by complainants. These channels preserve informants' anonymity, as well as her / his personal data. The Hellenic Anti-Corruption Organization for example offers such a reporting possibility on its website, using a standardised form. HSPPA activated a channel for whistleblowing that meets the conditions for the implementation of the EU Directive 2019/1937⁴²⁵. Another example is the website of the NTA, which provides an online platform for complaints.⁴²⁶ Please see the indicator matrix for additional information.⁴²⁷

Whistle-blower-related rules in Greece have been adopted in line with Greece's international obligations and adherence to relevant instruments.⁴²⁸ Rules related to whistle blowers and their protection are included in the Code of Criminal Procedure.⁴²⁹ In 2014, reforms extended the protection, which until then was only provided to witnesses for specific offences, including organised crime and terrorism offences. Please see the indicator matrix on additional details of whistle-blower protection in Greek law and its evolution.

The Code for Civil Servants Code provides additional protection for civil servants reporting wrong doing. These measures include a prohibition of disciplinary measures or discrimination against whistle blowers⁴³⁰, reversed burden of proof in case of disciplinary measures⁴³¹, right to request transfer to another agency, and under certain circumstances, anonymity⁴³².

There are leniency measures in favour of persons who contribute to the disclosure of bribery and corruption acts within the public administration system, in four cases. The measures depend on the degree of fault and the position of the person contributing to the disclosure of the acts, as well as the position of the person against whom the disclosure was made (see indicator matrix for additional details.)⁴³³

The institutional framework for the fight against corruption in Greece covers a range of agencies and bodies responsible for receiving and managing complaints concerning cases where there is a claim of corruption in any form, including NTA, HSPPA, and the Prosecutor's Office. Among these bodies, some are responsible exclusively for corruption cases, while others may be addressed also for other types of complaints, e.g. tax evasion cases, cases of infringement of environmental or labour law, etc.

⁴²⁴<http://www.transparency.gr/ti-kanoume/business-integrity-forum/>

⁴²⁵ Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law

⁴²⁶ <https://aead.gr/complaints/>

⁴²⁷ <https://www.hellenicanticorruption.org/report-form/>

⁴²⁸ UNCAC, the Council of Europe's Criminal Law Convention on Corruption and the recommendations of the OECD Working Group (Phase 2 and 3 Monitoring Rounds.)

⁴²⁹ Code of Criminal Procedure, L. 4620/2019, article 47 and 218 para. 3

⁴³⁰ Code for Civil Servants L. 3528/2007, Article 26 (4)

⁴³¹ L. 3528/2007

⁴³² L. 3528/2007

⁴³³ L. 4619/2019, article 263A



Due to the large number of authorities receiving corruption complaints, various forms of cooperation have been established between the institutions. In most cases, the NTA is involved in the handling of complaints, even if it is not the recipient itself. In this case, the practice of the parties concerned is to ex officio send the complaint to the appropriate body, based on competence and scope.

After having evaluated and sometimes examined the complaint, results are communicated to the disciplinary or supervisory bodies responsible as long as the infringements constitute a disciplinary offence. If any issues arise during the processing of the evidence related to the commission of the offences, the data shall be forwarded to the competent Public Prosecutor's Office for further action.

The prosecutor in charge of the case may request inspectors to conduct further investigations or to carry out a preliminary examination, which may lead to attribution of liability and imposition of penalties.

Codes of conduct/codes of ethics and financial disclosure rules (sub-indicator 14 (g))

While there is no specific code of conduct for public procurement, the general rules and codes apply. Both guidance and legal instruments exist. Public financial management is covered. Notable instruments are:

The **Guide to Good Administrative Behaviour** was issued in 2012 by the Ministry of Administrative Reform and Electronic Governance. The Guide to Good Administrative Behaviour is a roadmap for civil servants in their daily dealings with citizens, highlighting the model for legal and ethical good behaviour and the fundamental principles for administrative action. The Guide serves three purposes: (a) defines the atmosphere that must prevail in public service; (b) formulates rules of conduct as clear as possible for civil servants; and (c) informs citizens of how public administration should treat them, as well as of the basic rights granted to them by law when dealing with its agencies, and their respective obligations. The guide includes several sections formed around values that are important to exercise the duties of the public service.

The **Code of Administrative Procedure (KDD)** takes the form of a law⁴³⁴; it is legally binding and subject to sanctions. KDD applies to all public administration in a formal or organisational sense (i.e., not according to their functional or substantive role). It consists of five chapters and 27 articles containing general provisions or applications to the administration, handling cases, access to documents, prior hearing, impartiality (Chapter 1), provisions on collective administrative bodies (Chapter 2), on administrative acts (Chapter 3), administrative contract (Chapter 4) and administrative requests for reviews and complaints (Chapter 5).

In addition, the **Civil Servants Code** (also in the form of a law)⁴³⁵ forms the basis for the functioning of public agencies at the state level and legal persons governed by public law in Greece. The code regulates recruitment and employment of civil servants, in accordance with the principles of equality, meritocracy and social solidarity and efficiency at work.

As several parts of the Code of Conduct have the form of law, they can be considered mandatory. Both the Civil Servants Code and the Guide to Good Administrative Behaviour are mandatory, notably the former is a law and the latter a circular that has collected all law provisions and obligations applying to Civil Servants' behaviour in one text.

The laws provide for disciplinary action by the administration in the event of non-compliance. The general disciplinary procedure, which is separate and independent from criminal or other proceedings, is stipulated in detail (disciplinary offenses, disciplinary bodies, disciplinary sanctions, right of objection / application of review, etc.).⁴³⁶

⁴³⁴L. 2690/1999

⁴³⁵L. 3528/2007

⁴³⁶L. 4057/2012 on "Disciplinary Law on Officials and Employees of Legal Persons governed by Public Law"



Finally, HSPPA has developed its own Code of Conducts to cover its operations. These include a Code of Ethics applicable to its members and staff⁴³⁷ and a Code of Ethics specifically to its auditors. NTA has also developed a Code of Ethics for internal auditors⁴³⁸ and so has the Court of Auditors⁴³⁹ and the General Directorate for Financial Audit. Beyond this, HSPPA has included in the National Strategy for Public Procurement 2021-2025 an action for the development a Code of Conduct for auditing bodies active in the field of public procurement (action 69).

Decision-making

Provisions on decision-making powers are usually included in the regulation or law establishing the specific contracting authority, but not in a central framework. The Civil Servants Code includes some rules on accountability. Civil servants are liable to the state for any damage occurred to it in the performance of their duties by wilful misconduct or gross negligence. The employee is liable to the State for any damage caused to it by fraud or gross negligence in the performance of the employee's duties. The employee is also liable for the compensation paid by the State to third parties for illegal acts or omissions in the performance of the employee's duties that are caused by wilful misconduct or gross negligence. The employee is not liable to third parties for the above acts or omissions.

Conflicts of interest

Conflicts of interest (in-house statements, standard HSPPA submission form), all contract documents as well as economic operators' documents (KIMDIS-ESIDIS platform) are systematically submitted according to the relevant provisions of the public procurement law. However, the law only stipulates that any official having a conflict of interest shall report this; the law does not specify to whom and in what way the notification should be made. Officials are obliged to notify in writing to the contracting authority any conflict of interest of themselves or their relatives, in relation to any candidate or tenderer, as soon as they become aware of that conflict, in order for the contracting authority to be able to take corrective action⁴⁴⁰. At the same time, these persons must refrain from any action related to the execution of the award procedure.

The contracting authority makes a reasoned decision on the occurrence or not of a conflict-of-interest situation, and then prepares and sends to the Authority a written report (via the standard form, which is posted on the website), which includes the cases of conflict of interests identified, as well as all subsequent measures taken. These files are considered important sources to identify irregularities throughout the procurement process.

Financial disclosure requirements are regulated in a specific law⁴⁴¹. It lists roles that have to submit financial disclosure statements, including most roles related to public procurement above certain thresholds (for supplies and services EUR 150 000, for works EUR 300 000). Disclosures have to be filed within 90 days of taking office and updated annual thereafter.

Training programmes and information seminars are provided to ensure that the measures provided are adequately communicated and implemented.

⁴³⁷ Code of Conduct for Staff of the Hellenic Single Public Procurement Authority
https://www.eaadhsy.gr/images/docs/2017-kodikas_deontologias_EAADHSY.pdf

⁴³⁸ Code Of Ethics Internal Auditors
https://aead.gr/images/manuals/%CE%9A%CE%A9%CE%94%CE%99%CE%9A%CE%91%CE%A3_%CE%94%CE%95%CE%9F%CE%9D%CE%A4%CE%9F%CE%9B%CE%9F%CE%93%CE%99%CE%91%CE%A3_%CE%95%CE%A3%CE%A9%CE%A4_%CE%95%CE%9B%CE%95%CE%93%CE%9A%CE%A4%CE%A9%CE%9D.pdf

⁴³⁹
<https://www.elsyn.gr/sites/default/files/%CE%9A%CE%A9%CE%94%CE%99%CE%9A%CE%91%CE%A3%20%CE%95%CE%9B%CE%95%CE%93%CE%9A%CE%A4%CE%99%CE%9A%CE%97%CE%A3%20%CE%94%CE%95%CE%9F%CE%9D%CE%A4%CE%9F%CE%9B%CE%9F%CE%93%CE%99%CE%91%CE%A3.pdf>

⁴⁴⁰ L. 4416/2016, article 24 (par. 5-6)

⁴⁴¹ L. 3213/2003



The submission of the relevant supporting documents is a necessary procedure and a presumption of legality for procurement procedures. Data analysis in all its range and depth enables the competent authorities to control and prevent the occurrence of corruption and to ensure the credibility of the procedures.

Gaps

There are no specific provisions for cooling-off periods for former public officials who are involved in future award processes representing an economic operator.

There are no legal provisions giving precise instructions what kind of information regarding prohibited practices needs to be included in the procurement documents.

Substantive gaps

The assessors identified substantive gaps related to accountability and integrity in public procurement. Several gaps cannot be addressed by the authorities in charge of public procurement alone but rather represent gaps in the overall anti-corruption framework, which has a bearing on the area of public procurement as well. Nevertheless, in the following, this report presents the main substantive gaps with regards to the MAPS methodology to enable projecting how a comprehensive integrity and accountability system for the area of public procurement would need to be designed.

Gaps in the anti-corruption framework, laws

Previous analysis and the monitoring associated with Greece's international commitments points to considerable shortcomings in its anti-corruption framework. Examples are criticism by GRECO and OECD in 2019: In the summer of 2019, the parliament took steps to reduce the penalty for bribery to misdemeanour, as opposed to felony, which is the requirement set by the OECD Anti-Bribery Convention and GRECO. Following this criticism, the parliament reverted this step in November 2019. Still, an ad hoc report by GRECO and the OECD Working Group on Bribery found considerable shortcomings, as did the reports as part of the implementation monitoring of the Working Group on Bribery. For example, the President of Greece cannot be charged in connection with bribery.⁴⁴² Additional recommendations include details in the laws, such as the definition of foreign public official, or to enhance investigation and prosecution.⁴⁴³

Beyond the area of audit (see previous indicators), the assessors did not identify any system that is used for routinely identifying and mitigating corruption risks in the procurement cycle. The OECD Economic Outlook 2018 commended Greece for making progress in the area of corruption, but noted that a specific strategy should be developed for public procurement and notably public works, and that the country should develop a "robust corruption and fraud risk management system, across public organisations, within a legal framework that is robust and stable."⁴⁴⁴ Aside from activities by HSPPA and NTA described in this assessment, there does not seem to be any specific activity routinely applied to procurement procedures, for example through contracting authorities and procurers, or analytical risk analysis conducted at an aggregate level by HSPPA or NTA with regards to risk along the procurement cycle.

Companies can be debarred from public procurement procedures for 3-5 years. Beyond that, while general definitions of the individual responsibilities, accountability and penalties found guilty of wrongdoing exist on a general level, no public procurement-specific rules were found. Similarly, there are no specific rules establishing responsibilities, accountability and penalties for private firms or

⁴⁴² <https://rm.coe.int/ad-hoc-report-on-greece-rule-34-adopted-by-greco-at-its-84th-plenary-m/1680994dc0> ;
<https://rm.coe.int/0900001680994873>

⁴⁴³ [https://one.oecd.org/document/DAF/WGB\(2018\)43/en/pdf](https://one.oecd.org/document/DAF/WGB(2018)43/en/pdf)

⁴⁴⁴ https://www.oecd-ilibrary.org/docserver/eco_surveys-grc-2018-en.pdf?expires=1585922561&id=id&accname=ocid84004878&checksum=1510EEDF3D3EBB4D3CC00A6F7574FC1D



individuals found guilty of any wrongdoing concerning their involvement in public procurement procedures.

It remained unclear what precisely the obligations of the contracting authorities are once a conflict of interest is being reported, i.e. what the “appropriate measures” cited in the law are.

There are no dedicated provisions for those involved in public procurement. The available codes of conduct, be it in legal form or as a voluntary guide, do not speak to the challenges of procurers in maintaining integrity.

Accountability for decision making does not seem to be regulated by the frameworks mentioned in assessment criterion 14 g) a).

Lacking reporting mechanisms, whistle-blowing

The assessors did not identify a clear and standardised procedure clarifying how contracting authorities should report allegations, to whom and under what timeframes. In addition, the assessors were unable to identify any evidence of systematic reporting, such as annual reports about enforcement or reporting activity.

Previous analysis, including by the OECD and by civil society organisations, highlighted gaps related to whistle blower protection and the effectiveness of the existing system. In a 2018 report, the OECD noted that the existing legal framework for whistle blower protection was lacking important aspects when compared to OECD peers, for example concerning the limited number of offenses warranting protecting or dedicated reporting channels. In addition, the report cited surveys highlighting the limited trust into the system and available reporting channels by public servants.⁴⁴⁵ The NGOs Change of Direction and Blueprint for Free Speech noted in their country analysis of Greece that despite the improvements made, support for whistle blowers remained low, and legal protection was insufficient.⁴⁴⁶

Gaps in implementation and enforcement

Several aspects of the accountability framework have been established by law, but not been implemented or enforced. Measures specifically aimed at detecting and preventing corruption in public procurement have remained largely on the level of laws, policies and strategies. The assessors were unable to verify the existence of concrete tools and their use, for example as envisioned by the National Strategy for Public Procurement (see also indicator 3.) As described above, measures usually seem to consist of general rules applied to a procurement context in the legal and regulatory framework (such as conflict of interest procedures.)

Previous analysis illustrates these deficiencies. According to Eurobarometer, in 2019, trust in enforcement in Greece is lower than the EU28 average: 72% (vs. 56% in the EU average) disagree with the statement that those who are caught bribing a senior official are appropriately punished. Almost two thirds consider it unlikely that offenders would be caught, reported, go to court and be fined or imprisoned.⁴⁴⁷ In December 2019, the Council of Europe voiced strong concerns about the ability of Greece’s criminal justice system to counter corruption.⁴⁴⁸

An example seems to illustrate lack of implementation regarding corruption prevention. As noted in indicators 1 and 4, there seems to be a practice of legalising non-compliant procedures ex-post. This practice harbours substantial concerns from a corruption-perspective. The assessors did not find any indication that there was any follow up in this context to prevent corruption.

⁴⁴⁵ <http://www.oecd.org/governance/ethics/technical-report-whistleblower-protection-public-sector-greece-en.pdf>

⁴⁴⁶ <https://www.changeofdirection.eu/assets/briefings/EU%20briefing%20paper%20-%20Greece%20-%20english.pdf>

⁴⁴⁷

<https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/survey/getsurveydetail/instruments/flash/surveyky/2248>

⁴⁴⁸ <https://www.coe.int/en/web/portal/-/greece-despite-some-improvements-more-work-needed-to-restore-ability-of-criminal-justice-system-to-counter-corruption>



Likewise, the assessors did not find any information to indicate that the collective body providing opinions on debarments has ever been established. No information was found to indicate that any debarment has ever been imposed since the promulgation of the public procurement law. This might be attributable to the limited time that this law has been in force. It remains to be seen how this aspect is implemented in coming years.

The assessors were unable to determine additional details about training around the Code of Conduct, i.e. whether there is specific training for the Code of Conduct, whether it is mandatory and regular. It is concluded that no training on the Code of Conduct exists for procurers.

It remained unclear to what extent these forms are gathered and used systematically. No information on beneficial ownership is being collected.

Lack of data and statistics

No statistics about prosecution or enforcement of corruption and other prohibited practices in connection with public procurement were available to the assessors. This is a substantive gap, given that the level of enforcement or implementation of the law is not evidenced.

The assessors were unable to access any aggregated statistical reporting of convictions related to corruption.

As there is no aggregated data about all relevant training programmes, the precise extent to which the procurement workforce (procurers) in different levels of government and throughout the public procurement system participate in anti-corruption training remained unclear.

Risk assessment

Several gaps under Indicator 14 present either high or medium risks to the procurement system. In some cases, these gaps merit a red flag. Further details on the rationale for the assessment is provided in Table 7 below.

Table 10: Summary of substantive gaps and risk assessment

	Substantive gap	Risk	Red flag	Explanation
14 (c)	No clear and standardized procedure clarifying how contracting authorities should report allegations;	High	No	Limited procedural clarity may pose a barrier in reporting allegations, with corresponding risks for the overall integrity of the system. However, this is not a direct effect and therefore does not require a red flag.
14 (c)	Limited information on follow-up by law enforcement (e.g. sanctions applied)	High	No	Improvements of the system are less likely if follow-up actions by law enforcement are not sufficiently carried out or simply not communicated about. No red flag is assigned because it is not possible to establish a direct causal links between the gap and potential consequences.
14 (d)	Shortcomings in anticorruption framework	High	Yes	Systemic shortcomings in the anticorruption framework pose both a high risk and go beyond the procurement system, requiring a red flag.



14 (d)	No system for routinely identifying and mitigating corruption risks in the procurement cycle	High	Yes	Without a system for identifying and mitigating corruption risks in a systematic manner, the procurement system remains vulnerable, hence this is considered a high risk gap. A red flag is assigned as addressing it requires the involvement of actors beyond the procurement system.
14 (d)	No access to aggregated statistical reporting of convictions related to corruption.	High	Yes	Lack of evidence about the level of enforcement is considered a high risk gap, as it does not allow to have a clear picture about enforcement related to corruption in the procurement system. This may undermine the perception of effective enforcement. A red flag is assigned considering that information would need to be provided by actors outside the procurement system.
14 (d)	Existence of concrete tools for detection and prevention of corruption in procurement as outlined in the National Strategy have not yet been implemented	Medium	No	Implementation of tools for preventing corruption is lagging behind, with negative consequences for the procurement system. These actions can be addressed within the procurement system itself.
14 (d)	No data on attendance of the procurement workforce to integrity training programmes	Medium	No	Lacking information about attendance of integrity training by the procurement workforce limits the ability to determine the need for such training, with potential negative impacts.
14 (f)	Gaps related to whistle blower protection	Medium	No	Whistle blower mechanisms are available, though criticism about their effectiveness presents a risk to the integrity of the procurement system.
14 (f)	Concerns about the effectiveness of follow up on disclosures	High	No	Reported concerns about the effectiveness of follow up mechanism of disclosures indicate a vulnerability to integrity of the system. No red flag is assigned because it is not possible to establish a direct causal links between the gap and potential consequences.
14 (g)	Available codes of conduct do not speak to the challenges of procurers in maintaining integrity	High	No	Lack of practical information in code of conducts undermine their effectiveness. This issue could be addressed within the procurement system.



14 (g)	Accountability for decision making is not regulated in Code of Conducts	Medium	No	Rules on accountability for decision-making powers are defined at the level of the CA, but not in a central framework or Code of Conduct. As such, there may be lack of clarity about such accountability with potential negative effects on procurement decisions.
14 (g)	No training on Code of Conduct for procurers	Medium	No	Limited (or lack) of training on the Code of Conduct is likely to have a negative impact on the overall integrity of the procurement system.
14 (g)	No information on beneficial ownership is being collected	Medium	No	Incomplete information and records about beneficial ownership limit the ability to detect potential conflict of interest situations, posing a risk to the integrity of public procurement.

Recommendations

Recommendations for the area of integrity touch partially on aspects beyond public procurement, in line with the MAPS assessment criteria. The following recommendations focus on increasing integrity in the area of public procurement. Overall, as recommended by previous analyses, Greece should continue efforts to strengthen its integrity framework, with an emphasis on public procurement as a high-risk area.

Guidance and tools to support day-to-day integrity practices

In order to strengthen implementation of integrity measures in public procurement and achieve meaningful results, procurers and contracting authorities should be supported day to day. For example, additional guidance on how to apply integrity-related rules should be developed by HSPPA, such as how to handle conflict of interest or how to include provisions on prohibited practices in procurement documents commensurate to the size of the procedure. Tools or checklists could be helpful to identify and respond to concrete risks in specific procurement procedures.

Risk management approach

These tools should be embedded in a comprehensive risk-management approach led by HSPPA for the procurement system as a whole. HSPPA could evaluate the effectiveness of the newly implemented reporting instrument, including raising awareness to stakeholders about its availability.

Code of conduct specific to public procurement

To gather relevant information in one, easily identifiable place, HSPPA could develop a code of conduct for public procurers, including specific, practical guidance that is reflective of the specific integrity-related challenges associated with public procurement. Consider providing guidance, awareness raising and training on the procurement-relevant aspects of the code of conduct to the procurement workforce. Such measures should be taken by the entire procurement workforce in reasonable, regular intervals.

Data on implementation and enforcement

HSPPA should gather information and data about implementation and enforcement of integrity efforts in public procurement to allow for evidence-based evolution of the system towards greater integrity, for example by monitoring compliance with requirements, debarments, reports and training.



Integrity-related rules

The Greek public procurement system would benefit from clarifying several integrity-related rules. These include provisions for cooling-off periods in the legal and regulatory framework, harmonised guidance on what kind of aspects of accountability in decision-making should be regulated in what manner, and requirements to include beneficial ownership information in declarations interest and financial disclosures. Declarations should be reviewed regularly. Anonymised, public information could contribute to increased transparency and accountability.



4. Consolidated Recommendations

Legal framework

The Greek legal framework would benefit from targeted adjustments to fully align it to international good practice.

Most importantly, Greek authorities need to safeguard the stability of Greece's legal and regulatory framework by assessing the use ex-post legalisation mechanisms, and develop appropriate measures to eliminate this practice. Ad-hoc legislation that enables the legalisation and payments of unlawful public procurement procedures should be banned.

The law provisions regarding the period of time that records on public procurement, including records on the execution of the contracts should be kept by the competent contracting authorities, should align with the statute of limitation for investigating and prosecuting cases of fraud and corruption.

The legal framework could provide for alternative dispute resolution (ADR) for relevant types of public contracts, regardless of type and value or when already permitted by the contract. Since litigation may take years to conclude, there should be provisions for use of ADR methods under certain conditions and for certain contracts, e.g. in case of contracts of lesser value.

Transparency

Increased transparency in several areas identified by the four MAPS Pillars would strongly enhance the Greek public procurement system, thereby contributing to integrity and accessibility of the system.

Namely, Greek authorities should ensure that the legal framework upholds transparency obligations (publication on KIMDIS) for all procurement methods. Specifically, all procurement notices without exceptions should be included in KIMDIS, i.e. removing specific exceptions provided by the legal framework.

Beyond that, Greek authorities could also ensure that effective mechanisms are in place for compliance with these transparency requirements, particularly regarding the timely upload of contracts in KIMDIS. For instance, contracts could only have legal validity once there are uploaded in KIMDIS.

Transparency and user-friendly access to information should also be ensured regarding the legal framework itself. To this end, HSPPA could expand its database to allow for user-friendly access to delegated regulatory acts currently in force. The database should be updated as often as possible, particularly regarding the delegated regulatory acts.

Access to information and transparency are vital in the domain of integrity. In this regard, HSPPA could gather information and data about implementation and enforcement of integrity efforts in public procurement to allow for evidence-based evolution of the system towards greater integrity, for example by monitoring compliance with requirements, debarments, reports and training.

Finally, increased transparency would be beneficial regarding legal challenges. This could be achieved with greater publication of review decisions.

Governance

A key recommendation for Greece's public procurement system is to increase the efficiency and effectiveness of the normative and regulatory function for public procurement. Given the transaction costs involved in increased coordination, Greece should evaluate whether in the long-term, a model



with streamlined responsibilities should be established. Ultimately, the goal should be to designate a body with a clear ability to steer public procurement as a whole and in a consistent and centralised manner, which is more effective if this ability is assigned to one or two bodies. In practice, this would mean clarifying and strengthening the mandate of HSPPA in line with national priorities. Many countries split the tasks related to public procurement regulation (as mentioned in the MAPS assessment criteria) between the competent ministry and a procurement authority. Several areas are particularly affected by the dispersion of responsibilities, including e-procurement and the provision of information about public procurement.

Greece could consider assigning the responsibility for all aspects of the e-procurement system, including information management, to one institution, including all platforms or tools, to facilitate an integrated, consistent and comprehensive approach.

In order to enhance decision-making on public procurement (including policy reforms), HSPPA should aim at integrating data collected as part of its monitoring efforts into an overarching performance measurement framework with clearly defined indicators that are regularly tracked. It should also aim at making its monitoring system fully electronic to facilitate data collection and analysis.

Not least, the Greek public procurement system would benefit from increased integration of financial management, in particular in the area of procurement planning and payments.

Digitalisation

While important progress has been made in the area of digitalisation, notably with the expansion of e-procurement to the EUR 30 000 threshold, Greece should continue its efforts to further digitalise public procurement. Full digitalisation should also apply to data in the procurement system in order to allow for analytics and insights for policymaking.

The aim of full digitalisation should be the promotion of an e-procurement system that truly supports procurers, thus making it worthwhile to use e-procurement for all types of procedures (low- / high-value, different sectors, etc.) All information systems (KIMDIS, ESIDIS, HSPPA's database) should be consolidated, integrated and (for the area of procurement) replaced by one single system in the long-term. In the short term, interoperability among all system should be ensured. A streamlined system should be equipped with expanded functionalities for the entire procurement cycle, adequate for use in all types of procedures, including utilities.

Similarly, increased digitalisation would contribute to reducing payment delays, which represents a major aspect needed to improve the performance of procurement practices. In this regard, full digitalisation (beyond e-invoice) could be encouraged.

Data should be collected, processed, and stored in an enhanced manner to facilitate analysis of trends, levels of participation, efficiency and economy of procurement, i.e. made available in a machine-readable format. This would include functionalities in the system that allow storing more granular information about each procurement process, and building systems to analyse the gathered information. In addition, enhanced data quality requires monitoring of compliance with requirements to provide information, and routine verification of data quality.

Professionalisation

Greek authorities need to build on ongoing efforts to professionalise the procurement workforce as a key driver for efficiency and better procurement outcomes. As a starting point to the professionalisation agenda, Greece could recognise procurement as a specific function in the public administration, including a comprehensive training strategy. This would include defining procurement positions at different professional levels and specifying job descriptions and the requisite



qualifications and competences. In addition, closely linked to this professional concept of the procurers, HSPPA could develop a comprehensive training strategy.

Furthermore, Greek authorities could operationalise the Register of Certified Public Employees by taking necessary steps to introduce the certification mechanism for public procurers.

A strategy for professionalising public buyers should take into account the specific weaknesses identified in this assessment, notably the lack of focus at planning stage, the limited use of MEAT criteria, the challenges in drafting procurement documents, the use of complex procedures, as well as the use of advanced procurement techniques such as framework agreements, among others. Using these techniques would allow strengthening value for money in the procurement process.

Increased professionalisation and administrative capacity is also needed to strengthen the contract management stage. Specifically, HSPPA could identify current gaps in the practice of contract implementation, regarding the need to ensure the delivery of the ordered goods, services and works.

Training on the identification of bid-rigging could also contribute to ensuring additional competition in procurement markets and avoid the risk of collusion as it was evidenced in recent years.

Finally, the control and audit of public procurement should be professionalised. Greece could consider establishing guidelines for the selection procedure and core competencies, including necessary knowledge, skills and experience requirements of auditors working on public procurement audits.

Centralisation

Greece could consider an in-depth evaluation of the work of the CPBs, and how their potential in contributing to a state-of-the-art public procurement system in Greece could be fully realised. Such an analysis should highlight how the framework could be adapted to allow all CPBs to achieve greatest impact for Greece's citizens. Part of such analysis should be to gather more granular information on the actual level of staffing in the CPBs, and conduct an evaluation where (if any) capacity shortages occur.

In particular, authorities should address inefficiencies related to centralisation in the health sector. This entails introducing measures to effectively operationalise and carry out oversight of the central purchasing body EKAPY, or any newly established entity. Authorities should implement planned efforts to introduce efficiency tools in health procurement (e.g. DPS).

Guidance

Existing guidance could be supplemented with additional, currently missing aspects into a comprehensive public procurement manual. The task of manual maintenance and update should be clearly assigned.

Additional model documents to cover more complex procurements could be developed, as per HSPPA's planning, priorities, and established methodology to identify contracting authorities' needs. Topics could be restricted procedures, but also any other area of procurement activity that might be revealed in analysis of the practices and performance of procurers and their needs. Strengthening guidance is part of the activities listed in the Action Plan of the National Strategy for Public Procurement 2021-2025⁴⁴⁹.

⁴⁴⁹ This includes several actions listed in "A2.2 Recording and planning the completion of other actions required for the effective implementation of the legislative framework"



Sustainability

Greek authorities could support capacity building related to sustainability for contracting authorities, including the concept of sustainability and its links to value for money. This may require trainings to acquire the theoretical foundations as well as support tools, such as LCC calculation tools, GPP criteria. Monitoring the uptake of sustainable public procurement should be considered, too.

Integrity

In order to strengthen implementation of integrity measures in public procurement and achieve meaningful results, procurers and contracting authorities should be supported day to day. For example, additional guidance on how to apply integrity-related rules should be developed by HSPPA, such as how to handle conflict of interest or how to include provisions on prohibited practices in procurement documents commensurate to the size of the procedure. Tools or checklists could be helpful to identify and respond to concrete risks in specific procurement procedures.

These tools should be embedded in a comprehensive risk-management approach led by HSPPA for the procurement system as a whole. HSPPA could evaluate the effectiveness of the newly implemented reporting instrument, including raising awareness to stakeholders about its availability.

The Greek public procurement system would benefit from clarifying several integrity-related rules. These include provisions for cooling-off periods in the legal and regulatory framework, harmonised guidance on what kind of aspects of accountability in decision-making should be regulated in what manner, and requirements to include beneficial ownership information in declarations interest and financial disclosures. Declarations should be reviewed regularly. Anonymised, public information could contribute to increased transparency and accountability.

To ensure harmonised application throughout the public sector, the Greek government should establish a harmonised framework for internal control of public procurement. This includes developing rules for internal control and internal audit of public procurement, based on a gap analysis and action plan. The goal should be to enable internal audit units to perform internal audit according to risk-based strategic and annual plans, internal audit charters and manuals, taking into account the standard methodology issued by the central harmonisation function. Adopting international standards in the terminology used for control and audit would also allow to further align the system to international good practice. As part of the enhanced framework for internal control and audit of public procurement, the role of the Supreme Audit Institution in the central ex-ante control of public procurement could be reconsidered gradually, proportionately to the progress of developing internal control. The Supreme Audit Institution should place a stronger focus on performance and system-based audits on public procurement.

Monitoring and information provision on audit and control of public procurement could be enhanced. Improved monitoring should include clarifying the reporting structure, criteria and standards for different oversight authorities, as well as enhanced evaluation and increased data gathering on audit recommendations and their follow up. Resulting information on audit activity should be provided timely, more openly to the public and at a more granular level.

To gather relevant information in one, easily identifiable place, HSPPA could develop a code of conduct for public procurers, including specific, practical guidance that is reflective of the specific integrity-related challenges associated with public procurement.



5. Information regarding Validation

This assessment was launched in September 2019. The fact finding meetings were conducted on 26-28 February 2020. The annexes provide an overview of stakeholders that were interviewed during this mission, as well as a list of the most pertinent source documents consulted as part of the analysis. The assessment included the analysis of 63 sample procurement procedures selected as per the methodology detailed in Pillar III.

Initial recommendations and findings were shared in June 2020 with HSPPA to inform the ongoing consultation process of the draft reform law.

HSPPA reviewed the report and the matrices supplementing the assessment at various stages of preparation (review of matrices in summer 2020, fall 2020, and winter 2021; review of report in January 2021). A first full draft of the report was shared in January 2021. An updated draft report was shared in May 2021, taking into account the amendment of the Greek public procurement legislation. Preliminary findings were presented to HSPPA in May 2021.

Following institutional changes to the public procurement system, an updated draft of this report was prepared in March 2022.

A validation workshop gathering over 100 procurement stakeholders was held virtually on 19th May 2022. The organisations represented during the validation workshop included, among others:

- HSPPA
- General Directorate for Public Procurement of the General Secretariat for Commerce
- General Directorate of Financial Controls of GDDE
- NTA
- Independent Authority for Public Revenue (AADE)
- EKAPY
- General Accounting Office of the State
- General Directorate for Financial Audits (GDFA)
- Ministry of Digital Government - Open Government Partnership
- SEV (Business Association)
- Transparency International Greece
- Open Contracting Partnership
- General Secretariat for Coordination

Stakeholders had the opportunity to share their comment during the workshop and in writing. Written comments were received by:

- HSPPA
- General Directorate for Public Procurement of the General Secretariat for Commerce
- National Transparency Authority
- General Directorate for Financial Audits (GDFA)

All comments were duly integrated in the report or addressed with a written response. Specific revisions of the report involved additional focus on the changes brought about by the reform law 4281/2021, notably through the summary box in section 2.4 Public Procurement Reform, as the reform in many instances did not have direct implications on MAPS assessment criteria. Other revisions based on written comments included updating the report with performance monitoring, as well as with developments related to internal audit, i.e. highlighting the impacts of Law 4795/2021 “Internal Control/Audit System of the Public Sector, Integrity Advisor in Public Administration and other provisions regarding public administration and local self-government”.



During the workshop, stakeholders commented on each Pillar of the assessment. Topics that drew particular attention from stakeholders included digitalisation and e-procurement, as well as professionalisation. Some areas required clarification from the assessors, such as the two red flags around ex post legalisation of procurement procedures.

The final version of the assessment was prepared in August 2022.

6. Strategic planning

Alignment of MAPS assessment with the National Strategy for Public Procurement 2021-2025

The recommendations outlined above and throughout the assessment are broadly aligned with the actions identified in the Action Plan of the National Public Procurement Strategy 2021-2015. Nevertheless, in some areas the Action Plan go further based on some findings from the MAPS assessment. Notably, as per Action Plan, “A1 Continuously monitoring and simplification of the institutional framework” reinforces the message of stabilising the legal framework and avoid amendments outside of a set timeframe. Actions underlined in “A.2 Effective application of the legal rules” highlight the need to implement certain secondary legislation, as it has been identified in this report (e.g. Register of Certified Public Employees). The stability of the legal framework is deemed of critical importance in the MAPS assessment, calling for several red flags in cases where the legal framework is being undermined. As such, actions proposed in the National Strategy are welcome developments but could be expanded to stress critical need to abolish ex post legalisation of procedures.

Several actions in the Action Plan pertain to effectiveness of the e-procurement system and procurement information systems overall (“B1 Evaluation and redesign of public procurement information systems with emphasis on the integration of electronic procedures and the implementation of the ‘once-only’ principle” and “B2 Collection, management and analysis of reliable digital procurement data”). These actions are very much aligned with recommendations on digitalisation identified under Indicator 7 in this MAPS assessment, i.e. interoperability, expansion of e-procurement, strengthening data quality, as well as improving monitoring through digitalisation. Implementation of the Action Plan would provide an important step in towards enhancing the effectiveness of the e-procurement system.

The actions related to “C1 ‘Sustainable’, ‘circular’, ‘green’ contracts” reflects the need to strengthen sustainable procurement practices, notably through the implementation of the National Action Plan for Green Public Procurement. The actions under “C4 Preparation of individualised actions plans per sector of responsibility of the competent ministries / General Secretariats that are consistent with distinct sectors of business activities and SMEs” are aligned with the assessment of Indicator 10 on key sectors and sector strategies.

The Action Plan also highlights centralised procurement as a key area for development with a dedicated Action “C6 Efficient use of resources, achieving economies of scale and reducing budgetary costs”, which aims at strengthening centralised procurement and monitor the contribution of CPBs to economies of scale and burden reduction for contracting authorities. These goals are very aligned to the MAPS assessment, which identified a red flag related to the poor operational implementation of centralised health procurement.

Similarly, actions under “D1 Oversight of the public procurement system” are reflected in recommendations around the monitoring of the procurement system. Moreover, actions under “D3



Strengthening transparency through control procedures in public procurement” are aligned with recommendations on integrity, notably strengthening risk assessment and carrying out audits based on risk methodologies as well as awareness raising and training on integrity standards and codes of conduct.

While these actions are highly important to strengthening the integrity of procurement, a stronger focus on anticorruption would be necessary, as highlighted in the MAPS assessment. Indeed, many high risk gaps and a red flag have been identified in Indicator 14 related to systemic weaknesses of the framework, but also more targeted areas such as limited statistical reporting of convictions related to corruption and more effective follow-up of disclosures.

Finally, the MAPS assessment places significant emphasis on professionalisation of public procurement. Again, this topic is outlined in the Action Plan under “D4 Professionalisation of public procurement”, which calls for a dedicated action plan in this area. While this area of the Action Plan has not been defined in detail (at the time of the assessment), stakeholders agree on the vital role of professionalisation as a key to unlock value from the public procurement, allowing to address a key number of identified weaknesses, particularly those related to procurement practices identified under Indicator 9 and 10 such as use of price-only criteria, high numbers of single bids, long procedures, etc.

Outlook

Public procurement remains an important topic in Greece, particularly in light of significant funding coming through the Recovery and Resilience Facility (RRF), i.e. a European instrument designed to finance reforms and investments in the EU Member States, following the COVID-19 pandemic and other crisis. Much of the implementation of such funding relies on public procurement as a key enabler, and some national commitment and milestones refer to procurement. In fact, as part of the Recovery and Resilience Plan (RRP), Greece has committed to the “adoption of legislation providing for professional work streams for staff dealing with public procurement”⁴⁵⁰. In this context, the publication of the MAPS assessment report contributes to bringing together stakeholders around the priorities for public procurement reform in the upcoming years.

⁴⁵⁰ European Commission (2023), Commission Staff Working Document, 2023 Country Report – Greece https://economy-finance.ec.europa.eu/system/files/2023-05/EL_SWD_2023_608_en.pdf



Annex 1: Matrix files

Four Matrix files covering the MAPS assessment criteria are available in a separate annex to this report.

Annex 2: Stakeholders involved in the assessment

Category	Name of Institution
Academic institutions	<i>(Consulted as part of sample tenders: National and Kapodistrian University of Athens; Aristotle University of Thessaloniki)</i>
Authorities in charge of internal and external controls and audits and Procurement appeals body	Hellenic Court of Audit
	National Transparency Authority
	HSPPA
	Head of Committee of Audit of co-funded projects by European Union
	Ministry of Finance, General Direction of Financial Audit
	Ministry of Justice, council of state
	Administrative Court of appeal of Piraeus
Central government	Department Coordination of State
	Ministry of Finance, General Accounting Office
	Ministry of Health, Procurement Department
	Ministry of Development, Head of department, Financial Institution of Statistic Elements, System of Electronic Tenders
	Ministry of Digital Governance, General Secretary of Information Systems
	Head of development, national electronic system PP
Central government (normative/regulatory function)	HSPPA
Central government (training, normative/regulatory function)	HSPPA
Centralised procurement body	General Secretariat of Commerce and Consumer Protection, Dept. of development electronic markets & innovation
	General director of national CPB for public services & public goods, Ministry of Development and investments



Contracting authorities / Experts	Eastern Macedonia, Head of Public procurement
	Thessaloniki, General director administration & financial services
	Thessaloniki, Head of expenditure department
	Piraeus, Head of planning and development
	Piraeus, Department of Architecture
	Region of Attica, General directorate for development programmes and infrastructure
Contracting authorities/ sample tenders	Ministry of the Interior
	National Central Purchasing Body for goods and services (General Secretariat for Commerce)
	National Central Purchasing Body for public works, studies and technical support (General of Secretariat of Infrastructure)
	National Central Authority for Health Procurement (EKAPY)
	Municipality of Athens
	Municipality of Thessaloniki
	Prefecture of Attika
	Prefecture of Central Macedonia
	State-owned enterprises (utilities) DEDDHE SA
	State-owned enterprises (utilities) ERGOSE SA.
	National and Kapodistrian University of Athens
	Aristotle University of Thessaloniki
	Thessaloniki General Hospital “Papanikolaou”
	Athens Regional General Hospital “Evangelismos”
NGOs / civil society	Open Contracting Partnership
	Transparency International Greece
Private sector / Experts	Hellenic Federation of Enterprise
	Greek contracting companies – general manager, director of national board of industry, infrastructure and construction
	platform: gathering professional institutions, President
	Association of Greek Contracting Companies, Vice President
	President of Hellenic companies and offices that perform studies and research



	President of Greek contracting companies, Professor
	Member of admin board of SEAT association of technical companies of highest classes
Training institutions	National centre for public administration (EKDA), Studies Officers
	National centre for public administration (EKDA), Public procurement programme specialist
	Centre for Law KDEOD, Head of PP monitoring unit



Annex 3: Source Documents

The detailed assessment results (i.e. at sub-indicator level using the provided Excel-Sheet) are available in the indicator matrix file. The documents analysed for this assessment were:

Laws and regulations

Pillar I

- Public Procurement Law (L. 4412/2016 as amended)
- Concessions Procurement Law (L. 4413/2016 as amended)
- PPP (L. 3889/2005 as amended)
- Standard proposals for infrastructure projects and other urgent provisions (L. 4903/2022)
- MD 137954/22-12-2016 National Central Purchasing Authority for supplies and services
- HSPPA Decision 158/2016 (standard template of Solemn Declaration to be submitted by tenderers)
- MD 116/17-02-2017 (Minister of Health - Health Supply Committee - EPY)
- MD 20886/20-02-2017 (Minister of Economics - Framework Agreements procured by General Secretariat of Commerce and Consumer Protection.
- MD 23451/EΥΣΣΑ493/24-02-2017 (programme for technical assistance)
- MD ΔΝΣγ/οικ 15299 /ΦΝ 466/02-03-2017 (Minister of Infrastructure and Transfer - electronic draw system for public procurements on works, designs and similar technical services)
- MD ΔΝΣγ/οικ. 38107/ΦΝ 466/22.03.2017 (Ministry of Infrastructure and Transfer - working groups for works public procurement)
- MD ΔΝΣγ/οικ. 38108 /ΦΝ 466/05.04.2017 (Content of work register)
- MD ΔΝΣγ/οικ. 37834 /ΦΝ 466/06.04.2017 (decision making and consultative bodies on PP - General Secretariat of Infrastructure and Transfer)
- MDΔΝΣγ/οικ. 37835/ΦΝ 466/06.04.2017 (Delegation of power - General Secretariat of Infrastructure and Transfer)
- MD ΔΝΣγ/οικ. 35577/ΦΝ 466/19-05-2017 (Content of invoices for works public procurement)
- MD 57654/23-05-2017 (KHMDHS - electronic registry for PP)
- MD 56902/215/02-06-2017 (ESYDHS - electronic system for PP)
- JMD 64233/2021
- JMD 166278/2021
- PD 39/2017 (Remedies Review Procedure for PP)

Pillar II



- Law 4013/2011 establishing the Hellenic Single Public Procurement Authority (HSPPA)
- Law 4912/2022 published in the GG 17.3.2022 (A 59)
- Budget and budget implementation: <https://www.minfin.gr/web/guest/proupologismos>
- L. 4270/2014 as amended (principles on financial management and control)
- L. 4865/2022
- JMD No. 70362/30.6.2021 of the Ministers of Development and Investments and of the Interior

Pillar IV

- L. 3861/2010 (as amended - DIAVGIA): <https://diavgeia.gov.gr>
- L. 4622/2019 (Transparency Authority)
- L. 4129/2013 as amended (Court of Audit)
- L. 2920/2001 (as amended) and PD 278/2002 (as amended): Inspectors Body for Health Services and Welfare (SEYYP).
- L. 4622/2019
- L. 4914/2022
- L. 4914/2014
- L. 3492/2006
- L. 4795/2021
- L. 4700/2020
- L. 3852/2010
- L. 4912/2022
- L. 4151/2013

Government strategies

- National Strategy for Public Procurement 2016-2020
- National Strategy for Public Procurement 2021-2025
- Action Plan for Green Public Procurement (Government Gazette B 466 / 8-2-2021)

Tools and guidance

- Model documents: <https://www.eaadhsy.gr/index.php/m-foreis/m-protypa>



Other

- HSPPA Monitoring Report Public Procurement
- ESHDHS statistics bulletin
- KHMDHS statistics bulletin
- Monthly ESHDHS statistics on public works
- Monthly ESHDHS statistics on public supplies and services
- Remedies Review Authority Activity reports : <http://www.aepp-procurement.gr/index.php/aepp/annual-reports>



Annex 4: Quantitative indicators

Indicator		Quantitative Indicators (minimum)	Additional recommended quantitative indicators	MAPS assessment
4(b)	Financial procedures and the procurement cycle	To substantiate assessment criterion (b): Invoices paid on time (in %).		No data from Greek sources, but qualitative information available. Furthermore, data on payment time is available from the World Bank.
5(d)	Avoiding conflict of interest		To substantiate assessment criterion (a): Perception that the normative/regulatory institution is free of conflicts (in % of responses).	Not data
6(a)	Definition, responsibilities and formal powers of procuring entities	To substantiate assessment criterion (c): Procuring entities with a designated, specialised procurement function (in % of total number of procuring entities). Source: Normative/regulatory function		No data
7(a)	Publication of public procurement information	To substantiate assessment criterion (c):	To substantiate assessment criterion (e):	The MAPS quantitative indicators are not readily available through



	supported by information technology	<p>Procurement plans published (in % of total number of procurement plans required)</p> <p>Key procurement information published along the procurement cycle (in % of total number of contracts): invitation to bid; contract awards (purpose, supplier, value; amendments/variations); details related to contract implementation (milestones, completion and payment); annual procurement statistics.</p> <p>Appeals decisions posted within the time frames specified in the law (in %).</p>	Share of procurement information and data published in open data formats (in %).	the e-procurement system. Data partially available from the sample analysis. Details listed in the MAPS Pillar II Matrix.
7(b)	Use of e-Procurement	<p>To substantiate assessment criterion (a):</p> <p>Uptake of e-Procurement</p> <ul style="list-style-type: none"> - number of e-Procurement procedures in % of total number of procedures - value of e-Procurement procedures in % of total value of procedures 	<p>To substantiate assessment criterion (d):</p> <p>Bids submitted online (in %)</p> <p>Bids submitted on line by micro, small and medium-sized enterprises (in %).</p>	<p>Data partially available via the e-Procurement system:</p> <ul style="list-style-type: none"> - Number of e-Procurement procedures - Value of e-procurement procedures
7(c)	Strategies to manage Procurement data	<p>To substantiate assessment criterion (d):</p> <p>Total number of contracts</p> <p>Total value of contracts;</p>		<p>Data partially available via OECD statistics:</p> <ul style="list-style-type: none"> - General government procurement as share of



		Public procurement as a share of government expenditure and as a share of GDP. Total value of contracts awarded through competitive methods in most recent fiscal year		total general government expenditures - General government procurement as share of GDP
9(b)	Selection and contracting		<p>To substantiate assessment criterion (j):</p> <p>Average time to procure goods, works and services: number of days between advertisement/solicitation and contract signature (for each procurement method used)</p> <p>Average number (and %) of bids that are responsive (for each procurement method used)</p> <p>Share of processes that have been conducted in full compliance with publication requirements (in %)</p> <p>Number (and %) of successful processes:</p> <ul style="list-style-type: none"> - successfully awarded; - failed; or - cancelled - awarded within time frames 	<p>All indicators calculated based on sample analysis:</p> <ul style="list-style-type: none"> - Number of days between advertisement/solicitation and contract signature - Average number of bids that are responsive - Share of bids that are responsive - Share of processes that have been conducted in full compliance with publication requirements - Number of successful processes - Share of successfully awarded procedures
9(c)	Contract management in practice	To substantiate assessment criterion (g):	To substantiate assessment criterion (a):	Indicators calculated based on sample analysis:



		<p>Share of contracts with complete and accurate records and databases</p> <p>Time overruns (in %; and average delay in days)</p> <p>To substantiate assessment criterion (b):</p> <p>Quality-control measures and final acceptance is carried out as stipulated in the contract (in %)</p> <p>To substantiate assessment criterion (c):</p> <p>invoices for procurement of goods, works and services are paid on time (in % of total number of invoices).</p> <p>To substantiate assessment criterion (d):</p> <p>Contract amendments (in % of total number of contracts; average increase of contract value in %)</p> <p>To substantiate assessment criterion (f):</p> <p>Percentage of contracts with direct involvement of civil society:</p> <ul style="list-style-type: none"> - planning phase - bid/proposal opening - evaluation and contract - award, as permitted - contract implementation 	<ul style="list-style-type: none"> - Average time overruns (in days) - Average time overruns by category of procurement - Share of procedures applying quality control measures - Share of procedures for which an acceptance certificate was issued - Share of contracts with 1 or more contract amendment - Share of procedures, in which civil society was consulted <p>Data on payment time is available from the World Bank and sources provided by stakeholders during the mission.</p>
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10(a)	Dialogue and partnerships between public and private sector		<p>To substantiate assessment criterion (a):</p> <p>Perception of openness and effectiveness in engaging with the public and private sector (in % of responses).</p>	No data
10(b)	Private sector organisations and access to the public procurement market		<p>To substantiate assessment criterion (a):</p> <p>Number of registered suppliers as a share of total number of suppliers in the country (in %)</p> <p>Share of registered suppliers that are awarded public contracts (in % of total number of registered suppliers)</p> <p>Total number and value of contracts awarded to domestic/foreign firms (and in % of total)</p> <p>To substantiate assessment criterion (b):</p> <p>Perception of firms on the appropriateness of conditions in the public procurement market (in % of responses).</p>	<p>Data available from the e-procurement system:</p> <ul style="list-style-type: none"> - number of registered suppliers - share of registered suppliers - total number and value of contracts awarded to domestic/foreign firms (and in % of total) <p>No data on the perception of firms.</p>
12(b)	Co-ordination of controls and audits of public procurement		<p>To substantiate assessment criterion (c):</p> <p>Number of specialised procurement audits carried out</p>	No data



			<p>compared to total number of audits (in %).</p> <p>Share of procurement performance audits carried out (in % of total number of procurement audits).</p>	
12(c)	Enforcement and follow-up on findings and recommendations		<p>To substantiate assessment criterion (a):</p> <p>Share of internal and external audit recommendations implemented within the time frames established in the law (in %).</p>	No data
12(d)	Qualification and training to conduct procurement audits		<p>To substantiate assessment criterion (a):</p> <p>Number of training courses conducted to train internal and external auditors in public procurement audits.</p> <p>Share of auditors trained in public procurement (in % of total number of auditors).</p>	No data
13(a)	Process for challenges and appeals	<p>To substantiate assessment criterion (c):</p> <p>Number of appeals (in % of contracts awarded).</p>	<p>To substantiate assessment criterion (c):</p> <p>Number (and percentage) of enforced decisions.</p>	<p>Data on number of appeals available from AEPP</p> <p>Not available: Number (and percentage) of enforced decisions.</p>
13(b)	Independence and capacity of the appeals body	<p>To substantiate assessment criterion (e):</p> <p>Appeals resolved within the time frame specified in the law/exceeding</p>		<p>Available data from AEPP:</p> <p>average time for issuing a decision</p>



		this time frame/unresolved (total numbers and in %).		During the interviews, it was stated that all HSPPA's decisions are issued within the time frames.
13(c)	Decisions of the appeals body	<p>To substantiate assessment criterion (d):</p> <p>Share of appeals decisions posted on a central online platform within timelines specified in the law (in %).</p>	<p>To substantiate assessment criterion (b):</p> <p>Share of suppliers that perceive the challenge and appeals system as trustworthy (in % of responses).</p> <p>Share of suppliers that perceive appeals decisions as consistent (in % of responses).</p> <p>To substantiate assessment criterion (c):</p> <p>Outcome of appeals (dismissed; in favour of procuring entity; in favour of applicant) (in %).</p>	<p>Assessment criterion (d)</p> <p>No data</p> <p>Assessment criterion (b):</p> <p>No data</p> <p>Assessment criterion (c):</p> <p>Data available from AEPP</p>
14(c)	Effective sanctions and enforcement systems		<p>To substantiate assessment criterion (d):</p> <p>Firms and individuals found guilty of fraud and corruption in procurement:</p> <p>Number of firms/individuals prosecuted/ convicted; prohibited from participation in future procurements (suspended/ debarred).</p> <p>Government officials found guilty of fraud and corruption in public</p>	No data



			<p>procurement: number of officials prosecuted/ convicted.</p> <p>Gifts to secure public contracts; number of firms admitting to unethical practices, including making gifts (in %).</p>	
14(d)	Anti-corruption framework and integrity training		<p>To substantiate assessment criterion (a):</p> <p>Percentage of favourable opinions by the public on the effectiveness of anticorruption measures.</p>	No data
14(e)	Stakeholder support to strengthen integrity in procurement		<p>To substantiate assessment criterion (c):</p> <p>Number of domestic CSOs (including national offices of international CSOs) actively providing oversight and social control in public procurement.</p> <p>To substantiate assessment criterion (d):</p> <p>Number of suppliers that have internal compliance measures in place (in %).</p>	No data
14(g)	Codes of conduct/ codes of ethics and financial disclosure rules		<p>To substantiate assessment criterion (a):</p> <p>Share of procurement entities that have a mandatory code of conduct or ethics with particular provisions for those involved in PFM, including</p>	No data



			<p>procurement (in % of total number of procuring entities).</p> <p>To substantiate assessment criterion (b):</p> <p>Officials involved in public procurement who have filed financial disclosure forms (in % of total).</p>	
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Annex 5: Sampling methodology

Description of the methodology for conducting a sample analysis of procurement processes as part of the MAPS assessment of Greece

Purpose of the sample analysis as part of the MAPS assessment

The MAPS methodology foresees an analysis of sample procurement cases to supplement the analysis of indicators related to public procurement practices. In summary, the purpose of this sample analysis is to conduct a “spot check” of actual, concrete procurements to see how procurement works in practice. This analysis is conducted in pillar III, indicator 9 (procurement practices along the procurement cycle); with some aspects also in pillar II, indicator 4 (budget and payments).

The MAPS, including the indicator framework and the user’s guide on the application of the indicators, include limited instructions on how to conduct the sample analysis.

User’s Guide:

The application of Indicator 9 includes an analysis of selected procurement cases (“sample cases”). One of the most important steps in planning the assessment is to carefully consider the sample of cases that will be assessed. This selected review of actual procurement proceedings provides an additional means of evaluation, while recognising that a sample always represents a selected perception of reality and never the reality in its entirety. The sample should thus provide enough information to arrive at conclusions that can be regarded as valid at an aggregate level. Sampling strategies and sampling sizes need to be carefully considered, and how representative they are and their level of certainty should be clearly defined. Depending on the circumstances and the country’s strategic objectives, sampling could, for example, focus on top-spending procuring entities or, alternatively, cut across different levels of government, to cover a number of national and sub-national procuring entities. Details of the sampling approach should be disclosed in the assessment report.

Indicator 9:

The assessment of Indicator 9 requires the selection and review of a sample of actual procurement transactions (files). Sampling methods and size determine the representativeness of the assessment results (refer to Section I – User’s Guide, paragraph 28). If the sample is small but strategically targeted, the assessment can still provide a useful snapshot or illustration of how procurement operates and performs on the ground. In any case, the assessment findings need to be analysed and interpreted with caution, to ensure credibility and fairness of the process and to achieve a better understanding of the country’s procurement system as a whole.

Based on these instructions, it is up to the assessment team to define the sample analysis as part of the MAPS assessment. This document serves this purpose.

Operationalisation of the indicator analysis into a questionnaire

The sample-based assessment criteria in the MAPS methodology cover a selected amount of information from a typical procurement case. In fact, the information that needs to be analysed as



part of a MAPS assessment does not touch upon nature or content of the specific procurement. Analysis can be abstracted and conducted in an “anonymous”, aggregated manner.

In order to facilitate the collection of this information from the sample cases, the assessment team developed a set of questions that the contracting authority can respond to transmit the underlying information to form these indicators (see table 1). The responses to the questions on the individual procurements (right side in the table) are then aggregated and used to form the original assessment criteria for the entire public procurement system as per MAPS methodology (left side in the table.)

Table 1: Assessment Criteria vs. questions for sample analysis

Original assessment criteria (Ind. 4, 9)	Question for contracting authority
<ul style="list-style-type: none"> Average time to procure goods, works and services: number of days between advertisement/solicitation and contract signature (for each procurement method used) Time overruns (in %; and average delay in days) 	<ul style="list-style-type: none"> Category (good, works, service) Date on which the solicitation (contract notice) was published / sent Date on which contract was signed Expected delivery date according to contract Date on which the delivery was completed
<ul style="list-style-type: none"> Average number (and share) of bids that are responsive (for each procurement method used) 	<ul style="list-style-type: none"> Type of procedure Total number of bids received Number of responsive bids
<ul style="list-style-type: none"> Share of processes that have been conducted in full compliance with publication requirements (in %) 	<ul style="list-style-type: none"> Have all obligations for publishing information been met, for this specific procurement?
<ul style="list-style-type: none"> Number (and share) of successful processes: successfully awarded, failed, or cancelled; awarded within time frames 	<ul style="list-style-type: none"> This contract was (choose and put one): successfully awarded OR failed OR cancelled
<ul style="list-style-type: none"> Share of contracts with complete and accurate records and databases 	<ul style="list-style-type: none"> Were any documents missing or inaccurate, based on legal requirements?
<ul style="list-style-type: none"> Quality-control measures and final acceptance is carried out as stipulated in the contract (share) 	<ul style="list-style-type: none"> Quality control measures were carried out (as defined by the contract) Certified Final Acceptance issued
<ul style="list-style-type: none"> Contract amendments (in % of total number of contracts; average increase of contract value in %) 	<ul style="list-style-type: none"> Cost estimate (EUR) Contract volume at signature (EUR) Final contract volume (EUR) Number of contract amendments
<ul style="list-style-type: none"> Percentage of contracts with direct involvement of civil society: planning phase; bid/proposal opening; evaluation and contract award, as permitted; contract implementation 	<ul style="list-style-type: none"> Was civil society consulted?
<ul style="list-style-type: none"> Invoices paid on time (in %) 	<ul style="list-style-type: none"> Date on which final invoice was received Date on which last payment was made

Conceptual outline of the sample for the Greek MAPS assessment

As part of the conceptualisation of the MAPS assessment of the Greek public procurement system, the assessment team agreed about the following key characteristics of the sample (see concept note):

- Target: 75-100 sample cases (15 contracting authorities; 5-10 cases per authority)
- Analysis conducted in cooperation with the contracting authorities
- Contracting authorities will fill in a questionnaire corresponding to the quantitative assessment criteria
- Five sectors should be represented:
 - Health
 - ICT



- Transport
- Infrastructure and buildings
- Energy
- EU co-funded projects should be represented

Contracting authorities

During the launch meeting for the MAPS assessment and in the follow up, the assessment team and invited stakeholders agreed that procurements authorities should be sampled from the following contracting authorities:

1. Ministry of the Interior
2. National Central Purchasing Body for goods and services (General Secretariat for Commerce)
3. National Central Purchasing Body for public works, studies and technical support (General of Secretariat of Infrastructure)
4. National Central Authority for Health Procurement (EKAPY)

Large municipalities:

5. Athens,
6. Thessaloniki

Prefectures:

7. Attika,
8. Central Macedonia,
9. Peloponnesus

State-owned enterprises (utilities) from Ministry of Environment or Ministry of Infrastructure

10. *DEDDHE SA (Manager of the Greek Electricity Distribution Network)*
11. *ERGOSE SA (Works for Greek Rail Agency.)*

Universities

12. *Athens University (EKPA)*
13. *Thessaloniki University (Aristotelio)*

Hospitals

14. *General Thessaloniki Hospital G. Papanikolaou*
15. *Regional General Athens Hospital Evaggelismos*

The OECD team developed spending profiles for each of these selected contracting authorities, based on information found in the e-procurement platform KIMDIS (i.e., years 2016-2018). The spending profiles show how many procurements in a certain group of contract value each contracting authority handled in a given year. Given the transition of the e-procurement system in 2017, the cases for this year are reflected in two different categories. Based on these spending profiles (see annex), the sample cases will be selected to mirror the spending in the different contracting authorities. See Table 2 for an example of spending profile.

The following contract value brackets were defined:

- Contracts valued at less than EUR 60 000



- Contracts valued between EUR 60 001 and EUR 120 000
- Contracts valued between EUR 120 001 and EUR 500 000
- Contracts valued between EUR 500 001 and EUR 1 million
- Contracts valued higher than EUR 1 million

Table 2: Example for a Spending profile, Ministry of the Interior

Threshold €	Number of contracts per year ⁴⁵¹			
	2016	1.1.2017-12.6.2017	13.6.2017-31.12.2017	2018
< 60.000	134	4.244	2808	3505
60.001-120.000	0	16	7	32
120.001 – 500.000	0	13	28	28
500.001 – 1.000.000	0	12	8	93
> 1.000.001	0	4	8	7

Number of samples and individual process for selecting them

For each contracting authority, a target of 10 sample cases was set. The following process was followed to select them:

1. Compilation of spending profiles based on spending brackets (see above).
2. Determination of the number of sample cases per year and spending bracket, individualised for each contracting authority.
3. Generation of randomised numbers using <https://www.random.org/integers/> for each spending bracket and year.
4. Selection of the procurements listed in KIMDIS at the rank of the randomised number, using the original sorting by the e-procurement system.

Collecting information (step-by-step instructions for contracting authorities)

Once selected, the assessment team will communicate the case numbers of the selected procurements to the contracting authority that handled the respective case. For each of these cases, the contracting authorities are then expected to provide the responses to the questions in table 1, so that in a later step the assessment team can build the quantitative assessment criteria. To facilitate this process, the assessment team developed an online survey in English and Greek that contains the questions in table 1 above.

In summary, the process for contracting authorities is as follows:

1. Receive identification numbers for selected procurements from assessment team
2. Locate the case files for each procurement
3. Fill in electronic question for each selected procurement individually, i.e. start a new survey for each procurement

The following should be observed when filling in the questionnaire:

⁴⁵¹ Due to the transition of the e-procurement system in 2017, the cases for this year are reported in two different segments.



- Please fill in contract volumes (i.e., Euro amounts) in plain number: 54678 instead of 54.678 euros
- Please fill in all fields. This will allow a meaningful aggregate analysis.
- The following are pointers for filling in the questions:
 - Responsive bids: count those that you considered for the award – do not count those that you had to dismiss.
 - Quality control measures: any type of inspection, checking or following to ensure that what was ordered was also delivered as planned. Sometimes, this is not considered necessary (depending on the size of the contract and the nature of the purchase.)
 - Certified final acceptance: a confirmation from the contracting authority to the supplier that the purchase good, works or service was delivered as required and that the payment can be processed.
 - Consultation of civil society: please answer yes if you have involved any persons or organisations outside of the government in the procurement in any form – for example during the needs assessment phase.



Annex 6: Minutes of MAPS validation workshop and OECD responses

Minutes

MAPS validation workshop

Thursday 19th of May 2022

Workshop objectives:

This workshop aims at presenting the results of the MAPS (Methodology for Assessing Procurement System) assessment conducted in Greece over the period 2019-2022. Stakeholders will have the opportunity to discuss these findings, and share their perspectives.

The presentation of findings covers the four pillars of the methodology, namely:

- Pillar I: Legal, Regulatory and Policy Framework
- Pillar II: Institutional Framework and Management Capacity
- Pillar III: Public Procurement Operations and Market Practices
- Pillar IV: Accountability, Integrity and Transparency of the Public Procurement System

Participants:

Public procurement stakeholders in Greece, including:

- Public procurement policymakers and central government authorities
- Central Purchasing Bodies
- Oversight institutions
- Contracting authorities
- Business representatives
- Training institutions
- Civil society
- Other relevant stakeholders
- MAPS Secretariat
- International partners interested in Public Procurement in Greece



Venue & logistics:

The workshop will be held virtually through a Zoom platform:

<https://meetoe.cd1.zoom.us/j/96299208015?pwd=Rno5OWh3Z3VsRHJRMjcvOUl0Wm9Cdz09>

Language:

The workshop will be held in English with simultaneous interpretation in Greek.

Contact

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Opening remarks and presentation of the project

Mr. Konstantinos Tzanetopoulos, General Secretariat for Commerce

- Highlighted that many changes have already been noted in the Greek PP system, the national strategy on PP has created a new reality, and they need time to apply those changes

Mr. Theodoros Galanis, European Commission

- Reminded that PP is more than having a regulatory framework – we need to be in contact with the market, to bring the supplier close to use and the state need to be able to purchase everything he need while developing competition in the country

Mr. Paulo Magina, OECD

- Gave the overview of the project

Introduction to the MAPS methodology

Mr. Nicolas Penagos, MAPS Secretariat

Questions from the audience:

- Question: how are these reports handle after by the countries? At what level are they used and how are they used by the countries?
- There is an aspect related to accountability and transparency in MAPS– according to good practice and from your experience from collaboration with the Greek system – is there something you could recommend to further promote transparency, and accountability, better control and informing citizens about all that?



- Following OECD report, do States come back to you afterwards? Do you have follow-up exchanges on the implementation of the findings and recommendations?

Pillar I - Legal, Regulatory and Policy Framework

Ms. Vaia Stergiopoulou, Local coordinator, OECD – presentation of the findings

Discussion

- **Mina Kalogridou (Hellenic Single Procurement Authority)** made a few observations:
 - Regarding recent legislative reforms law 4903 of 2022 was mentioned for solicited proposals – this is just a general reference, some of the provisions concern PP – law 4903 is about concession mostly but can be mentioned as a general legal framework

OECD response: Noted, reference to the law included as general legal framework.

- Regarding the main gaps identified on ex post legalisation of flawed procedures, it concerns mainly the health sector – they had been some meetings with the Ministry of health to use legal instrument and improve the situation but the Covid-19 started and for the Ministry of health this was the first priority – this is why there was some delay in implementing initiatives that had been planned for a long time.

OECD response: More details are provided in the report. While perhaps more prevalent in the health sector, these ex post legalisation happened in other sectors / ministries and prior to COVID.

- Regarding the reference made to update of database – it was mentioned that the Hellenic Single Procurement Authority monitors legislation and update regularly but update can take up to 3 months because of the lack of staff and this is a very big problem since last summer – since the merging of the 2 entities they have less staff, people have left the authority – however, regarding all new legislation and regulatory acts, the authority informs immediately through its webpage

OECD response: It has been clarified that the law is updated in a timely fashion in the database, while the updates of reminder of the regulatory framework is updated less frequently (every 6 months). Also the fact that information is shared via the website has been included.

- About pillar 2: under the law merging the 2 authorities, there might be changes in our competences, we are waiting to see how the new organisation will function in the future

OECD response: Yes. This is mentioned in the report. It reflects the current situation but changes are expected.



- The national strategy is being monitored and there is also a special team to assess the regulatory framework focusing on the legal and regulatory aspect of PP and how it can be improved so results of MAPS will be very useful for this assessment

OECD response: Yes, the monitoring of the National Strategy is an important point. It is mentioned in Indicator 7 and the section “Alignment with the National Strategy for Public Procurement 2021-2025.

- **Mr Kontogeorgakis** (General Directory of Budgetary Control from Ministry of Economy): he said he has not seen in the report received an IT system that could host PP documents – they have 2 IT systems for which there is an obligation for contracting authority to publish a large part of PP documents – the 2 systems were to be connected to avoid double publication and administrative burden but this has not happened so far – the employees have to address this administrative burden – this is something our partners should take into account.

OECD response: This is discussed under Pillar II in the report (Indicator 7). Interoperability is highlighted, also as a recommendation.

- **Mr K.tzanetopoulos:** (General Secretariat for Commerce) made a few comments:
 - The problem of law 4412 was that in a very short period we had a very big number of amendments to the law which means that public servant find it hard to follow the modifications to the law (more than 215) which create a big problem for people working in Public administration – the issue is that PP employees do not know how to use the tools promoted in the law, for example tender negotiations.

OECD response: This an important point. It has been mentioned in Indicator 1 and 9.

- Concerning IT systems – I would say that major problem is the lack of interoperability – people cannot contact directly the IT system – in the PP legislation there are some provisions for electronic database but right now there is no system – the management system for contract is not operating right now which is a big issue

OECD response: This aspect is addressed in Pillar II in the report.

- For indicator 3 and GPP – we have an action plan but when the time comes to look at what we have put in practice, we need a tool to include statistics, and this has not been achieved, we do not have a tool to monitor it because IT system is not designed to achieve that

OECD response: Included in Indicator 13

- Something we have seen from our sight has to do with court – the courts are



obsessed with requesting everything in a printed form – there is an electronic system but people required everything in a printed form. What about environmental concerns? Also there is a time limit of 1 month to issue a decision which usually comes on the last day, and requires document which extends the deadline.

OECD response: Included in Indicator 13

Pillar II - Institutional Framework and Management Capacity

Ms. Costanza Caputi, OECD

Discussion

- **Giorsimo:**
 - Comment on the monitoring of the PP system – I think that we should give greater emphasis on the fact that since the summer of 2021 (ministerial decision voted) we apply a systematic monitoring and we are responsible for this – since then we have defined all the monitoring information and quantitative and qualitative indexes –this methodology of monitoring has been based on the monitoring template that has been approved by the European commission and has been used in many countries, this is important because with the collection of all this information since 2021 we managed to issue monitoring reports for 2018, 2019, and 2020 which were sent already to the EC and this was very fundamental and one of the first step needed. This methodology of monitoring is already working but it would be useful and powerful if the electronic system would provide a better communication with each other. Furthermore, all the info that we need for the indexes that you said are not available are already being done based on the ministerial decision. Already we have started sending reports since January and February – of course, there is room for improvement and the IT system will help us.

OECD response: Agreed – Indicator 8 now reflects the system that has been introduced since 2021. This represents a substantive improvement and therefore no gap is assigned in sub-indicator 8c. Nevertheless, there is potential for improvement of procurement monitoring by digitalising and defining a clear indicator framework (beyond the one used for collecting data).

- **K.Tzanetopoulos:**
 - About indicator 5 – the legislative part belongs to the ministry – its the ministry of digital transformation which has the electronic tool so both interesting parties need to collaborate and to have the resources. We will be able to give a direction and move together

OECD response: It has been highlighted that the legislative initiative belongs to ministries in Greece.

- On indicator 6: we should have a connection with the procurers, need close contact with the market



OECD response: Agreed. This is discussed more in Indicator 9 and 10 that discuss the practices of public procurement.

- Regarding index 7: there are some private platforms on which PP might happen. Big tenders of millions euros move from private platform so we should include them in the OECD report because most of the time private platform are excluded

OECD response This an important point. The report already mentioned platforms owned by contracting entities outside the ESIDIS / KIMDIS system (Indicator 7)

- Regarding index 5 and professionalization = very important to invest in human resources – what is the age of people working in PP in Greece ? we need young people willing to work, that can move forward, have the skills and capacity to do that

OECD response: This point has been highlighted in Indicator 8.

- **Gavin Hayman:** about end to end data collection – we would be delighted to discuss more on how to use that as part of the strategy to enhance data collection and meet regulatory requirements. End to end data collection very important and open contracting approach can help you.

OECD response: Thank you for this comment.

- **Vasiliki Skartsouni (HSPPA);** The law 4865 has already been published and professionalization is a bet of the outmost importance because if we manage to make a registration of professionals with extra incentives, it will be helpful and solve many problems – we have capable staff that comes to the procurement department and do not know anything and have not done a procurement before so cannot do all the processes by themselves without the experience – so we all know that we should put more effort in professionalization and its our plan. Having trained staff will give us the opportunity to utilize tools such as the dynamic procurement system because its not that we do not have the good will to do that but we do not have the experience to do that.

OECD response: Yes, thank you for this comment. The report is very much aligned with this view emphasising professionalisation as a key to unlock value from public procurement.

- **Tasos Papazarif** (Ministry of digital transformation) – regarding KIMDIS we have been working and are the final stage to put into place the interoperability needed. Regarding open data, we are at your disposal for anything you might need – in order for you to help us disseminating information and in a few months we will be designing the next action plan, a 2 years action plan regarding open governance and we are open in any action that has to do with e-procurement or anything else that might be needed.

OECD response: The reference to ongoing work to make sure interoperability is in place has been included.



Pillar III - Public Procurement Operations and Market Practices

Ms. Costanza Caputi, OECD

Discussion

- **Mptespan:** the thing i would like to discuss with you is the post legalisation which has to do with payment and whether it is the same thing in both pillars since we have discussed it in pillar 1 and during our collaboration but in contract management we have a red flag already evaluated under pillar 1 – this concerns me and we discussed about it during our last evaluation.

OECD response: Clarified during the workshop

- **K.Tzanetopoulos:** I would like to say that regarding market research, this has to do with the capability of the people working on PP system and analysis and the discussion we have with the sellers so it is an issue of skills of the people working in the PP system. Indeed sometimes we use low budgeting and as a result it is not viable and we have to use lowest price criteria and not the MEAT criteria. Also the number of sellers are low who are procuring – we need to find more procurers and do not forget that we have many islands and mountains with difficult access over there. Regarding training, we could train the procurers after or before the procurement procedure to see what mistakes were made but again the problem is with the staff – the solution would better be that people need to know how to order things, again I am talking about the electronic catalogue – if this catalogue was operational we would save a lot of time and avoid a lot of mistakes- I think this is where we should move.

OECD response: Yes, the report is very much aligned with your perspective. Additional emphasis has been added to tools such as e-catalogues.

- **Mairpoul:** I am missing in your findings an importance index – we should have in mind some correlation that exist in PP in Greece – the bigger part of procurement have to do with co-funded projects so the funder of the co-funded project is the first thing to be controlled and regarding public investment, 5 billion/year as to do with co funded programs – we are very stricter in our controls, so in our approach, I did not see that in your findings. Obviously people who are dealing with PP are not very well educated – they just see some things online and do not know how to put them into context for each specific context – we need training in this sector – when we approach the market, there are some correlation between PP and the market – it's better to locate the problem, to see which part of the market which is working properly and the part with lots of problems. We ask receivers of the complaints – most problems are located in the project that are not co-funded.

OECD response: It is certainly true that the comparison of co-funded and not co-funded projects is an interesting lens of analysis in Greece. Unfortunately, this comparison goes beyond the scope of the MAPS project at this stage.



Pillar IV - Accountability, Integrity and Transparency of the Public Procurement System

Ms. Costanza Caputi, OECD

Discussion

- **Vasiliki Skartsouni:** I would like to highlight 2 aspects that I consider very relevant:
 - The citizens are informed about tenders through KIMDIS and ESIDIS –

OECD response: Yes, well noted and reflected in the report.

- The submission of complaints is opened to everyone – it is anonymous, free of charge and does not require the existence of a legal interest – there is a whistled platform to submit complaints anonymously – this is a good practice that deserve to be mentioned.

OECD response: Added to the report in Indicator 11 (HSPPA's whistle-blower platform was already mentioned.)

- The authority has prepared a code of ethics of conduct for its staff and for the auditors to avoid bribery and other practices such as gift and accommodation

OECD response: This is already discussed in the report.

- **Mina Kalogridou:**
 - I would like to make a brief comment about indicator 13 – the competence of the former AIPE to examine prejudicial remedy is above the limit of art 118 – works have a limit of 6000 euros for direct awards and technical assistance contract up to 6000 euros there is no competence of AEP – the former AEP is competent for contract above the limit provided by art 118 and for technical assistant the limit is 6000 euros.

OECD response: Thresholds corrected.

- The gap you mentioned that is that appeals are not public – it don't know if this is a practice in other states, we have transposed the relevant directives but I don't know if this is a good practice, to have this provision in the legal system to have appeals publicly opened

OECD response: Yes the MAPS methodology calls for the transparency of decisions. They can be useful tools for other CA as a learning instrument.

See MAPS:

Indicator 13 c) d)



“Decisions are published on the centralised government online portal within specified timelines and as stipulated in the law.”

- Suppliers' code of conduct: Economic operators must also function under the general applicable principles in a way that is not contrary to provision and should not have criminal behaviour such as bribery ect – in the law 4412 – there is this kind of template and provision.

OECD response: Yes, this point is understood and discussed in Pillar I. Namely, the law provides for exclusion in cases of conviction, distortion of competition, collusion, etc. as described in the report. See indicator 1 (d) c.

- **Kontogeorgakis:** I would like to note that our service, the general directory for financial audit conducts annual audits through a program that is risk based program and throughout the audit, we call them regular audit, we also audit public contract mainly for legality and conformity – now as regard to performance audit, this is an issue mentioned before, we have actually found that there is a gap there and our general directory has the competence so this year we have prepared a more detailed performance audit that concerns the PP procedure – this in an audit that is ongoing – another issue that was mentioned has to do with ethics – since 2013, we have prepared a code of conduct for our auditors.

OECD response: Report updated with this information.

- **K. Tzanetopoulos-** about indicator 13 and the fees – not sure that the fees are high for suppliers – It should depend on the price of the contract – maybe it should vary depending on the price of the contract – not sure that the suppliers are using this possibility for big tenders.

OECD response: Fees do not appear to be an issue, or represent a barrier to access to the appeals process. This part has been removed from the report.

- About the appeal process: The appeal process creates many issues for administrative management – we are facing many pages of appeals by law firm and have to answer them in short time, 2 weeks which is a very demanding task – employees find it difficult to address all these in short period of time.

OECD response: Included in the assessment.

- **Maripoul:** we see that there is many complaints saying that bidders conceal some facts in their declarations

OECD response: This seems a relevant point. However, we would need more information to substantiate it as a finding.

- **K. Tzanetopoulos:** when the competition committee controls a specific case,



decisions are taken after 6, 7, or 9 years which does not help the situation – important to reinforce the competition committee or having more expedite procedure.

OECD response: Thanks for this comment. Indeed, the competition commission has a very important role. However, the assessment of it and its operations is not directly part of the MAPS assessment criteria and as such it is not addressed in detail.

Annex 7: List of participants to the validation workshop

Costanza Caputi - OECD
Nicolás Penagos - MAPS/OECD
Theodoros Galanis - EC REFORM
Lisa Vanden Eynden – OECD
Paulo Magina - OECD
Ikosmas
Ninetta Manousi
Karolis Granickas - Open Contracting Partnership
Gavin Hayman – Open Contracting Partnership
A. Kontogeorgakis MOF/GDFA
Mary Kyriakopoulou
Viktoria Ntouska
Ioannis Marinis - GDFA (MoF)
Abitsika
Maria Goulielmou - EKAPY
Ioannis Panolias
Viktoria Ntouska
K Mastrogianni
Sparthenopoulou
Kleia Andrik
Ekoumparouli
K Tzanetopoulos
ΕΑΔ_Αδαμαντία Ξουρή
Maripoul
Effrosyni Kiourktsi
Rigatos Gerasimos
Katsanakis Vasileios
Pkalaitzi
Andreas
Vasiliki Skartsouni – HSPPA
Eligoutsikou
Giorsimo
Ioannis Petrocheilos



Ioannis Panolias
Ikatsampanis
Nfilo
Ninetta Manousi - SEV
Avgi Oikonomidou - SEV
ΔΙΟΝΥΣΙΑ ΚΑΤΣΙΒΕΛΗ
Eboli
Konstantinos Spanos - NTA
Βαia Στεργιοπουλου
M Vasilakopoulou
Viktoria Ntouska
Akontogrouni
Gkorovesis
E Kalpakidis
Nikolaos Papanikolaou
Κουτσουνπασ Σεραφείμ
Akourtesi
A. Tsomokos
Παναγιώτης Τομπουλίδης
Irakleia Schoina
Maria Goulielmou
Tasos Papazarifis - Mindig/Poc OGP GRE
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Ikatsampanis
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Eleni Douvi
E Kalpakidis
Effrosyni Kiourktsi
Mvasilakopoulou
Pkalaitzi
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Ioanna Gkitzeni
Viktoria Ntouska
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Nikolaos Papanikolaou
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Akourtesi
Ninetta Manousi



Irakleia Schoina
Ioannis Panolias
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Rigatos Gerasimos
Konstantina Lyroudia
Προκοπίου Ακης
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Rigatosg
Avasileiou
Michael Mitsopoulos - SEV
Rigatosg
Mpetspan
Mpapouli
Stamatoula Patrikounakou
Constantia Patelodimou
Atzara
Melina Lambropoulou
Npavlidis
C Dimopoulou
Minakalo
Cspiliotopoulos
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Ikatsagkolis
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Kleia Andrik
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Ioannis Bathianakis
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Foteini Topali
Ioannis Bathianakis
Eprosinikli
Konstantina Lyroudia
Marilia Tilli
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