

Pillar I. Legal, Regulatory, and Policy Framework

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

The legal and regulatory body of norms complies with the following conditions:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Is adequately recorded and organised hierarchically (laws, decrees, regulations, procedures), and precedence is clearly established.	<p>Yes. 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 (See articles 28, 36, 42-44, 54, 83, 107).</p> <p>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/EU¹ (hereafter referred to as public procurement law). This law includes rules for procurements at all values. In specific articles of the public procurement law, the relevant ministers are given the power to regulate more detailed procedures in their area of competence (e.g., article 38 regulates KIMDIS; art. 38 para. 6 authorises the Minister of Development and Investments, the Minister of Digital Governance and the Minister in charge of the respective issue to regulate details regarding the web site, the structure and content, accessibility, registration procedure, etc.).</p>		<p>Stakeholders reported about ex-post legalisation of flawed procedures by adopted ad-hoc legislation in parliament. The assessors identified several instances where ad hoc legislation legalised faulty procurement procedures ex-post. The examples occurred in several 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 rule compliance with the public procurement law. As detailed below, such ex post legalisation of expenditure is practiced often in the health sector. Nevertheless, instances of ex-post legalisation have been recorded in other sectors, too.</p> <p>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 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.</p> <p>Indicative list of legal provisions legalizing unlawful procurements:</p> <p>1. L. 4332 /2015 “Amendment of provisions of the Code of Greek nationality, of L. 4251/2014 on transposition of the directives of the European Parliament and of the Council of 2011/98/EU on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State and 2014/36/EU on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers and other provisions.</p> <p>1.1 Article 17 par. 2: “Expenditures regarding the payment of obligations of hospitals of the National Health System and the Health Regions, arising from supplies and services carried out until publication of this law, without conclusion of a contract , which are not mentioned in the Price Observatory kept by EPY (article 24 of L. 3846/2010) and no previous contracts are in place, are considered to be legal provided that they are included in the approved appropriations of their budget, of the corresponding years of reference”.</p> <p>By article 73 of L. 4368/2016 the above provision was extended until 21.2.2016.</p> <p>By the 6th article par. 2 point d of L. 4432/2016 the above article was amended to cover supplies and services carried out until 31.10.2016 and then again by article 78 par. 3 of L. 4626/2019 (A 134) it was extended until 31.7.2019.</p> <p>By article 6 of L. 4683/2020 the above article was amended to cover supplies and services carried out until 31.3.2020 .</p> <p>1.2 Article 17 par. 3: “Expenditures of the Samos General Hospital arising from the supply of goods and services carried out until 31.12.2014 that have not been paid for reasons of lack of documents, may be ordered to be paid as an exception based only on the relevant invoice, at the expense of the appropriations of the hospital’s budget of the current year”.</p> <p>By the 6th article par. 3 of L. 4432/2016 it was amended as follows:</p> <p>“Expenditures of the Samos General Hospital arising from the supply of goods and services carried out until 31.12.2014 that have not been paid for reasons of lack of documents, may be ordered to be paid as an exception, based only on the relevant invoice, at the expense of the appropriations of the hospital’s budget of each year, until 31.6.2017 ”.</p> <p>1.3. Article 17 par. 4: “For reasons of public interest, expenditure carried out for works executed in derogation of articles 28 and 114 of L. 3669/2008 (A 116) as currently in force regarding: (a)</p>	x	<p>Refrain from undertaking ex-post legalization of procedures, instead investigate the reasons for non-compliance and support contracting authorities in improving their approaches for the next round of procurements.</p> <p>Greek authorities should 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.</p>

1 The full title of L. 4412/2016 is: “Public Works, Supplies and Services (transposition of Directives 2014/24/EU and 2014/25/EU (GG 147/8.8.2016)).

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

			<p>works in the Special Infections Unit; (b) repair of the wells and the perimeter sewerage network; (c) consolidation works of the basement of the main wing of the main building; (d) redevelopment-renovation-repair of the Department of Regular Outpatient Clinics (TEI) of the Hospital of the Hospital of Venereal and Dermatological Diseases " "A. Syggros ", with a total approved budget of three hundred and forty thousand (340,000) Euros, is legal and can be paid by the approved appropriations of the project with number 2014 SE 09100001 entitled "Execution of various works at the Hospital of Venereal and Dermatological Diseases " "A. Syggros ", of SAE 091 (National Scheme) of the Public Investment Program of the Ministry of Health in which they are included".</p> <p>2. L. 4368/2016: "Measures to speed up governmental work and other provisions"</p> <p>Article 73 par. 2: "The expenses of Public Health Districts , which took place from 1.1.2015 to 30.6.2015, to cover the needs of the Primary Health System, in derogation of any general or special provision of the existing legislation on procurements, as well as the provisions of P.D. 113/2010 and Law 3871/2010, are considered legal, provided that the respective credits are in their budget".</p> <p>By article 51 par. 6 of L. 4384/2016 the date "30.6.2015" was changed to 31.3.2016.</p> <p>By article 52 par. 6 of L. 4410/2016 the provision was extended until 30.6.2016 and then again by the 6th article par. 2c of L. 4432/2016 the provision was amended as follows: "The expenses of Public Health Districts, which took place from 1.1.2015 to 31.10.2016, to cover the needs of the Primary Health System , as well as those that took place until 31.12.2016 to cover the needs of Hospitals, in derogation of any general or special provision of the existing legislation on procurements, as well as the provisions of P.D. 113/2010 and Law 3871/2010, are considered legal, provided that the respective credits are included in their budget".</p> <p>By article 38 par. 1 of L. 4578/2018 the provision was extended until 31.10.2018 and by article 78 par. 3 of L. 4623/2019 until 31.7.2019 .</p> <p>3. L. 4238/2014: "Primary National Health Network, change of purpose of EOPYY and other provisions"</p> <p>Article 37 : "For reasons of safeguarding the public interest, protection of public health and insurmountable necessity, the expenses required for the payment of obligations arising from the provision of services in hospitals of the National Health System, which were provided to hospitals by contractors already settled in there, either at the contractual prices or at the prices of the EPY's Price Observatory, are considered legal, provided that they are lower , after the expiration of the contract concluded between them, during the period from 1.9.2012 until the date of publication of the present law".</p> <p>By the 31th article par. B.2 of L. 4286/2014 the period was extended until 19.9.2014 and then again by article 17 par. 1 of L. 4332/2015 until 9.7.2015, by article 51 par. 4b of L. 4384/2016 until 31.3.2016, by article 52 par. 6 of L. 4410/2016 until 30.6.2016, by article. 102 par. 4 of L. 4461/2017 until 28.2.217, by article 7 par. 1 of L. 4558/2018 until 30.6.2018, by article 38 par. 1 of L. 4578/2018 until 31.10.2018 and finally by article 78 par. 3 of L. 4623/2019 until 31.7.2019 .</p> <p>4. L. 4316/2014 "Establishment of a dementia observatory, improvement of perinatal care, regulation of issues within the competence of the Ministry of Health and other provisions"</p> <p>Article 66 par. 9: "For reasons of public interest and in derogation of any general or special legal provision on supplies for health care providers, with a reasoned decision of the Governor of each Health District (YPE), it is possible for the YPE-PEPDYS institutions to be supplied by hospitals' suppliers under each YPE's supervision, by extending the respective contracts, under the same terms and conditions. These additional acts will be signed by the Commander of the relevant YPE and the supplier and will be paid at the expense of the appropriations of the budgets of YPE-PEDY for the year 2015. This regulation is valid until 30.6.2015. By decision of the Commander of each YPE, the Hospitals of reference and all relevant details regarding the supply and distribution of medicines of the YPE-PEDY bodies shall be defined".</p> <p>By article 17 par. 5 of L. 4332/2015 the regulation was extended until 31.12.2015 and then again by article 28 of Legislation Act dated 30.12.2015 and ratified by L. 4366/2016 second article until 30.6.2016, by article 52 par. 3 of L. 4410/2016 as amended by article 74 par. 3 of L. 4445/2016 until 30.6.2017 and by article 86 par. 3 of L. 4478/2017 until 31.12.2017.</p> <p>5. N. 3984/2011 "Organ donation and transplantation and other provisions"</p>		
--	--	--	---	--	--

			<p>Article 66 παρ. 28: “ In order to safeguard the public interest and protect public health, the costs required for the payment of obligations arising from supplies of medical technology products, medicines and services related to them, which were harmonized with the lowest prices of the local market of the Price Observatory of Article 24 of L. 3846/2010, become legal. The above expenses arise from supplies of the Hospitals of the National Health System, including Psychiatric and University Clinics, Aretaeio and Aeginiteio Hospitals, Onassis Cardiac Surgery Center and Papageorgiou Hospital of Thessaloniki, which were carried out from the date of submission to the Parliament of Law 3867/2010 until publication of L. 3918/2011”.</p> <p>By article 47 of L. 4272/2014 the following paragraph has been added: "If there are items of the previous paragraphs for which there are no recorded prices in the Price Observatory of article 24 of law 3846/2010, the expenses required for the payment of the relevant obligations arising from their supplies are considered legal as long as their prices do not exceed the contractual prices agreed by the entity in the last contract concluded for the same items ".</p> <p>The above provision has been amended regarding the last words “until publication of L. 3918/2011”, so as to be successively extended until 31.5.2019 by : the 6th article of L. 4432/2016, article 29 of L. 4532/201/,article 31 par. 1 of L. 4599/2019, article 78 par. 3 of L. 4623/2019.</p> <p>6. L. 4636/2019 on international protection and other provisions</p> <p>Article 121</p> <p>1. All kinds of expenditures of the Ministry of Civil Protection concerning the Special Bodies 10432010000000 , 1043-7010000000 and 1043-2020000000 (formerly 07-410, 07-593, 07- 420 and 07-430), carried out or for which a decision has been issued assuming the obligation to carry them out, until the publication of this law, they are considered legal and regular, in derogation from any general or special provision, except for the provisions on limitation and shall be paid until 31.12.2019, to the detriment of the relevant credits of the current financial year of the above Special Bodies .</p> <p>2. Expenses incurred by the Regional Services of the Hellenic Police and concern the Special Bodies 1043-2010000000 , 10437010000000 (formerly 07-410 and 07- 593), according to the Joint Ministerial Decision dated 06.12.2017 “Assignment of responsibilities of articles 24, 26 , 66 and 69C of Law 4270/2014 on the expenses incurred by the Regional Services of the Ministry of the Interior (Citizen Protection Sector) in the Financial Services of Supervision and Audit (D.Y.E.E.) of the General Accounting Office of the State” (B` 4315) and the provisions on the transfer of credits to secondary authorizing officers, from 01.10.2017 until the publication of the present law, are considered legal and normal, in derogation from any general or special provision and shall be paid until 31.12.2019.</p> <p>7. 4674/2020 “Strategic development perspective of Local Self-Governed Organizations, regulation of issues within the competence of the Ministry of the Interior and other provisions”</p> <p>Article 121</p> <p>1. Expenses for the payment of obligations of local self-governed organizations of the first degree, which were carried out during the period from 01.12.2017 to 31.12.2019, which do not comply with the formal conditions of articles 66 and 68 of law 4270/2014 (A`143), of PD 80/2016 (A` 145), articles 2 to 4 of law 3861 /2010 (A` 112) and article 11 of law 4013 /2011 (A` 204), due to formal deficiencies related to the withdrawal, reversal and revocation process of such obligations, the control procedures for the assumption of obligations and the posting of acts in the "DIAVGEIA" program or in the electronic system of KIMDIS, are considered regular and legal and can be cleared to the detriment of the budgets of the current or the next years of the respective local authorities, otherwise applying the provisions of article 91 of Law 4270/2014 (A` 143), provided that they get posted in the program "DIAVGEIA" or in the electronic system of KIMDIS, accordingly, within one month from the entry into force of this paragraph.</p> <p>8. L. 4587/2018: “Emergency regulations of the Ministry of Immigration Policy and other provisions”</p> <p>Article 10</p> <p>Expenditures of the Ministry of Foreign Affairs</p>		
--	--	--	---	--	--

			<p>“ Expenditures of the Ministry of Foreign Affairs carried out from 1.1.2017 to 11.12.2018 are considered legal and may be settled at the expense of the appropriations of the budget of the Ministry of Foreign Affairs of the current or next year in derogation from the provisions: (a) of articles 66 and 68 of L. 4270/2014 (A` 143) and of PD 80/2016 (A` 145); (b) of articles 2 to 4 of L. 3861/2010 (A` 112) and; (c) of article 11 of law 4013/2011 (A` 204), applying otherwise the provisions of article 91 of law 4270/2014.</p> <p>Article 62</p> <p>1 . All kinds of expenses of the Ministry of Finance that have been incurred during the financial years 2016, 2017 and 2018 or are to be borne by the budget of the Ministry for the same financial years, are considered legal, in derogation from the provisions on obligations and any other general or special provision and may be paid from the appropriations of the budget of the Ministry of Finance of the current and next financial year. In addition, expenditures incurred by the Ministry of Finance at the end of fiscal year 2013, for which it has not been possible to comply with the procedures for assuming an obligation, shall be deemed lawful in that respect only, subject to the other conditions of legality and regularity of these expenditures.</p> <p>9. L. 4812/2021: “Ratification of the amendment dated 24.3.2021 of the individual Donation Agreement for Project I [Annex 5 of Law 4564/2018] dated 3.2.2020 and of the amendment dated 13.5.2021 of the donation agreement dated 6.9.2018 between the Foundation "Public Benefit Foundation Stavros S. Niarchos ”and the Greek State for the strengthening and upgrading of the infrastructures in the field of health and its Annexes, regulations for the confrontation of the coronavirus of COVID-19 and other provisions”.</p> <p>Article Fourteen: Arrangements of expenditure issues of the hospitals of the National Health Service, the Health Regions and Health Centers</p> <p>1. The validity of par. 2 of article 17 of law 4332/2015 (A '76), regarding the legalization of expenses for the payment of obligations of the hospitals of the National Health Service. and the Ministry of Foreign Affairs, is extended from its expiration until the publication hereof.</p> <p>[...]</p> <p>7. The validity of par. 28 of article 66 of law 3984/2011 (A '150), regarding the legalization of expenses arising from supplies of the Hospitals of the National Health Service. including the Psychiatric and University Clinics, the Aretaio and Aeginiteio Hospitals, the Onassis Cardiac Surgery Center and the Papageorgiou Hospital of Thessaloniki, is extended, from its expiration, until the publication hereof.</p>		
(b) It covers goods, works and services, including consulting services for all procurement using public funds.	<p>Yes. The legal framework (the public procurement law L. 4412/2016 and its delegated regulations) applies to all procurements of the 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 (public bodies governed by private law) (See Art. 1, 3, 222 of the public procurement law L. 4412/2016). PPs in the utilities sector are not excluded; they are regulated by Book II of the public procurement law.</p> <p>Procurements in the field of defence and security are regulated by a separate Law (L. 3978/2011 as amended and in force). 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.</p>		No gap identified		
(c) PPPs, including concessions, are regulated.	<p>Yes. The public procurement law L. 4412/2016 also applies to PPPs (only some rules set out in article 1 (7) are not applicable); supplementary they are regulated by L. 3389/2005.</p> <p>Concessions are regulated by L.4413/2016 transposing Directive 2014/23/EU.</p>		No gap identified		
(d) Current laws, regulations and policies are published and easily accessible to the public at no cost	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 (EBADS) kept by HSPPA (L. 3469/2007 and L. 4013/2011). Both are accessible on the web at no cost (http://www.et.gr/index.php/anazitisi-fek and		The overall legal and regulatory framework is accessible to the public. While the law in itself is easily accessible in its current version (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 published in HSPPA’s website and they are not updated as frequently as the public procurement law (once every semester).		The user-friendliness of the database could be improved by matching delegated regulatory acts with the relevant articles of the public procurement law

	<p>https://ppp.eaadhsy.gr/index.php/el/?option=com_sppagebuilder&view=page&id=96&lang=gr respectively).</p> <p>However, 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 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.</p> <p>HSPPA's National Public Procurement Database makes it easier to find laws or regulations. The procurement law (L. 4412/2016) is available as amended and in force. The presentation of the law as such is user friendly. Information about the public procurement law is regularly updated. Regarding the rest of the regulatory framework (PDs, MDs, JMDs) the data base seems to be updated twice a year (in December 2020 the data base was updated up to regulations published up to 30.6.2020) and is presented separately in a table with links to the Government Gazette. HSPPA uses its website to inform contracting authorities about legislative changes via website announcements.</p> <p>(https://ppp.eaadhsy.gr/index.php/el/?option=com_sppagebuilder&view=page&id=96)</p> <p>Policies are published in HSPPA website in a separate point.</p>		<p>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.</p> <p>It has to be noted that the website of HSPPA and its data base operates as the national digital portal for public procurement, structured in accordance with the requirements of Regulation EU 2018/1724. It includes law and regulations, guidelines, clarifications and auxiliary material of the Authority, as well as links to further websites related to public procurement.</p>		<p>(expand and interoperate HSPPA database with the Public Procurement Law (L. 4412/2016) in its website)</p> <p>More effort should be made in order for the whole database to be updated more often.</p>
--	---	--	--	--	---

1(b) Procurement methods

The legal framework meets the following conditions:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Procurement methods are established unambiguously at an appropriate hierarchical level, along with the associated conditions under which each method may be used.	<p>Yes. Transposing Directives 2014/24/EU and 2104/25/EU, the public procurement law L. 4412/2016 (articles 26 -32A, 117-188 and 263-269A, 327-328 for PPs in the utility sector) provides for different procurement methods:</p> <ul style="list-style-type: none">- open procedure (article 27, 264),- restricted procedure (article 28, 265),- competitive procedure with negotiations (article 29),- competitive dialogue (article 30, 267),- innovation partnership (article 31, 268),- negotiated procedure with prior call for competition (article 266), and- negotiated procedure without prior publication (article 32, 269). <p>For procurements with a value below the EU threshold, the procurement law provides for two additional alternatives:</p> <p>(a) 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 projects (articles 118, 328). 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 40 000 € annually per type of product or service (118A).</p> <p>(b) contracts of value equal of or less than 2 500 € may be awarded without any procedure, at the discretion of the contracting authority. (117A, 327 A)</p> <p>It should be noted that until 31.8.2021 the procurement law provided also for the simplified procedure in case of procurements of value equal of or less than 60.000 € (articles 117, 327). This alternative was abolished by the 1st.9.2021 (article 141 of L. 4782/2021) and .</p>		No gaps are identified		
(b) The procurement methods prescribed include competitive and less competitive procurement procedures and provide an appropriate range of options that ensure value for money, fairness, transparency, proportionality and integrity.	<p>Yes. The above-mentioned procurement methods provide for competitive (e.g., open procedure) and less competitive (e.g. direct award) procurement procedures.</p> <p>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 implementation of ICT projects having as their subject matter the interoperability of digital services or the modernisation of the digital instruments of the Central Administration (article 188 para 6).</p> <p>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</p>		The new provisions of the public procurement law regarding procurement methods of consulting services may undermine the principles of transparency and competition. Namely, the new rules give significant flexibility by the use of a negotiated procedure without prior call for competition for procuring specific consultancy services, i.e. without requirements for publication in KIMDIS, but only on the CA's website.		Uphold transparency obligations (publication on KIMDIS) for all procurement methods. Specifically, tender notices resulting from negotiated procedures without prior call for competition should be included in KIMDIS.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

	<p>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.</p> <p>CAs may award public contracts by negotiated procedure without prior publication (article 32 and 269 for PPs in the utility sector of the public procurement law L. 4412/2016) only in the specific cases and under the specific circumstances laid down in the law. Namely, according to article 32 of the public procurement law L. 4412/2016, the negotiated procedure without prior publication may be used:</p> <ul style="list-style-type: none">• for public works contracts, public supply contracts and public service contracts in any of the following cases: (a) where no tenders or no suitable tenders or no requests to participate or no suitable requests to participate have been submitted in response to an open procedure or a restricted procedure, provided that the initial conditions of the contract are not substantially altered and that a report is sent to the Commission where it so requests; (b) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons: (i) the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance; (ii) competition is absent for technical reasons; (iii) the protection of exclusive rights, including intellectual property rights; The exceptions set out in points (ii) and (iii) shall only apply when no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement; (c) in so far as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the time limits for the open or restricted procedures or competitive procedures with negotiation cannot be complied with. The circumstances invoked to justify extreme urgency shall not in any event be attributable to the contracting authority;• for the purchase of supplies or services on particularly advantageous terms, from either a supplier which is definitively winding up its business activities, or the liquidator in an insolvency procedure, an arrangement with creditors, or a similar procedure under the law.• for public supply contracts: (a) where the products involved are manufactured purely for the purpose of research, experimentation, study or development; however, contracts awarded pursuant to this point shall not include quantity production to establish commercial viability or to recover research and development costs; (b) for additional deliveries by the original supplier which are intended either as a partial replacement of supplies or installations or as the extension of existing supplies or installations where a change of supplier would oblige the contracting authority to acquire supplies having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance; the duration of such contracts as well as that of recurrent contracts shall not, as a general rule, exceed three years; (c) for supplies quoted and purchased on a commodity market;• for public service contracts, where the contract concerned follows a design contest organised in accordance with this law and is to be awarded, under the rules provided for in the design contest, to the winner or one of the winners of the design contest; in the latter case, all winners must be invited to participate in the negotiations;• for new works or services, consisting in the repetition of similar works or services entrusted to the economic operator to which the same contracting authorities awarded an original contract, provided that such works or services are in conformity with a basic project for which the original contract was awarded pursuant to a procedure in accordance with article 26(1). The basic project shall indicate the extent of possible additional works or services and the conditions under which they will be awarded. As soon as the first project is put up for tender, the possible use of this procedure shall be disclosed and the total estimated cost of subsequent works or services shall be taken into consideration by the contracting authorities when they apply Article 5. This procedure may be used only during the three years following the conclusion of the original contract. <p>Technical assistance contracts may be concluded with the special procedure provided for in article 119 and 269 for PPs 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 EEA Co-financed Programmes or on EU or international programmes or funds, as well as on sectional, regional and special programs of the National Development Program (article 119 and 269 for PPs 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.</p> <p>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. Para 4 of 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 detail (see MD 23451 / EYΣA493 (Government Gazette B '677 / 03.03.2017): “Procedures for training, approval and implementation of technical assistance programs, procedures creating and maintaining lists of suppliers for the award and implementation of Technical Assistance actions”, as amended and in force) and Decision of the Deputy Minister of Development and Investment No. 26329/2022, Government Gazette B; 1244 / 17-3-2022).</p> <p>Negotiated procedure without prior call for competition can also be used for consulting services (such as technical, legal, financial and organizational 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</p>				
--	---	--	--	--	--

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

	<p>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.</p> <p>In these cases, an invitation must be posted on the CA’s website. A similar procedure applies (although in this case the threshold of EUR 30 000 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 the Secretariat General of Infrastructure of the Ministry of Infrastructure and Transports. 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 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 CA’s website.</p>				
(c) Fractioning of contracts to limit competition is prohibited.	Yes. The public procurement law L. 4412/2016 (articles 6 (3) and for PPs in the utility sector 236 (3)) stipulates that: “The choice of the method used to calculate the estimated value of procurement shall not be made with the intention of excluding it from the scope of this law. A procurement shall not be subdivided with the effect of preventing it from falling within the scope of this law, unless justified by objective reasons.		No gaps are identified		
(d) Appropriate standards for competitive procedures are specified.	Even though the contracting authorities are given discretion to choose the procurement procedure, they have to obey to the requirements of the legislation setting conditions for the usage of each procurement procedure.		No gaps are identified		

1(c) Advertising rules and time limits

The legal framework meets the following conditions:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The legal framework requires that procurement opportunities are publicly advertised, unless the restriction of procurement opportunities is explicitly justified (refer to indicator 1(b)).	<p>Yes. The law differentiates according to whether the procurement falls into the scope of the EU Directives.</p> <p><i>In case the procurement falls into the scope of EU Directives</i></p> <p>Procurement notices are sent to be published by the Publications Office of the European Union in the Tenders Electronic Daily (TED), the online version of the 'Supplement to the Official Journal' of the EU, dedicated to European public procurement (article 65 of the public procurement law L. 4412/2016). At the national level, they are published in the Central Electronic Registry for Public Procurements (KIMDIS). Procurement notices are published in KIMDIS after they are published in TED. In case of PPs procured by local authorities the procurement must be advertised in the local newspapers too (this obligation expires 1.1.2024). This obligation also applies to central services - non-local authorities in case a project or study is carried out outside Athens (transitional provisions of L. 4412/2016 (art. 379 par. 12), L. 3669/2008 and L. 3316/2055, PD. 118/2007, MD 11389/1993).</p> <p>(Article 27 and for PPs in the utility sector article 264 of the public procurement law L. 4412/2016) 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 the following cases:</p> <p>(i) where contracting authorities have published a prior information notice which was not itself used as a means of calling for competition, provided that all of the following conditions are fulfilled:</p> <p>(a) the prior information notice included all the information required for the contract notice, in so far as that information was available at the time the prior information notice was published;</p> <p>(b) the prior information notice was sent for publication between 35 days and 12 months before the date on which the contract notice was sent;</p> <p>(ii) where a state of urgency duly substantiated by the contracting authority renders impracticable the time limit of 35 days. In this case, the CA may fix a time limit, which shall be not less than 15 days from the date on which the contract notice was sent to the Publication Office of the EU (Article 29 and for PPs in the utility sector article 265 of the public procurement law L. 4412/2016).</p> <p>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 all of the following conditions are fulfilled:</p> <p>(a) the prior information notice included all the information required for the contract notice, in so far as that information was available at the time the prior information notice was published;</p>		No gaps are identified		

	<p>(b) the prior information notice was sent for publication between 35 days and 12 months before the date on which the contract notice was sent to the Publication Office of the EU.</p> <p>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, where a state of urgency (duly substantiated by the contracting authorities) renders the time limit of 30 days impracticable, they may fix:</p> <p>(a) a time limit for the receipt of requests to participate which may not be less than 15 days from the date on which the contract notice was sent to the Publication Office of the EU;</p> <p>(b) a time limit for the receipt of tenders which may not be less than 10 days from the date on which the invitation to tender was sent to the Publication Office of the EU.</p> <p><i>In case the procurement does not fall into the scope of the EU Directives</i></p> <p>Procurement Opportunities are published in KIMDIS and the time limits are set as follows (article 121 and for PPs in the utility sector article 331 of the public procurement law L. 4412/2016):</p> <p>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, the CA 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.</p> <p>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.</p>				
<p>(b) Publication of opportunities provides sufficient time, consistent with the method, nature and complexity of procurement, for potential bidders to obtain documents and respond to the advertisement. The minimum time frames for submission of bids/proposals are defined for each procurement method, and these time frames are extended when international competition is solicited.</p>	<p>Yes. Each specific procurement procedure has its own time limit. In the above sub-indicator (a), the time limits in open and restricted procedures are already mentioned.</p> <p>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. (Article 29 and for PPs in the utility sector 266 of the public procurement law L. 4412/2016).</p> <p>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 (Article 30 and for PPs in the utility sector article 267 of the public procurement law), and the same goes for innovation partnership (article 31 and article 268 of the public procurement law for PPs in the utility sector).</p> <p>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.</p>		No gaps identified		
<p>(c) Publication of open tenders is mandated in at least a newspaper of wide national circulation or on a unique Internet official site where all public procurement opportunities are posted. This should be easily accessible at no cost and should not involve other barriers (e.g. technological barriers).</p>	<p>Yes. Open tenders are published in the Central Electronic Registry for Public Procurements (KIMDIS) (articles 66 & 296 of the public procurement law L. 4412/2016 for PPs in the utility sector and article 11(1) of L. 4013/2011).</p> <p>In KIMDIS, all procurement notices and documents are mandatorily posted, provided that they exceed the value of 2 500 € (VAT excluded) (article 38 of the public procurement law). The registry is easily accessible at no cost; it does not involve any barriers. Any interested person can access the information.</p>		No gaps identified		
<p>(d) The content published includes enough information to allow potential bidders to determine whether they are able to submit a bid and are interested in submitting one.</p>	<p>Yes. At national level, all procurement documents are published in KIMDIS (article 66 of the public procurement law L. 4412/2016).</p> <p>At the European level, the published content includes the information set out in Annex V of Appendix A of the Directive 2014/24/EU.</p>		No gaps identified		

1(d) Rules on participation

The legal framework meets the following conditions:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) It establishes that participation of interested parties is fair and based on qualification and in accordance with rules on eligibility and exclusions.	<p>Yes. The legal framework does foresee participation based on qualification and provides rules on eligibility and exclusions aligning with the EU Directives (2104/24 and 2014/25).</p> <p>Selection criteria are clearly distinguished from award criteria.</p> <p>See for exclusion grounds articles 73 (& 305 for PPs in the utility sector) of the public procurement law L. 4412/2016, for rules on selection criteria articles 75, 76, 77 (& 303,304, 305 for PPs in the utility sector) of the public procurement law and rules on awarding procedure (articles 109A and 320 A).</p>		No gaps identified		
(b) It ensures that there are no barriers to participation in the public procurement market.	<p>Yes. According to articles 18 (and 253 for PPs in the utility sector) of the public procurement law L. 4412/2016, contracting authorities are obliged to treat economic operators equally and without discrimination and to act in a transparent and proportionate manner. 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.</p> <p>Regarding foreigners, there are no registration obligations or obligation to associate with local firms or to establish subsidiaries in the country in order to participate to the tender. According to article 83 (8) of the public procurement law it is provided that economic operators from other EU Member States as well as WTO GPA Member Countries shall not be obliged to undergo registration or certification in order to participate in a public contract.</p>		No gaps identified		
(c) It details the eligibility requirements and provides for exclusions for criminal or corrupt activities, and for administrative debarment under the law, subject to due process or prohibition of commercial relations.	<p>Yes. The law details the eligibility requirements and provides for exclusion for criminal or corrupt activities (articles 73 and 305 of the public procurement law L. 4412/2016, the latter for PPs in the utility sector) and for administrative debarment (articles 74 and 306 of the public procurement law, the latter for PPs in the utility sector).</p> <p>Contracting authorities are obliged to exclude an economic operator from participation in a procurement procedure where:</p> <p>(i) the economic operator has been the subject of a conviction by final judgment for:</p> <ul style="list-style-type: none">(a) participation in a criminal organisation;(b) corruption;(c) fraud;(d) terrorist offences or offences linked to terrorist activities, or inciting or aiding or abetting or attempting to commit an offence;(e) money laundering or terrorist financing;(f) child labour and other forms of trafficking in human beings; <p>(ii) the economic operator is in breach of its obligations relating to the payment of taxes or social security contributions;</p> <p>(iii) the economic operator has been in serious breach of his obligations relating to labour law.</p> <p>Contracting Authorities may provide in the procurement documents a derogation from mandatory exclusion:</p> <ul style="list-style-type: none">(a) For reasons of overriding public interest, as public health or environment protection or(b) In case of the above para (ii) where the exclusion 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. <p>Contracting authorities may provide in the procurement documents that they will exclude an economic operator in cases that:</p> <ul style="list-style-type: none">(a) the Contracting Authority can prove that the economic operator is in breach of his obligations under article 18 para 2 on the principles applying on public procurements;(b) the economic operator is bankrupt or is the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under national laws and regulations;(c) the economic operator has entered into agreements with other economic operators aimed at distorting competition;(d) where a conflict of interest cannot be effectively remedied by other less intrusive measures;(e) a distortion of competition from the prior involvement of the economic operators in the preparation of the procurement procedure cannot be remedied by other, less intrusive measures;		<p>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.</p>		

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

	<p>(f) the economic operator has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity or a prior concession contract which led to early termination of that prior contract, damages or other comparable sanctions;</p> <p>(g) where the economic operator 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 or is not able to submit the supporting documents required; or</p> <p>(h) where the economic operator 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 procurement procedure or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or award.</p> <p>(i) the contracting authority can prove that the economic operator is guilty of grave professional misconduct, which renders its integrity questionable;</p> <p>In case where an economic operator falls under any of the above situations, except for the situation under para (b), he may present evidence proving that he has taken measures that prove his credibility. If these measures are evaluated as adequate the said economic operator is accepted in the competitive procedure, otherwise the economic operator is excluded. An economic operator having been debarred from participating to public procurements may not make use of the above possibility during the period of debarment. The decision regarding the adequacy of the measures taken by the economic operator shall be issued following the consent of a commission to be established by a decision of the Minster of Development and Investments chaired by a HSPPA's representative.</p> <p>In case of a situation as laid down in para (b) the contracting authority may not exclude the economic operator if it can prove that the economic operator is in position to execute the contract, taking into account the provisions and measures for the continuance of the economic operation.</p> <p>In case that an economic operator is excluded on any of the above grounds and does not take any measures to prove his credibility, he can be debarred from participation to future public procurements for a reasonable time on the basis of the principle of proportionality, taking into account, in particular, the gravity of the offence or misdoing, the time passed, the duration, the potential relapse, the intention or the grade of negligence and the measures taken to avoid similar offences or misdoings in the future. HSPPA keeps a registry of the economic operators disbarred in its data base that is accessible to all contracting authorities/entities. A system of horizontal exclusion (debarment) is adopted to be regulated in details by a Presidential Decree to be issued following a proposition of the Ministers of (a) Development and Investments, (b) Justice and (c) Infrastructures and Transports.</p> <p>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) he bodies responsible for sending the data to HSPPA for the purpose of updating the data of the register; (j) he 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.</p> <p>A second Presidential Decree is provided for to be issued following a proposition of the Ministers of Development and Investments, Justice and Infrastructures and Transports establishing registries in HSPPA's data base regarding any data relating to the grounds for exclusion (e.g., penalties imposed for serious professional misconduct, infringements of competition law, environmental law, labour, tax or social security law)</p>				
(d) It establishes rules for the participation of state-owned enterprises that promote fair competition.	Yes. The same participation conditions as for economic operators apply to public undertakings also. No preferential treatment is granted to state-owned enterprises.		No gaps identified		
(e) It details the procedures that can be used to determine a bidder's eligibility and ability to perform a specific contract.	<p>Yes. The law provides for qualitative selection criteria (articles 75-78 public procurement law of L. 4412/2016, and articles 303-307 for PPs in the utility sector), which may refer to:</p> <p>(a) suitability to pursue the professional activity;</p> <p>(b) economic and financial standing;</p> <p>(c) technical and professional ability and to means of proof (articles 79-83, 308-310 for PPs in the utility sector, Annex XII of Appendix A of L. 4412/2016), e.g., statement of banks, financial statements for economic and financial standing, list of the works carried out over the past years for professional ability, etc.</p> <p>According to article 75 (5) of the public procurement law, "contracting authorities shall indicate the required conditions of participation which may be expressed as minimum levels of ability, together with the appropriate means of proof, in the contract notice or in the invitation to confirm interest". According to article 304 (1) of public procurement law applying to PPs in the utility</p>		No gaps identified		

	sector, “Contracting entities may establish objective rules and criteria for the exclusion and selection of tenderers or candidates; those rules and criteria shall be available to interested economic operators”.				
--	---	--	--	--	--

1(e) Procurement documentation and specifications

The legal framework meets the following conditions:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) It establishes the minimum content of the procurement documents and requires that content is relevant and sufficient for suppliers to respond to the requirement.	<p>Yes. Articles 53 and 281 (for PPs in the utility sector) of the public procurement law L. 4412/2016 regulate the minimum content of the procurement documents. In articles 53 (1) and 281 (1) it is specifically stated that the content of the procurement documents should be clear and sufficient for tenderers to submit responsive and comparable bids.</p> <p>Annex V of Appendix A of the public procurement law provides details about the minimum content of the procurement documents.</p>		No gaps identified		
(b) It requires the use of neutral specifications, citing international norms when possible, and provides for the use of functional specifications where appropriate.	<p>Yes. According to articles 54 & 282 (the latter for PPs in the utility sector) of the public procurement law L. 4412/2016 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.</p> <p>Technical specifications shall be formulated in one of the following ways:</p> <p>(a) 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;</p> <p>(b) 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’;</p> <p>(c) 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;</p> <p>(d) 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.</p>		No gaps identified		
(c) It requires recognition of standards that are equivalent, when neutral specifications are not available.	<p>Yes. It is clearly stated in article 54 (5-6) of the public procurement law L. 4412/2016 that 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.</p> <p>Similar rules to be found in article 282 of L. 4412/2016 for PPs in the utility sector.</p>		No gaps identified		
(d) Potential bidders are allowed to request a clarification of the procurement document, and the procuring entity is required to respond in a timely fashion and communicate the clarification to all potential bidders (in writing)	<p>Yes. Article 67 (2) of the public procurement law L. 4412/2016 and for PPs in the utility sector article 297 (2) state that 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. In case of the expedited procedure this deadline amounts to four days (L. 4412/2016, article 67 (2)). In the case of contracts below thresholds, the deadline is four days, too (L. 4412/2016, article 121). According to article 16 (1) of L. 2690/1999 (“Administrative procedure code”) all administrative acts shall be in written form.</p> <p>In case of electronic procurements, article 12 of No. 64233/2021 JMD ESIDIS on supplies and general services as well as article 11 of the Protocol No. 166278/2021 JMD ESIDIS on works, designs and provision of technical and other relevant scientific services stipulate that requests for clarifications as well as clarifications on the provisions of the procurement documents are communicated through the electronic system.</p>		No gaps identified		

1(f) Evaluation and award criteria

The legal framework mandates that:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The evaluation criteria are objective, relevant to the subject matter of the contract, and precisely specified in advance in the procurement documents, so that the award decision is made solely on the basis of the criteria stipulated in the documents.	<p>Yes. Article 86 of the public procurement law L. 4412/2016 provides for the contract award criteria, stating inter alia that:</p> <p>“1. Without prejudice to national laws, or administrative provisions concerning the price of certain supplies or the remuneration of certain services, contracting authorities shall base the award of public contracts on the most economically advantageous tender.</p> <p>“2. The most economically advantageous tender on contracting authority’s judgment shall 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 and may include – inter alia - the best price-quality ratio, which shall be assessed on the basis of criteria, including – inter alia - qualitative, environmental and/or social aspects, linked to the subject-matter of the public contract in question [...]</p> <p>“8. Award criteria are considered to be linked to the subject-matter of the public contract where they relate to the works, supplies or services to be provided under that contract in any respect and at any stage of their life cycle, including factors involved in:</p> <p>(a) the specific process of production, provision or trading of those works, supplies or services; or</p> <p>(b) a specific process for another stage of their life cycle, even where such factors do not form part of their material substance.</p> <p>“9. Award criteria shall not have the effect of conferring an unrestricted freedom of choice on the contracting authority. They shall ensure the possibility of effective competition and shall be accompanied by specifications that allow the information provided by the tenderers to be effectively verified in order to assess how well the tenders meet the award criteria. In case of doubt, contracting authorities shall verify effectively the accuracy of the information and proof provided by the tenderers.</p> <p>“10. The contracting authority shall specify, in the procurement documents, the relative weighting which it gives to each of the criteria chosen to determine the most economically advantageous tender, except where this is identified on the basis of price alone. Those weightings may be expressed by providing for a range with an appropriate maximum spread. Where weighting is not possible for objective reasons, the contracting authority shall indicate the criteria in decreasing order of importance”.</p> <p>Similar provisions are provided for in article 311 of the public procurement law for the PPS in the utility sector.</p>		No gaps identified		
(b) The use of price and non-price attributes and/or the consideration of life cycle cost is permitted as appropriate to ensure objective and value-for-money decisions.	<p>Yes. According to the provisions of article 86 (2) of the public procurement law L. 4412/2016 : “The most economically advantageous tender on contracting authority’s judgement shall 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, and may include – inter alia - the best price-quality ratio, which shall be assessed on the basis of criteria, including – inter alia - qualitative, environmental and/or social aspects, linked to the subject-matter of the public contract in question. Such criteria may comprise, in particular: (a) quality, including technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics and trading and its conditions; (b) organisation, qualification and experience of staff assigned to performing the contract, where the quality of the staff to be available can have a significant impact on the level of performance of the contract; (c) after-sales service and technical assistance; (d) delivery conditions such as delivery date, delivery process and delivery period or period of completion; (e)provision of guarantee under para 10 of article 72 on guarantees; (f) the increase of the warranty period provided in the contract documents.”</p> <p>The term of life cycle cost is defined in article 87.</p> <p>Similar rules are established for PPs in the utility sector (See articles 311-312).</p> <p>The general rule is that CAs 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, CAs can use price or cost as the sole award criterion, following the opinion of the technical council of the CA, provided that:</p> <p>(a) no technical information is required other than that available in the procurement documents; or</p> <p>(b) the technical information provided in the procurement documents is sufficient and a decision approving environmental conditions has been issued and is in force.</p> <p>Para 7 of article 86 states also that the cost element may also take the form of a fixed price or cost on the basis of which economic operators will compete on quality criteria only.</p> <p>Furthermore, article 86 (15) provides that: “For public works contracts, studies and the provision of technical and other related scientific services, it may be stipulated by the Minister of Infrastructure, Transport and Networks that contracting authorities may not use price or cost as the sole criterion of award, or may restrict their use in certain categories of contracting authorities or in certain types of contracts (...)”.</p>		No gaps identified		
(c) Quality is a major consideration in evaluating proposals for consulting services, and clear procedures and	<p>Article 86 of the public procurement law L. 4412/2016 regulates thoroughly the procedure and methodology for rating and evaluating proposals and similar rules are established in article 311 for the utility sector.</p> <p>There is no separate methodology specifically regarding consulting services, although article 86 (5) regarding service contracts provides for additional criteria that can be used by the CA².</p>		Although there is no specific methodology for the assessment of proposals in PPs for consulting services, the general statutory framework on evaluating technical capacity is assessed as sufficient.		

2 Such criteria are: the economic operator's understanding of the subject matter and requirements of the contract, the successful identification of problems during the implementation of the contract and the formulation of appropriate proposals for their resolution, the adequate analysis - specification of

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

methodologies for assessment of technical capacity are defined.	<p>Article 86 (15-16) provides that:</p> <p>“15. For public contracts for projects, studies, provision of technical and other related scientific services circulars may be issued by the Minister of Infrastructures and Transports concerning the weighting of the individual award criteria, the weighting of the award criteria related to the technical offer, per category of project and design and per estimated contract value. The contracting authority may deviate from the circulars, subject to the agreement of the competent technical board. 16. For supply and general service procurements circulars may be issued by the Minister of Development and Investments on the weighting of the individual award criteria, the weighting of the award criteria relating to the technical offer, per category and estimated contract value. The contracting authority may deviate from the circulars referred to above, subject to the agreement of the collective body referred to in Article 41 (5)³. No such circulars seem to have been issued until today.</p>		No gaps identified.		
(d) The way evaluation criteria are combined and their relative weight determined should be clearly defined in the procurement documents.	<p>Yes. Article 86 (10) of the public procurement law L. 4412/2016 stipulates that: “The contracting authority shall specify, in the procurement documents, the relative weighting which it gives to each of the criteria chosen to determine the most economically advantageous tender, except where this is identified on the basis of price alone. Those weightings may be expressed by providing for a range with an appropriate maximum spread. Where weighting is not possible for objective reasons, the contracting authority shall indicate the criteria in decreasing order of importance ...”.</p> <p>Similar rules to be found in article 311 of the public procurement law for PPs in the utility sector.</p>		No gaps identified.		
(e) 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.	<p>According to article 21 of the public procurement law L. 4412/2016, the contracting authority may not disclose information forwarded to it by economic operators, which they have designated as confidential, included, but not limited to, technical or trade secrets and the confidential aspects of tenders. 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.</p> <p>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 at this stage (following the unsealing of tenders) tenders are accessible only to the members of the competent procurement committees and the CA.</p> <p>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, article 14 (10) of the administrative procedure code applies, according to which meetings of such bodies are secret, i.e. members are not to disclose whatever was discussed during the meeting. Article 14 (10) of the administrative procedure code does not apply on CAs established as legal persons governed by private law.</p> <p>It should be noted that the procedure in the JMD on ESIDIS defines the procedure in detail, and specifies that tenders are not accessible to economic operators after they have been opened (No. 64233/2021 JMD ESIDIS Article 15 par. 2 (2.1).</p> <p>Furthermore, the National Strategy for Public Procurement proposed by HSPPA and adapted by 8305/2021 JMD (GGG B' 2182/25.05.2021) provides for the development of integrity standards and ethics rules (soft law provisions).</p>		<p>The law on PPs 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 article 14 (10) of the administrative procedure code applying on all collective bodies, including evaluation committees of CAs, provides that the meetings of such bodies are secret, article 14 (10) of the administrative procedure code does not apply on CAs established as legal persons governed by private law.</p> <p>Indeed this obligation is regarded as in force and applied by the contracting authorities, results from the combination of articles 18 and 102 of Law 4412/2016, article 14 par. 10 of the Code of Administrative Procedure, articles 5 par. 2.3, and 16 of MD ESHDHS 64233/2021 and 4 par. 2.3-2.4 and 13 JMD ESHDHS (166278/2021).</p> <p>No gaps identified.</p>		

1(g) Submission, receipt, and opening of tenders

The legal framework provides for the following provisions:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Opening of tenders in a defined and regulated proceeding, immediately following the closing date for bid submission.	<p>Opening of tenders is defined and regulated in articles 98, 99 and 100 of the public procurement law L. 4412/2016, for public work, designs, technical and other relevant scientific services procurements, supplies and provision of general services procurements respectively. Article 98 on public works provides that the opening of tenders takes place immediately following the closing time for bid submission. Articles 99 and 100 provide that the opening of tenders shall take place at the time and date stated in the procurement documents. The opening of the tenders is not provided to take place publicly.</p> <p>Articles 98, 99 and 100 of the public procurement law L. 4412/2016 describe the procedure in details. Regarding electronic procurements the relevant procedure is described in details in articles 16 of the No. 64233/2021 JMD ESIDIS for supplies and general services and articles 13 and 13A of the No. 166278/2021 JMD ESIDIS for works, designs and provision of technical and other relevant scientific services.</p>		<p>Regarding 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 guarantees issued electronically.</p> <p>Article 72 of law 4412/2016 foresees that the original letter of guarantee of participation, except for the guarantees issued electronically, should be submitted, under the responsibility of the economic operator, no</p>		<p>The law should stipulate that tenders in supply and service procurements should be opened immediately after the deadline for submission of tenders.</p>

the appropriateness and effectiveness of the performance methodology and the necessary supporting tools, as well as the effective communication of the economic operator with the contracting authority at the stage of performance of the contract, the effective identification of critical success factors and presentation of alternative ways of safeguarding them, the rationalization of the scope of the contract into work modules linking them to the minimum deliverables required and the timetable described in the technical specifications, the completeness - adequacy of the deliverables and documentation to ensure the applicability of the solutions proposed, the appropriateness of the service organization model, the adequacy and the clearness of distribution of responsibilities to members of the project team, the management levels

3 It refers to collective advisory bodies established to consult and give opinions to Central Purchasing Bodies on PP issues.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

			<p>later than the date and time of opening of the tenders as specified in the contract documents.</p> <p>The law does not provide that the tenders should be opened publicly.</p> <p>The non-public unsealing of the bids in the works, studies and related technical and scientific services contracts, is compensated by the announcement of the economic bodies that submitted a bid, before the Tender Committee proceeds to the unsealing of the bids and their evaluation. ESIDIS, through its Security Regulations, ensures the integrity and confidentiality of the offers / applications for participation, while the relevant Joint Ministerial Decision provides that access to the details of the offers is open exclusively to the Tender Committee, until the issuance and sending of its minutes to the decision body of the contracting authority. Economic operators receive full knowledge of the data of the offers, with the notification to them, in accordance with article 70 of law 4412/2016, of the relevant decisions of the contracting authority.</p> <p>No formal gap is assigned.</p>		
(b) Records of proceedings for bid openings are retained and available for review.	<p>Yes. According to article 45 of the public procurement law L. 4412/2016, contracting authorities shall document the progress of all procurement procedures, whether or not those are conducted by electronic means. To that end, CAs keep a special file (the “Public Procurement File”). In case that the procedure is carried out through ESIDIS the Public Procurement File is kept in that system. The file should be supplemented and updated at all stages of the procurement procedure. The article lists the minimum documentation that CAs should keep in the Public Procurement File, including sufficient documentation to justify decisions taken in all stages of the procurement procedure, such as documentation on communications with economic operators and internal deliberations, preparation of the procurement documents, dialogue or negotiation if any, selection and award of the contract. 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.</p> <p>Further, according to articles 98-100 of the public procurement law records of proceedings for bid openings are retained (See 98 (1), 99 (1) and 100 (1)). Records are available to all participants after the competent decisive body has decided on the particular stage of the procurement procedure. The information recorded for open tendering differs according to the procurement stage and includes, inter alia, depending on the relevant stage of procurement: names of the bidders, date of receipt of the tender, compliance or not with formal requirements, tender price. According to the above-mentioned provisions, the whole process should be recorded.</p> <p>In case of electronic procurements, all communication and transmission of documents is carried out through ESIDIS and following the adoption of the decision per stage by the CA, all participants receive access to all documents/bids/tenders of the respective procurement stage. (See articles 16 and 17 of the No. 64233/215/2021 JMD ESIDIS for supplies and general services and articles 13, 13A and 14 of the No. 166278/2021 JMD ESIDIS for works, designs and provision of technical and other relevant scientific services.)</p>		No gaps identified		
(c) Security and confidentiality of bids is maintained prior to bid opening and until after the award of contracts.	<p>Yes. Article 22 (3) of the public procurement law L. 4412/2016 stipulates that 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.</p> <p>Furthermore, article 21 of the same law stipulates that the contracting authority may not disclose information forwarded to it by economic operators that they have designated as confidential, included, but not limited to, technical or trade secrets and the confidential aspects of tenders. 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.</p> <p>Article 37 of the public procurement law regulates the security policy of the Electronic System for Public Procurements (ESIDIS) and similarly the article 259 of the public procurement law for PPs in the utility sector.</p> <p>Articles 5, 7 & 14 of the No. 64233/2021 JMD ESIDIS on supplies and general services, as well as articles 4, 6, 12 & 13 of the Protocol No. 166278/2021 JMD ESIDIS of works, designs and provision of technical and other relevant scientific service regulate the relevant issues more detailed.</p>		No gaps identified		
(d) The disclosure of specific sensitive information is prohibited, as regulated in the legal framework.	<p>Yes. Article 21 of the public procurement law L. 4412/2016 provides that the contracting authority may not disclose any information provided by economic operators that these economic operators have designated as confidential. This includes, among others, technical or trade secrets and the confidential aspects of tenders. Contracting authorities may impose on economic operators requirements aimed at protecting the confidential nature of information which the contracting authorities make available throughout the procurement procedure. Where an economic operator classifies information as confidential invoking the existence of technical or commercial confidentiality, in its declaration, it shall state explicitly all relevant law provisions or administrative acts that impose the confidentiality of that information.</p>		No gaps identified		

	Prices, quantities offered, financial quotation, and technical quotation details used for evaluation shall not be classified as confidential information. Similarly, for PPs in the utility sector see article 257.				
(e) The modality of submitting tenders and receipt by the government is well defined, to avoid unnecessary rejection of tenders.	Yes. Articles 92-96 of the public procurement law L. 4412/2016 provide rules on preparing and submitting tenders. These rules are very detailed and include extensive description of the file to be submitted and the three (3) 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. The above provisions apply by analogy to PPs in utility section too (see article 315 of the public procurement law). Regarding electronic procurements, the relevant issue is similarly regulated by article 14 of the No. 64233/2021 JMD ESIDIS for supplies and general services, and article 12 of the No. 166278/2021 JMD ESIDIS for works, designs and provision of technical and other relevant scientific services.		No gaps identified		

1(h) Right to challenge and appeal
The legal framework provides for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Participants in procurement proceedings have the right to challenge decisions or actions taken by the procuring entity.	Yes. According to the law, 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. If the procurement value is 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, article 127 of the public procurement law L. 4412/2016 stipulates that 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 CA before the competent administrative court (article 127). 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 works, social and other special services contracts for technical assistance contracts, Book IV (articles 345 -373) of the public procurement law apply. The economic operator may file a request for review with the Single Public Procurement Authority (HSPPA) 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.		No gap identified		
(b) Provisions make it possible to respond to a challenge with administrative review by another body, independent of the procuring entity that has the authority to suspend the award decision and grant remedies, and also establish the right for judicial review.	As already mentioned in public procurements valued less than EUR 30 000 as well as in public procurements under article 119 on technical assistance contracts of value of up to EUR 60 000 the economic operator that was allegedly harmed by an act or omission of the contracting authority can institute remedy procedures and in particular procedures in order to set aside the act or omission challenged as well as procedures for interim measures. Thus, the right for judicial review is established. There is no provision for administrative review for this kind of public procurements. In case the procurement value is equal or more than EUR 30 000 (VAT excluded), as well as in public procurements under article 119 on technical assistance contracts of value over EUR 60 000 the economic operator allegedly harmed is obliged, before instituting judicial procedures, to firstly request for review before HSPPA. HSPPA is an administrative body that is independent of the CAs; according to the law, HSPPA is functionally and financially independent. The term for filing a request for review as well as the filing of such a request suspends the signing of the contract (article 364 (1) of the public procurement law L. 4412/2016). 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 (article 366 of the public procurement law). HSPPA has the power either to dismiss the request or to uphold it setting aside (annulling) the contested act or omission (article 367 (2) of the public procurement law). CAs are obliged to comply with HSPPA's decisions. L. 4412/2016 also establishes the right for judicial review. HSPPA's decisions, can be challenged before the competent administrative Courts (article 372 of the public procurement law on judicial challenge of HSPPA's decision).		No gaps identified		
(c) Rules establish the matters that are subject to review.	Yes. According to articles 127 and 360 of the procurement law L. 4412/2016 mentioned above, any act or omission of the CA can be challenged and subjected to review.		No gaps identified		
(d) Rules establish time frames for the submission of challenges and appeals and for issuance of decisions by the	Yes. According to article 127 of the public procurement law L. 4412/2016, for procurements valued at less than EUR 30 000 (VAT excluded), the economic operator can institute judicial proceeding before the competent administrative court against any act or omission of the CA, within 60 days from the day that the act contested was communicated to the economic operator concerned or from the day the omission occurred.		No gaps identified		

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

institution in charge of the review and the independent appeals body.	<p>According to article 361 of the public procurement law, if the procurement is valued at or above EUR 60 000 (VAT excluded), the economic operator can file a request for review with HSPPA within 10 days from the day that the contested act was communicated to the economic operator if the act was communicated by electronic means. The time frame is 15 days if communicated through 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.</p> <p>In case of non-electronic procurements, for practical reasons, HSPPA shall communicate the request to the CA within the next working day from the day the request was filed; the CA shall further communicate the request to any third party that can be affected by the acceptance of the request by the CA, as mentioned above. 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.</p>				
(e) Applications for appeal and decisions are published in easily accessible places and within specified time frames, in line with legislation protecting sensitive information.	The legal framework provides only for publication of HSPPA’s decisions. According to article 365 (6) of the public procurement law L. 4412/2016, HSPPA’s decisions are 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.		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). User-friendly publication of decisions allows 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.		Consider publication of review decisions to a greater extent
(f) Decisions by the independent appeals body can be subject to higher-level review (judicial review).	Yes. HSPPA’s decisions can be challenged before the competent administrative Courts (article 372 of the public procurement law L. 4412/2016), i.e. the Administrative Courts of Appeals or the State’s Council.		No gaps identified		

1(i) Contract management

The legal framework provides for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Functions for undertaking contract management are defined and responsibilities are clearly assigned,	<p>Yes.</p> <p>Regarding work contracts:</p> <p>Article 136 (1) of the public procurement law L. 4412/2016 establishes that monitoring, controlling and management of 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. Articles 136-149 of the public procurement law include detailed rules on the project administration and management, while articles 168-173 of the public procurement law regulate the works acceptance procedure.</p> <p>Regarding design and technical services contracts:</p> <p>Article 183 (1) of the public procurement law stipulates that “The management of the contract, its monitoring and control, are exercised by the competent technical service of the employer (Managing Service) and 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, according to the rules of art and science”. The same article (paragraphs 2-8) provides for further detailed rules.</p> <p>For service contracts, article 216 of the public procurement law stipulates that: “1. Monitoring of the execution of the service contract and its administration is carried out by the competent service or otherwise by the service which is designated by a decision of the contracting authority or a committee, which is also set up by a decision of the contracting authority. The above service makes suggestions to the competent decision-making body on all matters relating to the proper performance of the contract terms and to the fulfilment of the contractor's obligations, on taking the necessary measures due to non-compliance with the above conditions and in particular on matters relating to modification of the subject</p>		No gaps identified.		

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

	<p>matter and extension of the duration of the contract, without prejudice to the provisions of Article 132⁴. 2. The competent service may, by its decision, appoint an employee of the service as a supervisor for the purpose of monitoring the contract, in particular in service contracts where their performance requires continuous monitoring on a daily basis. By the same decision, especially in cases of complex contracts, other employees of the competent department or of the bodies benefiting from the contract may be appointed, to whom individual tasks are assigned for the monitoring of the contract. In this case, the supervisor acts as a coordinator. 3. The duties of the supervisor are, indicatively, the certification of the execution of the subject matter of the contract, as well as the examination of the compliance of the contractor with the terms of the contract. Upon the recommendation of the supervisor, the service that manages the contract may address instructions to the contractor regarding the execution of the contract. Articles 216-220 of the public procurement law provide for further detailed rules on the execution of service contracts ...”. The receipt of services or deliverables is carried out by a three-member or five-member Receipt Committee (L. 4412/2016, article 219 (1).</p> <p>For supply contracts, article 221 (11.b) of the public procurement law stipulates that: “For the monitoring and receipt of the supply, a three-member or five-member Monitoring and Receipt Committee is established by a decision of the competent decision-making body of the Contracting Authority or the Contract Performance Body. ... This body 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. By decision of the competent decision-making body, a secondary committee for monitoring and receiving with the above responsibilities may be set up.” Articles 206-215 of the public procurement law provide for detailed rules on the execution of supply contracts”. For contracts of an estimated value equal or less than EUR 30 000, 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 (L. 4412/2016, article 208 (10) & 219 (1)).</p>				
<p>(b) Conditions for contract amendments are defined, ensure economy and do not arbitrarily limit competition.</p>	<p>Yes. Article 132 of the public procurement law L. 4412/2016 includes the conditions for contract amendments. It says that:</p> <p>“1. Contracts and framework agreements may be modified without a new procurement procedure in any of the following cases:</p> <p>(a) where the modifications, irrespective of their monetary value, have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which may include price revision clauses, or options. Such clauses shall state the scope and nature of possible modifications or options as well as the conditions under which they may be used. They shall not provide for modifications or options that would alter the overall nature of the contract or the framework agreement;</p> <p>(b) for additional works, services or supplies by the initial contractor that have become necessary and that were not included in the initial procurement provided that a change of contractor: (i) cannot be made for economic or technical reasons e.g. requirements of interchangeability or interoperability with existing equipment, services or facilities rendered under the initial procurement; and (ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority. However, any increase in price shall not exceed 50 % of the value of the original contract. Where several successive modifications are made, that limitation shall apply to the cumulative value of all modification together. Modifications shall not be aimed at circumventing the application of provisions of this Book (articles 3 -221);</p> <p>(c) Where all of the following conditions are fulfilled:</p> <p>(i) the need for modification has been brought about by circumstances which a diligent contracting authority could not foresee;</p> <p>(ii) the modification does not alter the overall nature of the contract;</p> <p>(iii) any increase in price is not higher than 50 % of the value of the original contract or framework agreement. Modifications shall not be aimed at circumventing application of provisions of this Book;</p> <p>(d) Where a new contractor replaces the one to which the contracting authority had initially awarded the contract as a consequence of either:</p> <p>(i) an unequivocal review clause or option in conformity with point (a);</p> <p>(ii) full or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or insolvency, by another economic operator that fulfils the criteria for qualitative selection initially established, provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of the provision of this Book; or</p> <p>(iii) in the event that the contracting authority itself assumes the main contractor’s obligations towards its subcontractors where this possibility is provided for under applying legislation pursuant to Article 131;</p> <p>(e) Where the modifications, irrespective of their value, are not substantial within the meaning of paragraph 4. Contracting authorities modifying a contract in the cases set out under points (b) and (c) of this paragraph shall publish a notice to that effect in the Official Journal of the European Union. Such notice shall contain the information set out in Part Z of Annex V of Appendix A and shall be published in accordance with Article 65.</p> <p>2. Furthermore, and without any need to verify whether the conditions set out under points (a) to (d) of paragraph 4 are met, contracts may equally be modified without a new procurement procedure in accordance with this Book where the value of the modification is below both of the following values: (i) the thresholds set out in Article 5⁵; and (ii) 10 % of the initial contract value for service and supply contracts and 15 % of the</p>		No gaps identified.		

4 Article 132 regulates contract amendments.
5 Article 5 refers to the EU thresholds.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

	<p>initial contract value for works contracts. The modification may not alter the overall nature of the contract or framework agreement. Where several successive modifications are made, the value shall be assessed on the basis of the net cumulative value of the successive modifications.</p> <p>3. For the purpose of the calculation of the price mentioned in paragraph 2 and points (b) and (c) of paragraph 1, the updated price shall be the reference value when the contract includes an indexation clause.</p> <p>4. A modification of a contract or a framework agreement during its term shall be considered to be substantial within the meaning of point (e) of paragraph 1, where it renders the contract or the framework agreement materially different in character from the one initially concluded.</p> <p>In any event, without prejudice to paragraphs 1 and 2, a modification shall be considered to be substantial where one or more of the following conditions is met:</p> <p>(a) the modification introduces conditions which, had they been part of the initial procurement procedure, would have allowed for the admission of other candidates than those initially selected or for the acceptance of a tender other than that originally accepted or would have attracted additional participants in the procurement procedure;</p> <p>(b) the modification changes the economic balance of the contract or the framework agreement in favour of the contractor in a manner which was not provided for in the initial contract or framework agreement;</p> <p>(c) the modification extends the scope of the contract or framework agreement considerably;</p> <p>(d) where a new contractor replaces the one to which the contracting authority had initially awarded the contract in other cases than those provided for under point (d) of paragraph 1.</p> <p>5. A new procurement procedure in accordance with this Book shall be required for other modifications of the provisions of a public contract or a framework agreement during its term than those provided for under paragraphs 1 and 2</p> <p>[...]”.</p> <p>Article 156 of the public procurement law on work contracts provides for detailed rules on specific issues on contract amendments during their term, on increase/decrease of works and on new works. Article 186 of the public procurement law provides for detailed rules on amendment of design and technical service contracts and article 337 of the public procurement law on amendment of contracts in the utility sector.</p>				
(c) There are efficient and fair processes to resolve disputes promptly during the performance of the contract.	<p>For work contracts: article 174 of the public procurement law L. 4412/2016 provides for administrative resolution of contractual disputes, article 175 of the public procurement law for judicial resolution of disputes and article 176 of the public procurement law 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.</p> <p>For design and technical service contracts: article 198 of the public procurement law provides for administrative and judicial resolution of disputes; for supply and service contracts article 205 of the public procurement law provides for administrative review procedures during performance of contracts and 205A of the public procurement law for judicial resolution of disputes.</p>		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.		The legal framework should provide for alternative dispute resolution for all types of public contracts. Since litigation may take years to conclude, there should be provisions for mandatory use of ADR methods under certain conditions and for certain contracts, e.g. in case of contracts of lesser value.
(d) The final outcome of a dispute resolution process is enforceable.	<p>Yes. According to article 176 (3) of the public procurement law L. 4412/2016: “The arbitral decision [...] is final and irrevocable and is not subject to any ordinary or extraordinary legal action, except for the action for annulment in accordance with Articles 897 to 900 of the Code of Civil Procedure, is enforceable without having to be declared as such by the Courts and the opposing parties shall comply immediately with its terms”. The arbitral dispute resolution may be preceded by a stage of conciliation of the dispute (L.4412/2016 article 176). All judicial final decisions are enforceable (e.g., see article 50 of PD 18/1989 on Codification of laws applying on the Council of State).</p>		No gap identified		

1(j) Electronic Procurement (e-Procurement)

The legal framework provides for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The legal framework allows or mandates e-Procurement solutions covering the public procurement cycle, whether entirely or partially.	<p>The Greek e-procurement system consists of a publication platform (KIMDIS, see above), and a platform to manage the public procurement process (Electronic System for Public Procurements (ESIDIS).</p> <p>Article 36 (1) of the public procurement law L. 4412/2016 stipulates that: “The contracting authorities are obliged to use ESIDIS at all stages of the public procurement process under this law, with an estimated value of more than sixty thousand (60 000) Euros, with the exception of the procedure for the conclusion of contracts provided for in article 128 on special services awards (consultants, experts) regarding the study and execution of public works and work concessions”. For PPs valued at less than EUR 30 000 the use of ESIDIS is optional.</p>		E-procurement solutions do not cover the management of the contract, billing and payments, although electronic invoicing has been initiated in contracts above the thresholds (JMD eco 60967EJ 2020 and oik 60970 / EX 2020 (B 2425) and the regulatory framework on ESIDIS for supplies / general		E-procurement solutions should expand to cover the whole life cycle of PPs including contract management, and below EU thresholds.

	<p>Regarding PPs in the utility sector article 258 (11) of the public procurement law stipulates that CAs can use their own electronic system, if they have one in place provided that it conforms with the security specifications provided for regarding ESIDIS.</p> <p>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)”.</p> <p>Although in electronic procurement procedures tenders are submitted by electronic means according to article 13 of EMD ESIDIS No. 64233/2021, economic operators have to submit some of the electronically submitted documents also in paper form⁶. They have to do so before the date and time of opening of tenders, as specified in the 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 (JMD ESIDIS No. 64233/2021, article 13). 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 process (Law 4281/2021, article 21 replaced Article 72 of Law 4412/2016).</p> <p>Rules have been adopted for electronic invoicing, namely L. 4601/2019, articles 148-154 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 as well as JMD eco 60967EJ 2020 and 63446/2021 (GG B 2338/02.06.2021), obliging contracting authorities to accept electronic invoices regarding contracts above the thresholds.</p>		<p>services (articles 4, 18 of the relevant MD) stipulates that the System supports the procedures of electronic conclusion as well as execution of public contracts.</p> <p>It is however highlighted that the JMD on ESIDIS for works, studies and related technical services does not regulate the stage of execution of the contracts.</p> <p>In all kind of public contracts the stage of execution of the contracts is being monitored through other electronic systems that do not interoperate with ESIDIS.</p> <p>The expansion of the use of ESIDIS to EUR 30 000 threshold is a welcome development from a transparency and efficiency perspective. Nevertheless, over the long-term, Greek authorities should consider full digitalisation of the procurement system.</p>		<p>In addition, the e-procurement system could be revised or re-developed to facilitate use for small value procurements (below direct award thresholds), as electronic procurement can have many benefits to reduce transaction costs, notably in remote locations. 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.</p>
<p>(b) The legal framework ensures the use of tools and standards that provide unrestricted and full access to the system, taking into consideration privacy, security of data and authentication.</p>	<p>Yes. The relevant rules are Article 37 of the public procurement law L. 4412/2016, 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.</p> <p>Similar provisions are provided for PPs in the utility sector (See article 259 of the public procurement law).</p> <p>For example, according to article 37 (1-3) of the public procurement law it is provided that:</p> <p>“1. The security level of ESIDIS shall be proportionate to the risks attached.</p> <p>2. Tools and devices for the electronic transmission and receipt of tenders and for the electronic receipt of requests to participate should require that:</p> <p>(a) information on specifications for the electronic submission of tenders and requests to participate, including encryption and time-stamping, shall be available to interested parties;</p> <p>(b) advanced electronic signatures are required as defined by Regulation (EU) 910/2014. Contracting authorities shall accept advanced electronic signatures supported by a qualified certificate, taking into account whether those certificates are provided by a certificate services provider, which is on a trusted list provided for in Commission Decision 2009/767/EC created with or without a secure signature creation device, subject to compliance with the following conditions:</p> <p>(i) the contracting authorities shall establish the required advanced signature format on the basis of formats established in Commission Decision 2011/130/EU and shall put in place necessary measures to be able to process these formats technically; in case a different format of electronic signature is used, the electronic signature or the electronic document carrier shall include information on existing validation possibilities, which shall be under the responsibility of the Hellenic Telecommunications and Post Commission (EETT). The validation possibilities shall allow the contracting authority to validate online, free of charge and in a way that is understandable for non-native speakers, the received electronic signature as an advanced electronic signature supported by a qualified certificate. EETT shall notify information on the provider of validation services to the Commission;</p> <p>(ii) where a tender is signed with the support of a qualified certificate that is included on a trusted list, the contracting authorities shall not apply additional requirements that may hinder the use of those signatures by tenderers. In respect of documents used in the context of a procurement procedure that are signed by a competent authority of a Member State or by another issuing entity, the competent issuing authority or entity may establish the required advanced signature format in accordance with the requirements set out in Article 1(2) of Decision 2011/130/EU. They shall put in place the necessary measures to be able to process that format technically by including the information required for the purpose of processing the signature in the document concerned. Such documents shall contain in the electronic signature or in the electronic document</p>		<p>During CAs’ interviews, the problem of interoperation of ESIDIS with other electronic systems was pointed out (see pillar 2 and 3).</p>		<p>See recommendations in Pillar II, Indicator 7.</p>

⁶ 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)

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

	carrier information on existing validation possibilities that allow the validation of the received electronic signature online, free of charge and in a way that is understandable for non-native speakers [...]”.				
(c) The legal framework requires that interested parties be informed which parts of the processes will be managed electronically.	Yes. Annex V of Appendix A of the public procurement law L. 4412/2016 lists 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 (L. 4412/2016, articles 53, 281, Annex V of Appendix A)		No gap identified		

1(k) Norms for safekeeping of records, documents and electronic data

The legal framework provides for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) A comprehensive list is established of the procurement records and documents related to transactions including contract management. This should be kept at the operational level. It should outline what is available for public inspection including conditions for access.	<p>According to article 45 (and article 277 for PPs in the utility sector) of the public procurement law L. 4412/2016, “1. Contracting authorities shall document the progress of all procurement procedures, whether those are conducted by electronic means or not. 2. To that end, CAs keep a “Public Procurement File. More specific, if the award procedure is carried out through ESIDIS, the Public Procurement File is kept in the website of the award procedure [...]”.</p> <p>The Public Procurement File includes at least:</p> <ul style="list-style-type: none">(a) the documentation of the expediency of the contract;(b) the budget of the contract and its documentation;(c) evidence of the maturity of the contract within the meaning of articles 49, 50, 51, 52 ;(d) the description of the subject matter of the contract;(e) the contract documents, in accordance with Article 53;(f) all documents necessary for the contracting authority to justify the decisions taken at all stages of the public procurement process, such as:<ul style="list-style-type: none">(aa) on communication with economic operators and service judgements;(bb) on the preparation of the contract documents;(cc) on dialogue or negotiation (if any);(dd) on the selection of the contractor and the assignment of the contract;(ee) a copy of the contract. <p>Concerning public work, design and technical service contracts, the article divides the Public Procurement 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.</p> <p>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.</p> <p>Regarding public contracts awarded through ESIDIS, the relevant provisions of articles 36 and 37 of law 4412/2016 are applied, on the keeping of an electronic file and the provisions of Presidential Decree 25/2014 (Government Gazette A’44 / 2014) "Electronic records and digitization of documents".</p> <p>Regarding public contracts the award procedures of which are not carried out electronically, the following apply:</p> <ul style="list-style-type: none">the ones determined by the Ministry of the Interior, regarding the keeping of physical records, on the website https://www.ypes.gr/ekkatharisi-archeion-toy-dimosioy-tomea/,The provisions of article 9 of the PD 162/1979 "On the clearing of the files of the Public Services", of article 9 of P.D. 480/1985 "Clearing of the archives of the Local Authorities and the institutions of Legal Persons Governed by Public Law and their linked organisations " and of article 9 of P.D. 768/1980 "On the clearing of the archives of the Legal Persons Governed by Public Law". All services of the public bodies, of the Legal Persons Governed by Public Law and the Local Self-Governments have the obligation to keep their files for a specific time, depending on the type of document and to periodically clear their files within the first quarter of the year <p>There is no policy for availability of such records for public inspection specifically for PPs, 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.</p>		No gap identified.		
(b) There is a document retention policy that is both compatible with the statute of limitations in the country for investigating and prosecuting cases of	<p>According to article 45 (and article 277 for PPs in the utility sector) of the public procurement law L. 4412/2016, documents shall be kept for at least five years following the final receipt of the contract, unless in case of litigation, where the documents shall be kept until its end.</p> <p>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</p>		The document retention policy is not compatible with the statute of limitation for investigating and prosecuting cases of fraud and corruption.		The law provisions regarding the period of time that records on PPs, including records on the execution of

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

fraud and corruption and compatible with the audit cycles.	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. Furthermore, debts to the State are subject to a limitation period of 20 years inter alia when they derive from a contract drawn up, or were born as a result of unfaithful management (article 86 (3) of L. 2362/1995 and article 136 of L. 4270/2014).		I		the contracts should be kept by the competent CAs, should align with the statute of limitation for investigating and prosecuting cases of fraud and corruption.
(c) There are established security protocols to protect records (physical and/or electronic).	Security protocols are established regarding ESIDIS as mentioned above (see indicator 1j (b)). Procedures on record keeping (physical and / or electronic) including security protocols are regulated by decisions of each relevant CA.		There is no legislation on security protocols to protect records (physical or electronic) of CAs, with the exception of ESIDIS records.		The law should provide general rules on security protocols protecting records (physical and electronic) other than ESIDIS records.

1(l) Public procurement principles in specialized legislation

The legal and regulatory body of norms complies with the following conditions:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Public procurement principles and/or the legal framework apply in any specialised legislation that governs procurement by entities operating in specific sectors, as appropriate.	Yes. Book II of the public procurement law L. 4412/2016 (articles 222 – 338) applies to PPs in the utility sector, i.e. to PPs procured by contracting entities operating in the sectors of water, energy, transport and postal services. In all the above indicators reference can be found to the relevant rules.		No gaps identified		
(b) Public procurement principles and/or laws apply to the selection and contracting of public private partnerships (PPP), including concessions as appropriate.	Yes. Concessions are regulated by L. 4413/2016 transposing EU Directive 2014/23/EU. PPPs 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. 3483/2006, as amended and in force. PPPs are regulated by the same principles as regular PPs.		No gaps identified		
(c) Responsibilities for developing policies and supporting the implementation of PPPs, including concessions, are clearly assigned.	Yes. Article 3 of L. 3389/2005 on Public-Private Partnerships, as amended by L. 3483/2006, established an Inter-Ministerial Committee on Public- Private Partnerships (D.E.S.D.I.T.) with the responsibility to develop policies on executing works and providing services with the participation of private funds. Article 4 of the same law established a Special Secretariat for Public- Private Partnerships at the Ministry of Economic Affairs and Finance, aiming at supporting D.E.S.D.I.T. and Public Bodies.		No gaps identified		

2. Implementing regulations and tools support the legal framework.

2(a) Implementing regulations to define processes and procedures

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are regulations that supplement and detail the provisions of the procurement law, and do not contradict the law.	Yes. There is a range of regulatory acts that supplement and detail the provisions of the public procurement law L. 4412/2016. According to HSPPA's database, there are 17 Presidential Degrees, 39 Joint Ministerial Decisions, 103 Ministerial Decisions and 11 Decisions of HSPPA (date of reference 16.1.2021). There is no recorded case where there was established that one of the above regulations contradicted the law.		No gaps identified		
(b) The regulations are clear, comprehensive and consolidated as a set of regulations readily available in a single accessible place.	As in the case of laws regulatory acts are published in the Government Gazette and posted to the National Public Procurement Database (EBADS) kept by HSPPA (see indicator 1 (a) sub-indicator (d))		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 in a single set of regulations readily available. Instead, regulatory acts are published in HSPPA's database, requiring the user to switch websites.		See indicator 1 (a) sub-indicator (d))
(c) Responsibility for maintenance of the regulations is clearly established, and the regulations are updated regularly.	Yes. The bodies responsible for adopting a regulation are also responsible for maintenance and update. Changes in the EBADS kept by HSPPA show that regulations are updated regularly (e.g. HSPPA's decisions on model procurement documents)		No gaps identified		

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

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are model procurement documents provided for use for a wide range of goods, works and services, including consulting services procured by public entities.	<p>The Hellenic Single Public Procurement Authority (HSPPA) has issued the following mandatory model procurement documents, posted on its website (https://www.eaadhsy.gr/index.php/m-foreis/m-protypa); and published in the Government Gazette:</p> <p>Model of electronic open procedure procurement documents for the award of public work contracts with design evaluation, according to article 50 of the public procurement law L. 4412/2016, above the thresholds and below the thresholds of the public procurement law (A' 147), with award criterion the most economically advantageous tender based on price;</p> <p>Model of electronic open procedure procurement documents for the award of public work contracts above the thresholds, with design evaluation and award criterion the most economically advantageous tender based on price;</p> <p>Model of electronic open procedure procurement documents for the award of public work contracts below the thresholds of the public procurement law, with design evaluation and award criterion the most economically advantageous tender based on price;</p> <p>Model of electronic open procedure procurement documents for the award of public work contracts above the thresholds of the public procurement law, with award criterion the most economically advantageous tender based on price;</p> <p>Model of electronic open procedure procurement documents for the award of public work contracts below the thresholds of the public procurement law, with award criterion the most economically advantageous tender based on price;</p> <p>Model of electronic open procedure procurement documents for the award of public work contracts above the thresholds of the public procurement law, with award criterion the most economically advantageous tender based on the best quality – price ratio;</p> <p>Model of electronic open procedure procurement documents for the award of public work contracts below the thresholds of the public procurement law, with award criterion the most economically advantageous tender based on the best quality – price ratio;</p> <p>Model of electronic open procedure procurement documents for the award of public design contracts above the thresholds of the public procurement law , with award criterion the most economically advantageous tender based on price;</p> <p>Model of electronic open procedure procurement documents for the award of public design contracts below the thresholds of the public procurement law, with award criterion the most economically advantageous tender based on price.</p> <p>Model of invitation for the expression of interest, for the award of a contract using the procedure of competitive dialogue for the Construction and Upgrading of Port Infrastructure through Public Sector Concession Agreements and Partnerships (PPPs).</p> <p>The Hellenic Single Public Procurement Authority (HSPPA) has issued the following optional model procurement documents, posted on its website (https://www.eaadhsy.gr/index.php/m-foreis/m-protypa):</p> <p>For Dynamic Purchasing Systems, above the thresholds for the provision of student transport services procured by Regions;</p> <p>For electronic procurements for the award of Framework Agreements for the supply of goods with an estimated value of more than 60,000 Euros VAT excluded, using the open procedure;</p> <p>For electronic procurements for the award of supply contracts of more than 60,000 Euros VAT excluded, using the open procedure;</p> <p>For electronic procurements for the award of general service contracts of more than 60,000 Euros VAT excluded, using the open procedure;</p>		<p>More specialised model procurement documents are not available, e.g. for procurements using the restricted procedure.</p> <p>It should be noted that the selection by the Authority of the templates / models of tender documents to be processed and published, is made on the basis of criteria, which are related, to the needs of the contracting authorities, as notified to the Authority (e.g. Dynamic Purchasing System), as well as the frequency under which issues of application of the relevant legislative and regulatory framework are observed in individual award procedures, always taking into account the available human resources and the relevant priorities of the Authority. Indicatively, models for the award of fuel supplies, cleaning services, security services, restricted procedure for studies, as well as model procurement documents for a Dynamic Purchasing System (DPS) for the provision of general services have been included in the Authority's planning.</p>		Develop and provide additional model documents to cover more complex procurements
(b) At a minimum, there is a standard and mandatory set of clauses or templates that reflect the legal framework. These clauses can be used in documents prepared for competitive tendering/bidding.	<p>Yes. All the above-mentioned models of procurement documents include standard set of clauses and templates that reflect the legal framework.</p> <p>Furthermore, HSPPA has approved seventy (70) Greek Technical Specifications (ETEP) adopted by the competent Ministry of Infrastructure Transports, applying mandatorily on all Public Works and Designs, according to article 54 (8) of the public procurement law L. 4412/2016 (GGG B 4607/13.12.2019).</p>		No gaps identified		
(c) The documents are kept up to date, with responsibility for preparation and updating clearly assigned.	<p>Yes. 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 L. 4013/2011 article 2 (2) (e) and the public procurement law L. 4412/2016 article 53 (3).</p>		No gaps identified		

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are standard contract conditions for the most common types of contracts, and their use is mandatory.	<p>All the model procurement documents referred to in-indicator 2(b) sub-indicator (a) include contract conditions. Where the relevant model procurement documents are mandatory, the contract conditions included are mandatory too.</p> <p>It should be noted that the public procurement law L. 4412/2016 includes a vast range of rules, setting mandatory and provisional contract conditions (e.g. for work contracts articles 136-173, for design and technical services contracts articles 184-195, for supply contracts articles 200-215 and for services contracts 200-205A and 216-220). 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 resolution⁷.</p> <p>Draft contracts (contracts) for supplies and services have been prepared and are posted on HSPPA’s website⁸. For works and studies, the preparation of draft contracts are mainly under the responsibility of the Ministry of Infrastructure (L. 4412/2016 article 53 (6)).</p>		No gaps identified.		
(b) The content of the standard contract conditions is generally consistent with internationally accepted practice.	As mentioned above, the legislative framework does not provide for standard contract conditions in a consolidated model form. Instead, the public procurement law L. 4412/2016 provides for a range of rules and contract conditions either mandatory or optional for the CAs. These conditions seem to be in line with internationally accepted practice.				
(c) Standard contract conditions are an integral part of the procurement documents and made available to participants in procurement proceedings.	<p>According to article 53 (2) of the public procurement law, L. 4412/2016, contract conditions shall be included in the procurement documents. More specifically it is stated that procurement documents shall include inter alia:</p> <p>[...] (e) an accurate description of the physical object of the contract. In addition, any optional rights and the interim schedule for the exercise of such rights; [...];</p> <p>(i) the conditions for the adjustment of the price after the award, if it is considered that such a term is required, in accordance with par. 10;</p> <p>(j) the required guarantees, the type, the percentages, the time of submission of the guarantees, all their relevant terms, as well as other collateral, if requested;</p> <p>(k) the technical characteristics (specifications), the quantity and the description of the goods, services or works, control procedures, and quality control procedures, the deadline for the execution of the contract, the place and time of execution, as well as others characteristics, depending on the subject of the contract; (...);</p> <p>(r) all the special and general conditions for the execution of the contract, in particular the obligation of par. 2 of article 18⁹ and the terms of payment;</p> <p>(...).</p>		No gaps identified		

2 (d) User’s guide or manual for procuring entities

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There is a comprehensive	According to article 2 (2.e) of L. 4013/2011, HSPPA informs and guides by providing general instructions to the contracting authorities / entities and economic operators on the interpretation and application of public procurement law. Towards this aim, HSPPA prepared and published on its website www.eaadhsy.gr:		Although the team acknowledges that HSPPA has done a lot on informing, guiding and providing general instructions to CAs and economic operators on the interpretation and application of public		Consolidate existing guidance

⁷ Such contract conditions regulate the following issues: (a) sub-contracting (article 131); modification of contracts during their term (article 132); termination of contracts (article 133). These contract conditions are actually EU rules (articles 71-73 of Directive 2014/24/EU) transposed in the Greek law. Furthermore, L. 4412/2016 provides for additional contract conditions per type of contract. For example for work contracts L. 4412/2016 provides for contract conditions on the following topics:

(i) Contract administration and management: administration of the work – monitoring and supervision (articles 136, 136A); consequences of delays of the project owners to fulfil their responsibilities (article 137); contractor’s general obligations (article 138); work management by the contractor (article 139); designation of a common representative and other obligations in case the economic operators is a joint venture (article 140); collaboration with the designer – additional guarantees - liability (article 144); construction timetable (article 145); logbook keeping (article 146); deadlines (article 147); penalties in case of project delays (article 148); project acceleration and bonus (article 149); (ii) Measurements – Payments – Additional Works: advance payments (article 150); measurements (article 151); accounts (article 152); review period for basic prices on wages, materials, rents and machinery (article 153); cost-plus works (article 154); urgent and unpredictable additional work (article 155); special issues of contract amendments during their term – increase or decrease of work – new work (article 156); work damage – compensation (article 157); quality Works Quality Program(article 158); inadequacy of materials - defects and maintenance failure (article 159); (iii) Termination of the contract by the CA for contractor’s default – Dissolution of contract – Substitution: (a) termination of the contract for contractor’s default (article 160); works interruption, dissolution of contract (article 161); cancellation of dissolution (article 162); contractor’s compensation because of contract dissolution (article 163); substitution (article 164); (iv) Subcontracting – Bankruptcy- Death: subcontracting during the execution – approved subcontractor – joint venture construction (article 165); terms and procedure of subcontracting (article 166); bankruptcy, death (article 167); (v) Completion and receipt of work: certifying the completion of work (article 168); administrative receipt for use (article 169); Single System for Technical Specifications and Invoicing of Technical Works and Studies (ESTEP TIM-TEM) (article 170); term of mandatory maintenance of the works(article 171); receipt (article 172); limitation of contractor's rights (article 173); (vi) Disputes resolution: Administrative resolution of contractual disputes (article 174); judicial resolution of disputes (article 175); arbitrary dispute resolution (article 176)

Other contract clauses are provided for other types of contracts respectively.
⁸ Available here: <https://www.eaadhsy.gr/index.php/m-protypa-docs/promithies-docs>; <https://www.eaadhsy.gr/index.php/m-protypa-docs/yphresies-docs>
⁹ It refers to obligations set out in the environmental, labour and social security law.

sive procurement manual(s) detailing all procedures for the correct implementation of procurement regulations and laws.	<p>Models and Templates (https://www.eaadhsy.gr/index.php/m-foreis/m-protypa?types[0]=1&tag_list_language_filter=el-GR https://www.eaadhsy.gr/index.php/m-foreis/m-protypa?types[0]=1&tag_list_language_filter=el-GR)</p> <p>Clarification Documents¹⁰ (https://www.eaadhsy.gr/index.php/m-foreis/m-genikes-odigies/list/42?option=com_fabrik&view=list&listid=42&resetfilters=1&eads_odigies_eaadhsy__typos=%CE%94%CE%B9%CE%B5%CF%85%CE%BA%CF%81%CE%B9%CE%BD%CE%B9%CF%83%CF%84%CE%B9%CE%BA%CE%AC%20%CE%88%CE%B3%CE%B3%CF%81%CE%B1%CF%86%CE%B1&Itemid=582&limit42=10&limitstart42=0)</p> <p>Guidelines¹¹(https://www.eaadhsy.gr/index.php/m-foreis/m-genikes-odigies/list/42?limit42=10&limitstart42=0&resetfilters=1)</p> <p>Tips (https://www.eaadhsy.gr/index.php/m-foreis/m-genikes-odigies/list/42?option=com_fabrik&view=list&listid=42&resetfilters=1&eads_odigies_eaadhsy__typos=%CE%A3%CF%85%CE%BC%CE%B2%CE%BF%CF%85%CE%BB%CE%AD%CF%82&Itemid=582&limit42=10&limitstart42=0)</p> <p>Technical Instructions¹² (https://www.eaadhsy.gr/index.php/m-foreis/m-genikes-odigies/list/42?option=com_fabrik&view=list&listid=42&resetfilters=1&eads_odigies_eaadhsy__typos=%CE%A4%CE%B5%CF%87%CE%BD%CE%B9%CE%BA%CE%AD%CF%82%20%CE%9F%CE%B4%CE%B7%CE%B3%CE%AF%CE%B5%CF%82&Itemid=582&limit42=10&limitstart42=0)</p> <p>Supporting Material (https://www.eaadhsy.gr/index.php/m-foreis/m-genikes-odigies/list/42?option=com_fabrik&view=list&listid=42&resetfilters=1&eads_odigies_eaadhsy__typos=%CE%A5%CF%80%CE%BF%CF%83%CF%84%CE%B7%CF%81%CE%B9%CE%BA%CF%84%CE%B9%CE%BA%CF%8C%20%CE%A5%CE%BB%CE%B9%CE%BA%CF%8C&Itemid=582&limit42=10&limitstart42=0)</p> <p>Frequently Asked Questions (FAQs) (https://www.eaadhsy.gr/index.php/m-foreis/m-syxnes-ervthseis-apanthseis-faq-gia-to-n-4412-2016/list/29).</p> <p>The website of the Authority and HSPPA’s Procurement Database (EBDDS) operate as the national digital portal for public procurement, structured in accordance with the requirements of Regulation (EU) 2018/1724¹³ on establishing a single digital gateway to provide access to information. In particular, it includes the information required by the Regulation, with links / references to the relevant articles of Law 4412/2016, the regulatory legislation, the guidelines, the clarifying documents and the information - auxiliary material of the Authority, as well as to other electronic addresses related to public procurement. In this way, it may also serve as a handbook for public procurement, both for contracting authorities and economic operators that want to participate in public procurement procedures.</p> <p>In the adopted models (see indicator 2 (b) a), HSPPA included footnotes, which provide guidance and instructions on the proper application of the provisions of the law.</p> <p>Finally, the Public Procurement Guidance for Practitioners, a document issued by the European Commission (DG REGIO and DG GROW) in February 2018 containing guidance on how to avoid errors frequently seen in public procurement for projects co-financed by the European Structural and Investment Funds, is also posted on the HSPPA’ website www.eaadhsy.gr/images/docs/guidance_public_procurement_2018_el.pdf.</p>		procurement regulations and laws and important improvements are foreseen, a comprehensive manual detailing all procedures is not available. The law does not provide for the availability of a comprehensive manual.		with additional missing links into a comprehensive public procurement manual.
(b) Responsibility for maintenance of the manual is clearly established , and the manual is updated regularly.	<p>Article 2 (2) (d) of L.4013/2011 stipulates that: “The Authority (HSPPA) shall issue and post on its website regulations on specific technical or detailed matters relating to public procurement matters regarding in particular the interpretation of relevant national and Community law, taking into account the national jurisprudence and jurisprudence of the courts of the European Union, shall provide guidance to the competent public bodies and the contracting authorities on the above issues and shall suggest to the competent Ministers the issuance of relevant circulars. The guidelines shall specifically address issues on consolidation of control procedures at the pre-contractual stage. The competent public bodies shall consult in writing or orally with the Authority before issuing any circular or guidelines. In the event of disagreement, these bodies shall take into account the opinion of the Authority and justify their thesis in writing.” It can be concluded from the above provisions that HSPPA has the responsibility to maintain and update the manuals, although it is not stipulated expressis verbis.</p>		A clear designation of responsibility for developing a procurement manual is not included in the law.		Clearly assign the task of manual maintenance and update.

¹⁰ The following clarification documents can be found: 6601/13-12-2019: Clarification on specific issues arising during public procurement procedures for the award of liquid fuels and lubricating oil supply contracts, 6554/12-12-2019: Information about the adoption of the Regulations (EU) amending the thresholds of Directives 2014/24/EU, 2014/25/EU και 2014/23/EU, 5807/6-11-2019: Information about the adoption of L. 4635/2019 «INVESTING IN GREECE AND OTHER PROVISIONS», 5711/31-10-2019: Publication of the “Monitoring Legislation” Module in the National Public Procurement Data Base, 3965/23-07-2019: Adoption of a Decision of the Minister of Infrastructure & Transports – Determination of details for the collection and payment of the deduction in favour of P.O.MH.TE.DY., 3919/19-07-2019: Publication of the Presidential Decree 71/2019 «Registries of production factors for public and private works, designs, technical and other relevant services (MH.T.E.)», 3290/14-06-2019: Amendment of article 53 L. 4412/2016. Imposing a new deduction in favour of P.O.MH.TE.DY., 2210/19-04-2019: Clarification on the time of issue and validity of supporting documents submitted by the provisional successful tenderer (award documents) following the publication of L. 4605/2019, 1050/19-02-2019: Clarifications on the consequences of adjusting the minimum wage to ongoing procedures for the award and execution of public contracts for the provision of cleaning or / and security services , 6271/30-11-2018: Court Decision (Chamber 4) of 24 October 2018 C-124/17 (Public procurement – Procedure – Exclusion Grounds– Maximum duration of the exclusion period — Obligation for the economic operator to collaborate with the contracting authority in order to demonstrate its reliability), 5036/28-9-2018: Clarifications on the fulfilment of the requirements of Article 22.b of the model procurement notices by groups of economic operators, 5035/28-9-2018: Issues relating to the time of issue and validity of the supporting documents submitted by the provisional successful tenderer (award supporting documents) to prove lack of exclusion grounds.

¹¹ The following guidelines (K.O.) can be found on the following topics: K.O. 23: Specific issues on completing TEYD and ESPD, K.O. 22: Amendment of contracts during their term, K.O. 21: Competitive dialogue in public procurements, K.O. 20: Exclusion grounds ,K.O. 19: Contracts below the thresholds of Books I and II of L. 4412/2016, K.O. 18: Instructions for filling in the templates of open procedure procurement notices for the award of public work contracts, K.O. 17: Supporting the participation of small and medium sized enterprises (SMEs) to public procurements, K.O. 16: Instructions for filling in the templates of open procedure procurement notices for the award of public design contracts, K.O. 14: Reliance to the capacities of third parties during a public procurement procedure, K.O. 13: Selection criteria and qualification evaluation, K.O. 10: Issues arising from the use of subcontracting and conditions for its application.

¹²The following technical Instructions can be found on the following topics: Technical Instruction 6: Terms and conditions of recourse to the various forms of public procurements of innovation, Technical Instruction 5: Preliminary market consultation in public procurements of innovation, Technical Instruction 4: Application of the term: Body Governed by Public Law, Technical Instruction 3: Using the provisions of articles 251 and 252 L.4412/2016, Technical Instruction 2: Innovation contracts, Technical Instruction 1: Meaning of concession contracts

¹³ Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services

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

3(a) Sustainable Public Procurement (SPP)

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial recommendations	input for
(a) The country has a policy/strategy in place to implement SPP in support of broader national policy objectives.	<p>According to article 139 (78) L. 4782/2021 the National Strategy for Public Procurements is prepared for a time horizon of five (5) years and seeks to increase the efficiency of the procurement. The National Strategy for Public Procurements is adopted by a joint decision of the Ministers of Development and Investment, Infrastructure and Transport, Finance, Digital Governance, Justice and Health, following a proposal by HSPPA submitted to the Minister of Development and Investment.</p> <p>The current National Strategy Plan (JMD approval 25-5-2021) on Public Procurements consists of four (4) Pillars, namely:</p> <p>(a) Pillar A refers to the regulatory framework of PPs, aiming at the following goals:</p> <p>(i) Constant monitoring and simplification of the regulatory framework;</p> <p>(ii) Effective application of laws and regulations;</p> <p>(iii) Measures ensuring the resilience of the PP system</p> <p>(b) Pillar B refers to the digital transformation of PPs, aiming at full transition to digital PPs (“end-to-end eProcurement”) and is structured in the following 3 strategic actions:</p> <p>(I) Evaluation and re-design of the public procurement electronic systems, emphasizing in the completion of the electronic procedures, applying the “only once” principle;</p> <p>(ii) Aggregation, administration and analysis of credible data on digital PPs (data analytics);</p> <p>(iii) Synergies between public and private bodies in digital PPs;</p> <p>(c) Pillar C refers to achieving strategic goals ad implementing policies through PPs and is structured in 7 strategic directions:</p> <p>(I) Sustainable, whole-life-cycle, green PPs;</p> <p>(ii) Promotion of entrepreneurship through innovative PPs.;</p> <p>(iii) Infrastructure modernisation;</p> <p>(iv) Promotion of strategic reinforcement for the upgrading of SMEs;</p> <p>(v) PPs as a leverage for the economy (e.g. PPP);</p> <p>(vi) effective use of resources, achieving economies of scale and reduction of financial costs;</p> <p>(vii) societal contracts</p> <p>(d) Pillar D refers to the good governance of PPs and is structured in the following strategic directions:</p> <p>(I) Supervision of Public Procurement System;</p> <p>(ii) Monitoring of the functioning of the Public Procurement System;</p> <p>(iii) Enhancing of transparency through audit procedures in PPs.;</p> <p>(iv) Proffesionalisation of PPs.</p> <p>Furthermore, the Ministry of Development has prepared a National Action Plan for the promotion of Green Public Contracts, which refers to all types of Public Procurement (supply of goods, provision of services and public works) and 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 has been approved in February 2021 (Government Gazette B 466 / 8-2-2021). It complies with the European context of the Green Agreement, encouraging entrepreneurship and primary production in this direction. The Action Plan gradually sets public authorities quantitative targets for selected products, services and projects, to which environmental criteria shall be applied and it will be updated every three years. The National Plan also includes a series of informative and educational actions, as well as pilot actions for the implementation of Green Public Procurement in important sectors of the economy, e.g. health and food sector.</p>		No gaps identified. It should be noted that compared to EU peers, the implementation of SPP has been lagging behind.			

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

<p>(b) The SPP implementation plan is based on an in-depth assessment; systems and tools are in place to operationalise, facilitate and monitor the application of SPP.</p>	<p>The national strategy plan was developed on the basis of a Draft drawn up by HSPPA, in collaboration with other stakeholders of the central and general government, who all together made up a working group of 36 members. The draft developed was then published for consultation; all comments made during the consultation phase were incorporated to the initial draft Following that, the Minister of Development and Investments set up an other working group to review the Draft Plan to finally be submitted to and adopted by the Government.</p> <p>In the context of the strategic goals and directions mentioned above, the plan provides for the specific actions/tools to be set in place:</p> <p>(</p> <p>Indicatively for Pillar A (Regulatory framework of PPs) includes the following actions:</p> <p>i) Constant monitoring and simplification of the regulatory framework:</p> <ul style="list-style-type: none">a) Evaluation of the current regulatory framework regularly and drawing up of suggestion for its simplification: <p>(1) setting up and operation of a working group for the constant evaluation of the regulatory framework in PPs and for drawing up every six months an evaluation report, suggesting amendments;</p> <p>(2) creation of an instrument of constant consultation for the regulatory framework of PPs;</p> <p>(3) issuance of circulars regarding the awarding procedures and the execution of public contracts, model documents and proposals;</p> <p>(4) setting up by HSPPA of a working group for the evaluation of the parallel application of L. 4412/2016 and 4270/2014 with deliverable proposals for the simplification within the context of the memorandum of cooperation HSPPA / Ministry of Finance;</p> <p>(5) conducting a study to measure the administrative burden of the procedures for the award and execution of public contracts in order to adopt structured decisions, for the further simplification of the regulatory framework.</p> <p>(ii) Effective application of laws and regulations;</p> <ul style="list-style-type: none">Record and programming the issuance of secondary legislation for the effective application of the regulatory framework: <p>(6) Record of the secondary legislation, dividing it into “issued” and “to be issued”</p> <p>(7) Programming the issuance of the necessary secondary legislation by the competent Ministries;</p> <ul style="list-style-type: none">Record and programming other actions, indispensable for the effective application of the regulatory framework: <p>(8) Digital portal for PPs – implementation of the Regulation 2018/1724;</p> <p>(9) Update of the templates and model procurement documents in place by HSPPA;</p> <p>(10) Models of procurement documents of technical content by the Ministry of Infrastructure;</p> <p>(11) Creation of a classified information system for reasons of national security, based on the Article 38 (5) L. 4412/2016;</p> <p>(iii) Measures ensuring the resilience of the PP system</p> <ul style="list-style-type: none">Resilience and effectiveness of PP system in crises (pandemics, physical and technical disasters, grave accidents, etc) <p>(12) Issuance of a Guidance having the form of a Circular for the application of Articles 32 and 32A of L. 4412/2016</p> <p>Furthermore, article 18 of L. 3855/2010 on Green Public Procurement, as amended and in force, establishes an Inter-Ministerial Committee on Green Public Procurements responsible to :</p> <ul style="list-style-type: none">Develop an Action Plan for the promotion of Green Public Procurements and submit national policy proposals;Select products, services and projects, on which environmental criteria shall apply;Consider drafting environmental criteria or adopting EU green criteria;Timely inform stakeholders (contracting authorities, economic operators);Evaluate, monitor the implementation and update of the national policy and Action Plan in Greece;Suggest to the political leadership any necessary regulation and amendment of the existing legislative framework, where appropriate, as well as take the necessary measures to implement the relevant provisions of Green Public Procurement and to fulfil their purpose;Suggest to political leadership for the award of designs, the organization or participation in seminars, programs, lectures or public debates to inform, develop and disseminate the principles and applications of Green Public Procurements, for the invitation of experts and scientists to provide technical and scientific support and for setting up in each responsible Ministry individual working groups to assist in the Committee's work and in the specific issues of the Green Public Procurement relating to the field of competence of each relevant Ministry.		<p>The assessors were unable to verify whether the measures in the plan were indeed implemented or not. Furthermore, monitoring of GPP is not automated through the e-procurement system, making it more difficult to have a clear picture about uptake.</p>		<p>Consider monitoring the uptake of sustainable public procurement</p>
--	---	--	--	--	---

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

	<p>The above Committee has drawn up a National Action Plan for the promotion of Green PPs for the years 2021-2023, adopted by the No. 14900/4.2.2021 JMD of the Ministers of Development and Investments and Environment and Energy (GG B 466/2021). The Action Plan is structured as follows: 1 INTRODUCTION; 2. REFERENCE FRAMEWORK: 2.1Environmental policy, legislation and European Union initiatives in GPPs; 2.2Environmental policy, legislation and initiatives for GPPs at national level; 2.3 Greece and the GPPs - Evaluation of the current situation; 3. NATIONAL ACTION PLAN FOR THE PROMOTION OF GREEN PUBLIC PROCUREMENTS: 3.1 Methodological approach; 3.2 General objectives of the National Action Plan; 3.3 Possibilities, means and alternative ways of achieving the above objectives; 3.4 Market Research; 3.5 Detailed presentation of the selected products / services and the environmental criteria; 4. MANAGEMENT AND SUPPORT OF THE NATIONAL ACTION PLAN: 4.1 Committee for Administration and monitoring of the Implementation of the National Action Plan; 4.2 Update of the National Action Plan; 4.3 Actions of involvement, information, awareness and training of stakeholders; 4.4 Monitoring and evaluation of the implementation of the National Action Plan; ANNEXES: ANNEX 1: Details of contracts for the supply of goods and services for the years 2015 – 2019; ANNEX 2: Criteria for Public Procurement of the National Action Plan. Within the context of the above Action Plan, fifteen product categories of supplies/services/works have been selected, eight of which are mandatory and the rest optional. Finally, it is pointed out that the contracting authorities, depending on their type (Central Government Authorities / Non-central Contracting Authorities), as well as contracting entities should take into account the percentage quantitative targets per year, for the implementation of green public procurement in the 8 categories of mandatory application, such as reflected in detail in Table B.2 of the National Action Plan, as well as their quantitative targets for the 7 rest categories of optional application, such as reflected in detail in Table B.3 of the National Action Plan.</p>				
<p>(c) The legal and regulatory frameworks allow for sustainability (i.e. economic, environmental and social criteria) to be incorporated at all stages of the procurement cycle.</p>	<p>Yes.</p> <p>According to article 18 of the public procurement law L. 4412/2016 contracting authorities shall observe inter alia the principle of environmental protection; economic operators shall fulfil during the execution of the contract their obligations deriving from the provisions of environmental laws and this shall be included as a condition in the contract and shall be checked and verified by the CAs. The contractors are inspected by the Labour and Environmental Inspectorate as a matter of priority.</p> <p>According to article 20 of the public procurement law, contracting authorities may restrict participation in public procurement procedures to the following types of economic operators:</p> <ul style="list-style-type: none"> (a) Sheltered Workshops, (b) Social Cooperatives of Limited Responsibility, (c) Social Cooperative Enterprises for Integration (d) any other economic operator whose statutory aim is the social and professional integration of disabled or disadvantaged persons, provided that more than of 30 % of the employees of those entities are disabled or disadvantaged workers. <p>CAs may provide for public contracts to be performed in the context of sheltered workshops, provided that more than 30 % of the employees in such programmes are disabled or disadvantaged workers. (Similar provisions for PPs in the utility sector; see article 241 of the public procurement law).</p> <p>According to article 54 (and 282 for PPs in the utility sector) of the public procurement law technical specifications may include environmental characteristics.</p> <p>According to article 73 of the public procurement law serious infringements of environmental, social contributions and labour laws constitutes one of the exclusion grounds for economic operators (see article 73 (4a). (Similar provisions for PPs in the utility sector; see article 253 of the public procurement law).</p> <p>According to article 86 of the public procurement law, while identifying he most economically advantageous tender on the basis of quality – price ratio criteria may be used including – inter alia – environmental or social aspects linked with the subject-matter of the contract. Para 3 lists indicatively the follow social characteristics: (a) employment of workers of vulnerable population within the meaning of L. 4430/2016 for a period of at least 12 months before the economic operator’s participation to the public procurement procedure; (b) facilitation of the social or / and labour incorporation of vulnerable population; (c) combat against discrimination or / and; (d) promotion of gender equality. (similar rules for PPs in the utility sector; see article 311 of the public procurement law).</p> <p>According to article 87 of the public procurement law, while estimating the life-cycle cost, the CA shall also consider costs imputed to environmental externalities linked to the product, service or works during its life cycle, provided their monetary value can be determined and verified; such costs may include the cost of emissions of greenhouse gases and of other pollutant emissions and other climate change mitigation costs (similar rules for PPs in the utility sector; see article 312 of the public procurement law).</p> <p>According to article 130 of the public procurement law, contracting authorities may lay down special conditions relating to the performance of a contract, provided that they are linked to the subject matter of the contract and indicated in the call for competition or in the procurement documents. Those conditions may include economic, innovation-related, environmental, social or employment-related considerations. Furthermore, contracting authorities para 1 of the aforementioned article provides for a the term to be included in the contract that during the execution of the contract the contractor shall observe his obligations derived from environmental, social security and labour law. (Similar rules for PPs in the utility sector; see article 335 of the public procurement law).</p>		No gap identified		
<p>(d) The legal provisions require a well-balanced application of sustainability criteria to ensure value for money.</p>	<p>Infringements of environmental or/and labour laws are grounds for exclusion of the economic operator. Using further sustainability criteria is optional for the CAs.</p>		Although the legal provisions include sustainability considerations, the specifications are limited and leave ample room for discretion that does not seem to be used (see also indicator 9).		Consider what legal requirements are essential to increasing uptake of sustainable public procurement and take action

	<p>Note that the EU legislation¹⁴ creates binding commitments relating to the supply of certain products and services, establishing, for example, minimum standards of energy efficiency, to be complied with, e.g. regarding:</p> <p>Office equipment IT – IT products that the authorities of the central public administration purchase must comply with the most recent minimum requirements of energy sufficiency provided in the regulation for the union label Energy Star (Regulation no. 106/2008 on a community energy efficiency labelling program for office equipment)¹⁵;</p> <p>Road transport vehicles – All contracting authorities must consider the energy used for operational purposes, as well as the environmental effects of vehicles in the framework of public procurement procedures. Also, there is a common methodology for estimating the operational life-cycle cost and minimum percentages of supplies of clean vehicles are provided for the time period up to 2025 and up to 2030 (Directive 2009/33/EC on the promotion of clean and energy efficient road transport vehicle, as amended by Directive 2019/1161/EU¹⁶);</p> <p>Buildings – Minimum standards of energy efficiency are applied on public buildings, defined on national level on the basis of the common EU methodology¹⁷.</p> <p>Certain plastic products that are prohibited, due to the impact they have on the environment¹⁸</p>		Issues of professionalization, policies, goals, and measures for sustainable public procurement will be addressed in the new National Strategy for Public Procurement 2021 – 2025 adopted.		accordingly. However, 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).
--	--	--	--	--	--

3(b) Obligations deriving from international agreements

Public procurement-related obligations deriving from binding international agreements are:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) clearly established	<p>Yes.</p> <p>The public procurement law L. 4412/2016 transposed the EU Directives 2014/24/EU and 2014/25/EU.</p> <p>L.4413/2016 transposed the EU Directives 2014/23/EU.</p> <p>The above Directives have taken into consideration the provisions of the GPA, as well as other International Conventions e.g. International Labour Conventions.</p>		No gaps identified		
(b) consistently adopted in laws and regulations and reflected in procurement policies.	<p>Yes, see above. Furthermore, the National Strategy Plan (JMD 58305/2021 on Public Procurements 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 Economy (2020/C 412 I/01), A New Industrial Strategy for Europe (COM(2020) 102 final), Making Public Procurement work in and for Europe (COM/2017/0572 final), Commission Recommendation (EU) 2017/1805 of 3 October 2017 on the professionalisation of public procurement — Building an architecture for the professionalisation of public procurement (C/2017/6654),</p>		No gaps identified		

¹⁴ http://ec.europa.eu/environment/gpp/pdf/handbook_2016_el.pdf
¹⁵ <https://eur-lex.europa.eu/legal-content/EL/TXT/PDF/?uri=CELEX:32008R0106&from=EN>
¹⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02009L0033-20190801>
¹⁷ <https://ec.europa.eu/energy/en/topics/energy-efficiency/energy-performance-of-buildings>
¹⁸ Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products.

Pillar II. Institutional Framework and Management Capacity

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

4(a) Procurement planning and the budget cycle

The legal and regulatory framework, financial procedures and systems provide for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Annual or multi-annual procurement plans are prepared, to facilitate the budget planning and formulation process and to contribute to multi-year planning.	<p>According to article 48 (1) of L. 4270/2014 (“Principles of Financial Management and Supervision (transposition of Directive 2011/85 / EU) - public accounting and other provisions”, hereafter “Law on Financial Management and Supervision”), general government authorities develop their budgets on an annual basis (within the general context of the current Medium-term Budgetary Framework). 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.</p> <p>Also regarding the multi-year planning of public contracts, CAs provide for the inclusion of the proposed for financing and implementation 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 long-term basis. The projects included in the PDE are approved by the Minister of Economy and Development, following a proposal by the competent bodies and are financed from the Public Investment Budget. The Public Investment Budget is a separate part of the State Budget and is voted per funding body in a special body (Ministries and Greek Parliament).</p> <p>The PDE is divided into:</p> <p>1. National PDE : Includes projects funded entirely from national resources</p> <p>2. Co-financed PDE : Includes projects funded by the European Union and other International Financial Institutions and from national resources</p> <p>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)¹.</p>		No gap identified		
(b) Budget funds are committed or appropriated in a timely manner and cover the full amount of the contract (or at least the amount necessary to cover the portion of the contract performed within the budget period).	<p>Yes. L. 4270/2014 on Financial Management and Supervision requires that for public authorities to assume an obligation, a competent authority first has to certify that the adequate funds have been committed (see article 61). The funds remain committed until paid or until withdrawal of the commitment. According to article 4 (4) of PD 80/2016, as amended and in force procurement documents, award decisions and contracts concluded on behalf of the General Government shall state the number and date of the decision issued to assume the obligation, the number of its entry in the accounting books of the entity concerned, and the decision’s number issued approving a multi-year commitment in case the expenditure extends to more than one financial years.</p>		No gap identified		
(c) A feedback mechanism reporting on budget execution is in place, in particular regarding the completion of major contracts.	<p>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 (see articles 136, 142 of L. 4412/2016).</p> <p>In article 38 of L. 4412/16 on the Central Electronic Register of Public Procurement (KIMDIS) there is an explicit reference to the obligation to register the payments of each contract.</p> <p>Furthermore, aaccording to PD 113/2010, article 7, in conjunction with PD 80/2016 article 8, every public body has to record all its obligations in a separate book (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 bodies.</p> <p>Finally, the Project Management System of the co-financed projects provides a mechanism for monitoring the execution and establishment of payments.</p>		There are no specific provisions on mechanisms reporting on budget execution especially for public procurement in the L. 4270/2014 on Financial Management and Supervision. Nevertheless, provisions on registering payments in KIMDIS are included in the procurement law.		Assess the need for further reporting of budget execution, particularly for major projects

1 L. 4412/2016, article 41 (4)

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

4(b) Financial procedures and the procurement cycle

The legal and regulatory framework, financial procedures and systems should ensure that:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) No solicitation of tenders/proposals takes place without certification of the availability of funds.	Yes. As stated above, according to article 4 (4) of PD 80/2016, procurement documents shall state the number and date of the decision issued to assume the obligation, the number of its entry in the accounting books of the entity concerned, and the decision’s number issued on approval of a multi-year commitment in case the expenditure extends to more than one financial year. According to L. 4270/2014 on Financial Management and Supervision in order for the public authorities to assume an obligation, it must be first certified by the competent authority that the adequate funds have been committed (see article 61). The funds stay committed until paid or until withdrawal of the commitment.		No gap identified		
(b) The national regulations/procedures for processing of invoices and authorisation of payments are followed, publicly available and clear to potential bidders.*	<p>All national regulations are published in the Government Gazette as stated in Pillar I indicator 1(a), sub-indicator (d). However, as noted above, a law or regulation published in the Greek Government Gazette cannot be found unless the user knows the exact date of publication or the number of issue published and the year of publication. Furthermore, laws and regulation in the GG website are to be found as initially promulgated and there is no information whether the law in question is still in force, whether it has been amended or repelled. A thematic or chronological index is available.</p> <p>Article 69B of L. 4270/2014 on Financial Management and Supervision provides for time frames within which invoices shall be processed and paid.</p>		<p>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.</p> <p>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 time frame. Despite identification of faulty procedures, these ex post legalisation was extended several times for most of the procedures. This approach undermines the stability and rule compliance with the public procurement law. Please see indicator 1 for examples of these ex-post legalisation procedures.</p> <p>National regulations and procedures for processing invoices and payment authorization 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 authorization of payments are published in the GG, they cannot be found, unless one knows the exact date of publication or the number of issue published and the year of publication. Furthermore, laws and regulation in the GG website are to be found 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.</p> <p>Stakeholders in interviews commented that frequently, invoices were not paid on time, relative to the requirements in procedures.</p>	x	<p>National regulations on processing of invoices and authorisation of payments should also be posted in the HSPPA’s database, in a consolidated manner, i.e. presenting the rules as amended and in force.</p> <p>HSPPA could increase efforts to gather evidence and data on the extent to which requirements are followed, and if not, why this is the case to improve procedures in a way that can lead to better implementation and compliance.</p> <p>If needed, HSPPA’s responsibilities could be expanded to fill the gap between public accounting and public procurement.</p>
// Minimum indicator // * Quantitative indicator to substantiate assessment of sub-indicator 4(b) Assessment criterion (b): - invoices for procurement of goods, works and services paid on time (in % of total number of invoices). Source: PFM systems.	<p>Data on this indicator will be sought from the Commitment Register of payments (Circular for the Commitments register- KPI AP 2/47972/0026 / 15/06/2018)</p> <p>Following the transposition into national law of Directive 2011/7 / EU of the European Parliament and of the Council of 16 February 2011 on avoiding delays in the payment of liabilities of public bodies, the requirement to monitor these delays through the Key Performance Index (KPI) was created for payments.</p> <p>The fluctuation of the index is monitored on a monthly basis, only for the payments of Central Administration bodies, through reports of the e-portal with data obtained from the Integrated Fiscal Policy Information System (OPSDP).</p>	<p>During the interviews, stakeholders indicated that invoices are paid frequently with delays (see Indicator 9).</p> <p>For the central administration, the average payment time amounted to 40 days in 2019, a delay of 10 days compared to the payment terms (30 days)².</p>	<p>Although the law provides for timeframes within which invoices shall be processed and paid, invoices are not paid on time.</p> <p>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.</p>		Analyse information on the extent to which payments are made on time and with which delays, and the reasons for any non-compliance with procedures.

² Data provided during the fact-finding mission

	<p>For the rest of the bodies of the General Government the following procedure is followed:</p> <p>A) At the end of each quarter and within the first ten days of the following month, each Greek Government body sends by e-mail the table of the model 1 of Annex "A" completed based on the instructions provided in the attached Annex "A", to the General Directorate of Financial Services (GDOY) of its supervising ministry. The data of the index (KPI) are checked and certified for their completeness and correctness by the responsible Head of the GDOY of the relevant ministry. Any deficiency or omission regarding the completion or submission of the index (KPI) by the bodies, is settled by direct communication between the competent bodies of the body and the Head of the DGOY of the competent ministry.</p>	<p>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 2020³.</p>	
--	--	---	--

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

The legal and regulatory framework, financial procedures and systems provide for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The legal and regulatory framework specifies the normative/regulatory function and assigns appropriate authorities formal powers to enable the institution to function effectively, or the normative/regulatory functions are clearly assigned to various units within the government.	<p>Yes. 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”) established HSPPA, which aims at developing and promoting the national strategy, policy and actions in the field of public procurement, ensuring transparency, efficiency, coherence and harmonization of procedures for the award and execution of public contracts under national and European law, continuously improving the legal framework of public procurement, as well as monitoring its observance by public bodies and contracting authorities. By L. 4912/2022, amending article 347 of L. 4412/2016, HSPPA is also the Greek remedy review body in PPs. The tasks and mandate of HSPPA remain largely unchanged according to the current legal basis. As ensured by the law (article 347 of L. 4412/2016), the Authority has no legal personality, 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. The Authority is subject to the scrutiny of the Hellenic Parliament in accordance with Article 138A of the Rules of Procedure of the Greek Parliament and to the ex post audit of the Court of Audits.</p> <p>The legislative initiative in public procurement and other responsibilities belongs to several Ministries:</p> <p>The Public Work and Design Contracts Support Division of the Directorate for Legislative Coordination of the Ministry of Infrastructure and Transport has the responsibility to cooperate with HSPPA for the issuance of circulars and instructions on the uniform application of public procurement law on work and design contracts (PD 123/2017, article 19 (4)).</p> <p>The Directorate of Public Sectoral Works within the Ministry of Digital Governance is responsible for cooperating with HSPPA with the view to prepare procurement models for the implementation of projects and actions of digital development and strategy, as well as for the supply of services, equipment, software, networks and hardware ICT, to be used as a guide by all public bodies (article 40 (4) of P.D. 40/2020).</p> <p>More than 100 similar provisions can be found in the public procurement law, delegating authority to 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 these regulations.</p> <p>To prevent overlaps of competencies, L. 4013/2011 on the Establishment of HSPPA, article 2(c) foresees that HSPPA gives its opinion on the legality of any provision of a draft law or regulation concerning public procurements and participates in the relevant legal drafting committees. The competent authorities must take into account the opinion of the Authority. Relating to Ministerial Decisions HSPPA must give its consent in order for the Decision to be issued. Furthermore, recital 5 of the decision 460/2001 of the Council of State requires that an administrative authority such as HSPPA also need to give consent to the withdrawal of regulations, in addition to consent to new regulations.</p>		<p>In more than 100 instances, different ministries have the primary competence to regulate aspects of the public procurement system. Therefore, the assessors consider that HSPPA might not possess complete formal powers to be able to take meaningful action in all domains of public procurement, due to the split of competencies among several bodies. One 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.</p>		<p>Consider reviewing the distribution of competencies and streamlining it in as few bodies as possible, to allow HSPPA to steer public procurement as a whole and in a consistent and centralised manner in line with established priorities.</p>

³ World Bank, Doing Business 2020, Contracting with the Government, https://www.doingbusiness.org/content/dam/doingBusiness/excel/db2020/DB2020_CwG_Data.xlsx

5(b) Responsibilities of the normative/regulatory function

The following functions are clearly assigned to one or several agencies without creating gaps or overlaps in responsibility:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) providing advice to procuring entities	<p>Article 2 (2), (9) of L. 4013/2011 on the Establishment of HSPPA stipulates that HSPPA: “shall provide advice to the contracting authorities on its own initiative or at the request of the latter, in particular at the stage of adjudicating or examining objections, on the lawful conduct of public procurement procedures and the uniform application of European and national public procurement law.” Article 340 of L. 4412/16 includes further relevant provisions related to HSPPA’s role in providing advice to procuring entities. Namely, according to para 3 b) it is within the framework of HSPPA’s responsibilities to “in cooperation with EKAA and the National Coordination Authority (EAS) of the Ministry of Economy, Development and Tourism to support the contracting authorities / contracting entities in the planning and conduct of public procurement and co-financed public procurement procedures, respectively”.</p> <p>Advice to contracting authorities on public procurement is provided, in addition to HSPPA, by the Ministries that have the legislative initiative in the field of public procurement. In addition, for the co-financed projects it is also possible for the Special Institutional Support Service of the Ministry of Development to provide advisory services (according to the provisions of article 340 of Law 4412/2016).</p> <p>L. 717/1977 established the Centre of International and European Economic Law (KDEOD) aiming, inter alia, at providing advisory assistance and legal information on matters related to its scientific subject to the State and legal entities governed by public law. Its scientific subject includes Public procurement. Within KDEOD since 1.1.1997 operates the Public Procurement Monitoring Unit (MoPADIS), an advisory structure that provides the Greek contracting authorities with legal advice in the field of Public procurement that fall under the scope of EU law.</p> <p>According to PD 147/2017 the Secretariat General of Commerce and Tourism of the Ministry of Development (in charge of procurement of supplies and services) has the responsibility – inter alia – for issuing circulars and providing instructions and information to the contracting authorities on the provisions of Public Procurement law for supply and service public procurement, as well as on any matter arising during the conclusion of such contracts.</p>		Several agencies being competent in advising procuring entities on the same issue may result to overlaps / different interpretation of the same rule. Stakeholders during interviews mentioned examples of inconsistent guidance emerging from trainings. In providing advice, the needs of the user of such guidance should be focussed on.		Increase coordination in the provision of guidance (during the development and provision). Given the transaction costs involved in increased coordination, 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. In doing so, consider the perspective of the main recipients of the guidance, suppliers and CAs, and use that as the decisive factor in designing a system for delivering guidance.
(b) drafting procurement policies	According to article 347 (1) of L. 4412/2016, HSPPA is tasked with developing and promoting the national strategy, policy and actions in the field of public procurement.		No gap identified.		
(c) proposing changes/drafting amendments to the legal and regulatory framework	<p>According to article 2(2) (b) of L. 4013/2011 on the Establishment of HSPPA, HSPPA has the responsibility of recommending regulations to the relevant national bodies for the appropriate harmonization of the national legal framework with European law, for the simplification, supplementation, reform, codification and consolidation of the relevant legal and regulatory provisions of national law, as well as for the mainstreaming of the public practices aiming at a uniform, rapid and for the benefit of the public interest implementation and ensuring compliance with appropriate procedures for the award and execution of public contracts.</p> <p>As stated in sub-indicator 5(a), several Ministries, i.e. the Ministry of Development and Investments and the Ministry of Infrastructure, have legislative initiative in public procurement.</p>		As mentioned in sub-indicator 5(a), in more than 100 instances, different ministries have the primary competence to regulate aspects of the public procurement system. Therefore, the assessors consider that HSPPA might not possess complete formal powers to be able to take meaningful action in all domains of public procurement, due to the split of competencies among several bodies. One 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.		Consider reviewing the distribution of competencies and streamlining it in as few bodies as possible, to allow HSPPA to steer public procurement as a whole and in a consistent manner.
(d) monitoring public procurement	<p>According to article (2) (2) of L. 4412/2013, HSPPA is responsible for monitoring and evaluating the efficiency and effectiveness of the actions of public bodies in the field of public procurement. This includes the procurement of relevant Ministries (i.e., ministries that conduct procurement), the competent audit and supervision administrative bodies, as well as contracting authorities, in accordance with applicable national and European law and the general regulatory framework for public procurement.</p> <p>Article 340 of L. 4412/2016 also established provisions for monitoring of public procurement:</p> <p>“1. The procedure for monitoring the implementation of the rules on public procurement is governed by the provisions of Law 4013/2011 (AD 204), as amended and in force.</p> <p>When audit or supervisory bodies identify, on their own initiative or upon receipt of information, specific violations or systemic problems, they must report these problems to the Single Independent Public Procurement Authority, the audit authorities and the courts.</p> <p>2. The results of the monitoring activities, in accordance with the previous paragraph, shall be made available to the public by their mandatory posting on the official website of the Single Independent Public Procurement Authority and shall be sent to the competent Directorate of the European Commission.</p>		No gap identified		

	<p>The Single Independent Public Procurement Authority ensures the submission of a monitoring report to the European Commission every three years, starting from 18.4.2017. The report shall include, where appropriate, information on the most common causes of misapplication or lack of legal certainty, including possible structural or recurring problems in the application of the rules, the level of SMEs participation in public procurement procedures, as well as the prevention, detection and proper reporting of cases of fraud, corruption, conflict of interest and other similar serious irregularities in the field of public procurement. A joint decision of the Minister of Economy, Development and Tourism and the Minister responsible for the fight against corruption shall determine the details for the application of the preceding paragraph, in particular the information required for the preparation of the monitoring report, the persons responsible for providing of the said data / information, the time and manner of their submission, the disciplinary responsibilities of the obligors in case of non-submission or late submission of the required data.”</p> <p>In parallel, specific rules apply for the monitoring and auditing for EU co-financed projects, namely through the Audit Management System.</p>		
(e) providing procurement information	<p>Procurement information is provided through the Central Registry for Public Procurement (KIMDIS) and through the National Electronic Public Procurement System (ESIDIS) managed by the Ministry of Digital Governance (PD 81/2019 article 1 (1.4)). KIMDIS aims to collect, process and publish public procurement data (e-notification), while ESIDIS is an information system for conducting tender procedures and is divided into "ESIDIS Works" and "ESIDIS Supplies and Services". Procurement information can also be found through the National Database of Public Procurements of HSPPA and is kept in accordance with par. i, Article 2, L. 4013/2011.</p> <p>Concerning EU co-financed projects, the NSRF Integrated Information System is also a source of procurement information.</p>	<p>While responsibility to provide procurement information is clearly assigned in the law, the manner of distributing this responsibility to three bodies appears to create issues in the use and availability of data and information. Please refer to indicator 7 for additional assessment.</p>	<p>Consider streamlining this responsibility. Furthermore, interoperability between services is also needed to share procurement information more effectively (see Indicator 7).</p>
(f) managing statistical databases	<p>According to article 11 (1) of L. 4605/2019 (“Harmonization of Greek legislation with Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (EEL 157 of 15.6.2016) - Measures for the acceleration of the work of the Ministry of Economy and Development and other provisions”, hereafter “Law on Protection of Trade Secrets”), the HSPPA’s Directorate of the National Database of Public Procurement and Electronic Support is tasked with keeping, operating and developing the National Database of Public Procurement, statistical processing and analysing incoming information on public procurements and HSPPA’s actions, as well as keeping or / and monitoring relevant Registers in the area of public procurement.</p>	<p>No gaps identified</p>	
(g) preparing reports on procurement to other parts of government	<p>According to article 2 (2) (m) of L. 4013/2011 on the Establishment of HSPPA, HSPPA has the responsibility of preparing and submitting to the President of the Greek Parliament, within the first quarter of each calendar year, an annual report assessing HSPPA’s activities. The report is published online. It aligned with HSPPA’s purpose and responsibilities, and includes proposals for improving the legal and regulatory framework and procedures for procuring, awarding and executing public contracts that have been prepared and addressed to the competent bodies and entities, as well as the level of compliance of the competent bodies and entities with the said proposals.</p> <p>According to article 342 of L. 4412, a statistical report on public procurement falling within the scope of EU law, accompanied by an estimate of the aggregate total value of such contracts shall be sent to the competent Directorate of the European Commission under the auspices of HSPPA, 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, every three years, starting from 18/04/2017.</p> <p>The assessors identified the 2020 annual report and previous reports on its website. It includes public procurement statistics for the respective years.</p> <p>Finally, Art. 340 of L. 4412/2016 sets out responsibilities for HSPPA to report on public procurement to the European Commission. In particular, HSPPA is charged with ensuring the submission of a monitoring report to the European Commission every three years, starting from 18.4.2017. The report shall include, where appropriate, information on the most common causes of misapplication or lack of legal certainty, including possible structural or recurring problems in the application of the rules, the level of SMEs participation in public procurement procedures, as well as the prevention, detection and proper reporting of cases of fraud, corruption, conflict of interest and other similar serious irregularities in the field of public procurement.</p>	<p>No gaps identified</p>	
(h) developing and supporting implementation of initiatives for improvements of the public procurement system	<p>HSPPA; although not explicitly set out, according to article 347 (1) of L. 4412/2016 , HSPPA has the goal of constantly improving the legal framework of public procurement, developing and promoting the national strategy, policy and actions in the field of public procurement. It could be argued that this includes the responsibility of developing and supporting implementation of initiatives for improvements of the public procurement system.</p>	<p>Although not explicitly stated in the law, it can be concluded clearly. No gap identified. However, as previously noted, the distribution of responsibilities to several bodies appears to create challenges in the practical execution of this task.</p>	
(i) providing tools and documents, including integrity training programmes, to support training and capacity development of the staff	<p>According to L. 4605/2019, article 53 (8) “the responsibilities of the Department of Education and Certification [within HSPPA] are as follows: a) Participation, in collaboration with educational institutions and, in particular, with the Training Institute (INEP) of the National Centre for Public Administration and Self-Governance, in the planning and implementation of certified or non-certified training programs for the staff of the contracting authorities and bodies, the trainers of this staff, as well as the general monitoring of the educational activities and the certification procedures in Public Procurements; (b) The development and provision of tools and methodology for the development of the skills, knowledge and integrity required for</p>	<p>Although training programmes on public procurement are provided by INEP of EKDDA, it is at EKDDA’s discretion, since the law assigns to INEP of EKDDA the responsibility to support training of the staff in general and not specifically in public procurement.</p>	

responsible for implementing procurement	<p>the adequacy of the contracting authorities, the contracting bodies and their staff and the recommendation to the competent bodies for the development and implementation of an effective professionalisation policy, as well as a system of certification of bodies and individuals in Public Procurements; [...]”</p> <p>On training:</p> <p>(a) According to P.D. 57/07, the Training Institution (INEP), a structure within the National Centre of Public Administration and Self-governance (EKDDA) has the responsibility of providing training programmes to support training and capacity development of the staff of the public entities in general. The training programme is decided annually by the Board of Directors of EKDDA. There is no regulation obliging EKKDA to provide a training programme on Public procurement, although this is the case in practice.</p> <p>(b) The Development Program Management Organisation Unit (MOD SA) is a public entity governed by private law under the supervision of the Minister of Development and Investments. It was established in 1996 by a joint decision of the Greek Government and the European Commission. MOD's mission is to support and strengthen the Public Administration in the effective management and implementation of European Union-funded Operational Programs, mainly covering the needs of specialized human resources, system tools and procedures, transfer of knowledge and logistical infrastructure. MOD SA trains officials involved in the management and implementation of co-financed operations, provides tools and documents for the implementation of NSRF programmes.</p> <p>(c) According to article 8 (1) (e) of L.4605/2019 on Protection of Trade Secrets, the Directorate of Coordination of HSPPA has inter alia the responsibility for developing the appropriate architecture of the policy for the professionalization, training and certification of the personnel of the contracting authorities and contracting bodies in cooperation with the competent services of the General Secretariat of Commerce (GGE) of the Ministry of Development and Tourism and the General Secretariat of Infrastructure (GGY) of the Ministry of Infrastructure, Transport and Networks .</p> <p>(d) According to article 344 of L. 4412/2016, contracting authorities shall ensure that personnel in charge of the preparation, conclusion and execution of public procurements have the necessary training, experience and specialization, that they are initially and lifelong trained and certified correspondingly. The training shall be carried out through certified programs designed and implemented especially by the Training Institute (INEP) of the National Centre for Public Administration and Self-governance (EKDDA), with the cooperation of HSPPA and scientists, as well as the GGE and the GGY and the National Central Authority for Health Procurements of the Ministry of Health.</p>	As above, no gap identified. However, as previously noted, the distribution of responsibilities to several bodies appears to create challenges in the practical execution of this task.	
(j) 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; according to article 8 (1) (e) of L.4605/2019 on Protection of Trade Secrets, the Directorate of Coordination of HSPPA has inter alia the responsibility for developing the appropriate architecture of the policy for the professionalization, training and certification of the personnel of the contracting authorities and contracting bodies in cooperation with the competent services of the GGE and the GGY.</p> <p>According to article 344 of L. 4412/2016, contracting authorities shall ensure that personnel in charge of the preparation, conclusion and execution of public procurements have the necessary training, experience and specialization, that they are initially and lifelong trained and certified correspondingly. Contracting authorities, in the preparation and implementation of procedures for concluding and executing public contracts, must be supported by certified staff⁴. According to paragraph 4 of article 344, a Register of Certified Public Employees shall be established (in the future) 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, regulating issues concerning in particular:</p> <p>(a) the Registrar of the Register;</p> <p>(b) the conditions of registration and the grounds for withdrawal;</p> <p>(c) the terms, levels and manner of evaluation and certification and;</p> <p>(d) any other necessary issue related to the certification of the staff and the operation of the Register.</p>	The Register of Certified Public Employees 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.	Take necessary steps towards introducing the certification mechanism and enable the creation of the Register of Certified Public Employees.
(k) designing and managing centralised online platforms and other e-Procurement systems, as appropriate	<p>The Ministry of Digital Governance is tasked with the management of KIMDIS and ESIDIS (PD 81/2019 article 1 (1.4)). Generally, the Secretariat General for Public Administration’s Information Systems of the Ministry of Digital Governance is responsible for the design, development, production, operation and utilization of Information and Communication Technologies (ICT). The oversight for ESIDIS was re-assigned to this ministry in 2019.</p> <p>Under L. 4412/2016 as amended the concept of ESIDIS changes into and OPS-ESIDIS (OPS stands in Greek for Integrated Information System), which includes all sub-systems regarding programming, conclusion and execution of public contracts, as well as the collection, publication and analysis of data regarding public contracts (thus ESIDIS and KIMDIS). OPS-ESIDIS consists of the Information Systems ESIDIS for Supplies and General Services under the management of the Minister of Digital</p>	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 for supplies and services, while the General Secretariat for Infrastructures has responsibility over ESIDIS Works.	Consider assigning the responsibility for all aspects of the e-procurement system, including all platforms or tools, to one institution, in order to provide for an integrated, consistent and comprehensive system.

4 This obligation is suspended until the adequate operation of the Register referred to bellow.

	Governance and ESIDS PUBLIC WORKS for works, studies and technical and relevant scientific services under the management of the General Secretariat of Infrastructures.	Responsibility for KIMDIS is assigned also to the Ministry of Digital Governance. The split in competencies for the different platforms seems to result in challenges related to their use and integration (see indicator 7.) The two databases, which gather information that should be closely integrated, are not interoperable. This fragmentation leads to inefficiencies in managing public procurement.
--	---	---

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

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input recommendations	for
(a) The normative/regulatory function (or the institutions entrusted with responsibilities for the regulatory function if there is not a single institution) and the head of the institution have a high-level and authoritative standing in government.	<p>According to article 347 (3) of L. 4412/2016 , HSPPA enjoys functional independence, administrative and financial autonomy and is not subject to control or supervision by any government bodies or any other independent or administrative authority. The Authority is subject to the scrutiny of the Hellenic Parliament in accordance with Article 138A of the Rules of Procedure of the Greek Parliament and to the ex post audit of the Court of Auditors. HSPPA is directed by the President and 10 Directors , assigned by Act of the Cabinet, following an opinion of the . Parliamentary Institutions and Transparency Committee</p> <p>Although not guaranteed by the Greek constitution (the highest degree of standing conveyed to some public institutions), HSPPA can be considered of high standing.</p>		No gap identified			
(b) Financing is secured by the legal/regulatory framework, to ensure the function’s independence and proper staffing.	<p>According to article 350 (3) of L. 4412/2016, in order for HSPPA to meet its operational needs, a deduction/fee of 0,1% is imposed on all contracts concluded, the value of exceeds the amount of EUR 1 000 regardless of the source of their funding. For contracts concluded before the publication of Law 4912/2022 merging HSPPA and AEPP (17.3.2022)the relevant fee is 0,13% The fee is calculated on the value of each payment before taxes and other deductions and applies on initial contracts and additional contracts, as well as amendments.</p>		No gap identified.			
(c) The institution’s internal organisation, authority and staffing are sufficient and consistent with its responsibilities.	<p>HSPPA consist of:</p> <p>(a) the President; (b) ten (10) Directors and; (c) thirty (30) members.</p> <p>According to article 353 of L. 4412/2016, the governing bodies of the Authority are the President and the Executive Board, which consists of the President and the Directors. 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. Article 355 of L. 4412/2016 provides for the issuance of a Presidential Decree following the proposal of the Minister of Justice to regulate issues of operation.</p> <p>According to article 356 of L. 4412/2016 the President of the Authority is responsible for its operation and exercises all powers to this end. 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 panels in accordance with the more specific provisions of the Rules of Operation to be enacted under article 355. 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, under article 2 (2) of 4013/2011 (A ’204), namely all the responsibilities other than the remedy review.</p> <p>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 organization; the latter will specify the specialties and the number of positions per specialty off staff, the structure of its organizational 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.</p>		No gap identified. However, stakeholders reported that (like many Greek public institutions) HSPPA suffers some understaffing.		<p>Ensure adequate staffing levels for HSPPA.</p> <p>Ensure that there is sufficient flexibility on staffing, given the very specific prescription about staffing in the law.</p>	

5(d) Avoiding conflict of interest

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The normative/regulatory institution has a system in place to avoid conflicts of interest.* * Recommended quantitative indicator to substantiate assessment of sub-indicator 5(d) Assessment criterion (a): - Perception that the normative/regulatory institution is free from conflicts of interest (in % of responses). Source: Survey.	<p>According to article 349 of L. 4412/2016 the President, the directors and the members of HSPPA are fully and exclusively employed by HSPPA, and for this reason they are suspended from exercising any unpaid or salaried public or legal operation or any 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. 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, they are prohibited, during their term of office, to be members of a political party. They cannot be appointed to their position, I case they have themselves, their spouse or relative up to the second grade or any other person, natural or legal, with which they are closely related, direct personal, financial or any other kind of interest, which affects or appears to affect their impartial and objective judgment in the performance of their duties. If such obstacles and incompatibilities are found during their term of office, they result to an automatic resignation from their position of Chairman/Director/ member, respectively.</p> <p>Other employees beyond the President and the members are subject to the rules applying to all civil servants apply, namely article 36 of L. 3528/2007 stipulating that:</p> <p>“1. An employee may not, either individually or as a member of a collective body, undertake the resolution of a matter or co-operate in the issuance of acts, in case himself/herself or his/her spouse or a relative by blood or by marriage up to the third degree or a person with whom he/she is in a particularly friendly or hostile relationship has a clear interest in the outcome of the case.</p> <p>2. Violation of the provision of the preceding paragraph shall constitute grounds for annulment of the relevant administrative act.</p> <p>3. Employees who are spouses or relatives of each other up to the third degree by blood or by marriage may not be members of the same collective body.</p> <p>4. The employee is obliged to request his/her exemption from any action referred to in paragraphs 1 and 3 of this Article when he/she has a conflict of interest”.</p> <p>Furthermore, provisions from Code of Conduct apply. See indicator 14 for information on about a code of conduct applicable to the entire Greek public service.</p> <p>Finally, public sector employees with a certain position, including the Chairman, the Directors and members of HSPPA (article 349 (10) of L. 4412/2016) are under the obligation of submitting a yearly asset declaration, covering also their spouses and children.</p>	No data	No gap identified		

6. Procuring entities and their mandates are clearly defined

6(a) Definition, responsibilities and formal powers of procuring entities

The legal framework provides for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Procuring entities are clearly defined.	<p>L. 4412/2016 includes a definition of the terms “Contracting Authority” and “Contracting Body” (article 1 (1) (a)) in line with EU rules. Domestic legislation does not provide a list of procuring entities and thus every legal entity may procure contracts to meet its needs. Furthermore, according to article 6 (3) of L. 4412/2016 within the same public entity, several independent operational units may be responsible for procuring contracts. 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 prepared and published a registry of CAs and CBs https://www.eaadhsy.gr/index.php/category-articles-gia-tous-foreis/242-dhmosiopoihsh-mhtrwoy-ana8etoyswn-arxwn .</p> <p>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</p>		<p>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. A gap arises:</p> <p>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).</p>		<p>The legal and regulatory framework should specify more clearly which institutions may act as procurement entities.</p>

<p>of Contracting Body within the meaning of the directive as transposed in the Greek Law 4412/2016⁵.</p> <p>With the new 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, it was required that the competent technical service of the public entity procuring such contracts (work and design) 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.</p> <p>The new reform now 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)(Article 9 L. 4782/2021, Amendment of par. 1 and 3, repeal of par. 2 of article 44 of Law 4412/2016)</p>					
(b) Responsibilities and competencies of procuring entities are clearly defined.	The law does not provide for specific rules. Therefore, when a public entity fulfils the conditions stated above (sub-indicator 6(a) (a)), having the power to procure a contract, this power includes the overall management of the whole public procurement life cycle. The structure of every public entity is established by its internal organizational regulation, regulating the management structure, capacity and capability of each unit in the public entity at issue. There are no general rules applying to all procuring entities specifying their management structure, capacity and capability, besides the rules stated in the above sub-indicator 6(a) (a).			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 also no reporting obligations specific to the contracting authority (beyond reporting obligations arising from article 340 of L. 4412/16).	Consider providing guidance and good practices examples on the set up of procurement functions through dedicated tools, that take into account the specificities of an organisation (e.g. competency frameworks)
(c) Procuring entities are required to establish a designated, specialised procurement function with the necessary management structure, capacity and capability.*	Same answer as per sub-indicator (6) (a) (b) above.	No data	There are no general rules requiring procuring entities to establish a designated, specialized procurement function with the necessary management structure capacity and capability.	Consider providing guidance and good practices examples on the set up of procurement functions through dedicated tools, that take into account the specificities of an organisation (e.g. competency frameworks)	
<p>// Minimum indicator // * Quantitative indicator to substantiate assessment of sub-indicator 6(a) Assessment criterion (c): - procuring entities with a designated, specialised procurement function (in % of total number of procuring entities). Source: Normative/regulatory function.</p>					
(d) Decision-making authority is delegated to the lowest competent levels consistent with the risks associated and the monetary sums involved.	There are no rules on delegation of decision-making authority; these rules are defined by each contracting authority. With regard to general provisions for the transfer of responsibilities for public procurement procedures, the provisions of article 6 par. 2 of law 4412/16 on separate business units apply. Namely, when a contracting authority consists of separate business units, the total estimated value for all separate business units is taken into account. By way of derogation from the first subparagraph, where a separate business unit is independently responsible for the procurement procedures of the same or certain categories thereof, the value of the contracts may be calculated at the level of that unit.			There are no general rules on mandatory delegation of decision-making authority. Overall, every CA is free to delegate decision-making responsibilities, depending on its organigram and relevant provisions regulating the functioning of the specific CA.	Examine whether the delegation of decision-making to the lowest competent level represents a source for inefficiencies in procurement execution.
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					

5 <https://diavgeia.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>

		procedures (see Indicator 9) it could be worth examining if the lack of delegation in decision-making represents a source of inefficiencies in the execution of procurement procedures.
(e) Accountability for decisions is precisely defined.	There are no special rules on accountability of public officers for decisions in the field of public procurement. The general rules on civil servants' accountability apply (see the Code of Status of Public Civil Servants and Employees of Legal Persons Governed by Public Law (Law 3528/2007)).	No gap identified

6(b) Centralized procurement body

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The country has considered the benefits of establishing a centralised procurement function in charge of consolidated procurement, framework agreements or specialised procurement.	<p>Yes. According to article 41 of L. 4412/2016, there are 3 National Central Purchasing Bodies (EKAAs):</p> <p>(a) the General Secretariat of Infrastructure (GGY) of the Ministry of Infrastructure, Transport and Networks. It purchases public work contracts, designs and the provision of technical and other related scientific services;</p> <p>(b) the General Directorate of Public Procurements of the General Secretariat of Commerce and Consumer Protection of the Ministry of Economy, Development and Tourism. It purchases supplies and services.</p> <p>(c) the National Central Authority for Health Procurement (EKAPY) of the Ministry of Health for public procurement contracts. It purchases medical, technological, health, pharmaceutical supplies and related services.</p> <p>By joint decision of the respective Ministers in charge of the relevant EKAA and the materially competent Minister, Central Purchasing Bodies may be established having the responsibility to provide central purchasing activities for different categories of public bodies, or on the basis of a sector or market branch or for a specific geographical territory of the country or by a combined application of these criteria.</p> <p>Article 8 of Law 4281/2021 amended Article 43 of Law 4412/2016 extended the possibility for Greek contracting authorities to address National Central Purchasing Bodies. 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.</p>		No gap identified		
(b) In case a centralised procurement body exists, the legal and regulatory framework provides for the following: • Legal status, funding, responsibilities and decision-making powers are clearly defined. • Accountability for decisions is precisely defined. • The body and the head of the body have a high-level and authoritative standing in government.	<p>According to the P.D. 123/2017, the General Secretariat of Infrastructure is part of the Ministry of Infrastructure, having no separate legal personality. Funding and decision-making powers are at the relevant Minister's discretion to define. Regarding accountability for decisions, the general rules on civil servants' accountability apply, as there are no rules on accountability for decisions applying specifically on the General Secretariat of Infrastructure. The body and the head of the body have a high-level of standing in government (Hierarchy is: Minister – General Secretary).</p> <p>According to the P.D. 147/2017, the General Directorate of Public Procurements of the General Secretariat of Commerce and Consumer Protection of the Ministry of Finance, Development and Tourism is one of many General Directorates in this ministry, having no separate legal personality. Funding and decision-making powers are at the relevant Minister's discretion to define. Regarding accountability for decisions, the general rules on civil servants' accountability apply, as there are no rules on accountability for decisions, applying specifically on the General Directorate of Public Procurements. The body and the head of the body have a relevant high-level standing in government (Hierarchy is: Minister – General Secretary-General Director).</p> <p>L. 4472/2017 (articles 21-35) established the National Centralized Health Procurement Authority (EKAPY) as a legal person governed by public law. By L. 4865/2022 (articles 1-20) EKAPY was transformed into a legal person governed by private law, with the aim of creating a flexible and efficient health supply system. Resources of EKAPY are:</p> <p>(a) the state budget;</p> <p>(b) a special fee, which is a percentage of each contract that is signed and applies on central tenders that have been carried out by EKAPY;</p> <p>c) revenues from the provision of services to operators under Article 7 of L. 4865/2022⁶, without prejudice to EU State aid legislation, and;</p>		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.	x	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 steps, such analysis should highlight how the framework could be adapted to allow all CPBs to achieve greatest impact for Greece's citizens.

6 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

	<p>(d) donations, bequests, contributions and grants from third parties, as well as income from any kind of activity or income from movable and immovable property.</p> <p>To cover its management costs regarding the implementation of projects financed by the programs of NSRF and the Recovery and Resilience Fund, it is also possible to get a grant from the national or co-financed part of its Public Investment Program of the Ministry of Health, within the respective annual limit, up to half a percent (0.5%) of the total budget of the project implemented</p> <p>EKAPY is directed by a board consisting of the President, the Vice-President and 7 members. The President and the Vice-President shall be designated by the Minister of Health. The board is the decision making body of EKAPY. Regarding accountability for decisions, the general rules on civil servants’ accountability apply, as there are no rules on accountability for decisions applying specifically on EKAPY.</p> <p>For each CPB, categories and items are defined, for which the use of the CPB is mandatory for a specific set of contracting authorities.</p>	<p>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.⁷</p> <p>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.</p>	
<p>(c) The centralised procurement body’s internal organisation and staffing are sufficient and consistent with its responsibilities.</p>	<p>PD 123/2017 and PD 147/2017 include rules on internal organization of the General Secretariat for Infrastructure and the General Directorate of Public Procurements correspondingly. The same PDs regulate the number of positions established in each relevant Ministry regarding the total of Secretariats /Directorates. Allocating staff per Secretariat and Directorate is at the discretion of the relevant Minister. According to the P.D. 123/2017, the General Secretariat of Infrastructure consists of the following Directorates:</p> <p>a) General Directorate of Strategic Infrastructure Planning; b) General Directorate of Transport Infrastructure; c) General Directorate of Hydraulic, Port and Building Infrastructure; d) General Directorate of Specifications, Registers and Expropriations; e) General Directorate of Rehabilitation of Natural Disasters; f) Independent Department of Legal Support directly subordinated to the Sectoral / General Secretary of Infrastructure.</p> <p>According to the P.D. 147/2017, the General Directorate of Public Procurements of the General Secretariat of Commerce and Consumer Protection of the Ministry of Economy, Development and Tourism consists of the following Directorates:</p> <p>a) The Support and Planning Directorate; b) The Market Research and Technical Specifications Directorate; c) The Directorate of Management and Execution of Competitive Procedures; d) The Directorate of Management, Development and Support of the National System of Electronic Public Procurement (ESIDIS).</p> <p>L. 4865/2022 provides for the responsibilities of EKAPY. Regarding staffing, L. 4472/2017, article 18 establishes sixty (60) staff positions under an employment contract governed by private law for an indefinite term (IDAX) and twenty (20) staff positions under an employment contract governed by private law for a certain period of time (IDOX). From the above sixty (60) positions of IDAX staff, twenty (20) positions concern specialised scientific staff. For the needs of the Legal Service three (3) positions of salaried lawyers are established.</p> <p>Article 16 provide for EKAPY’s internal organization.</p>	<p>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.</p>	<p>Gather more granular information on the actual level of staffing in the CPBs, and conduct an evaluation where (if any) capacity shortages occur.</p>

7. Public procurement is embedded in an effective information system

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

The country has a system that meets the following requirements:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Information on procurement is easily accessible in media of wide	Procurement opportunities of value of more than EUR 2 500 (VAT excluded) are published in the Central Electronic Registry for Public Procurements (KIMDIS) (article 63 of L. 4412/2016). In case the		Although the law provides for the registration in KIMDIS without delay, it has been noticed that, at least regarding		Consider analysing the actual implementation of requirements regarding e-procurement, such as

the Army Share Fund (N.I.M.TS.); (d) all hospitals and other relevant units that are active 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.

7 <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-katangelies-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-evaggelismos> ; <https://www.healthweb.gr/protoselido/23998-paraskinio-o-promitheytis-poy-xepoypoyliazei-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&arcod>

<p>circulation and availability. Information is relevant, timely and complete and helpful to interested parties to understand the procurement processes and requirements and to monitor outcomes, results and performance.</p>	<p>procurement falls into the scope of EU Directives, procurement opportunities are sent to be published by the Publications Office of the European Union in the Tenders Electronic Daily, the online version of the 'Supplement to the Official Journal' of the EU, dedicated to European public procurement (article 65 of L. 4412/2016). In case of public procurement procured by local authorities the procurement must be advertised in the local newspapers too (this obligation expires 1.1.2024). Procurements above EU thresholds must be published in TED prior to publication in KIMDIS.</p> <p>According to article 3 (2) of MD 57654/2017 the website of KIMDIS is accessible through the ESIDIS Internet Portal at the website (URL) www. promitheus.gov.gr. According to article 10 the data and documents should be registered without delay. According to article 38 (7) of L. 4412/2016 the acts registered in KIMDIS come into force upon registration.</p>	<p>contracts registered, this is not the case. Furthermore, the documents registered do not cover all documents issued during procurement procedures and they do not include evaluation and performance reports. Outcomes, results and performance cannot be monitored by interested parties.</p> <p>In addition, it should be noted that the existence of several platforms and systems for e-procurement provides for a fragmented picture that prevent accessibility of information in a general sense.</p>	<p>timely and complete provision of required information, and take adequate steps to remedy any shortcoming. For example, where compliance with publication requirements is low, additional training or support could be useful.</p> <p>Consider streamlining the system overall to make it more user-friendly and thus incentivise use: e-procurement can represent meaningful support to procurers by alleviating procedures and transactions costs, but only if the system itself is not overly cumbersome to use.</p>	
<p>(b) There is an integrated information system (centralised online portal) that provides up-to-date information and is easily accessible to all interested parties at no cost.</p>	<p>The above mentioned Central Electronic Registry for Public Procurements (KIMDIS) is accessible to everybody while ESIDIS is accessible only to those participating in the procedure. Both KIMDIS and ESIDIS are accessible no cost.</p> <p>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.</p> <p>The database of HSPPA also provides for relevant information and is accessible to all interested parties on HSPPA’s website at no cost.</p>	<p>ESIDIS is not accessible to anybody besides the parties participating. Through ESIDIS, up to date information is found only up to the award of the contract. In KIMDIS, only the specific documents set out in the law are registered and does not provide for up-to-date information. Integration between ESIDIS and KIMDIS is limited and organized 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.</p>	<p>As mentioned in the previous assessment criterion, consider streamlining the e-procurement landscape. In doing so, integration of database should be made automatic, or rendered unnecessary by providing one database for the different uses of the system.</p> <p>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.</p>	
<p>(c) The information system provides for the publication of:</p> <ul style="list-style-type: none">• procurement plans• information related to specific procurements, at a minimum, advertisements or notices of procurement opportunities, procurement method, contract awards and contract implementation, including amendments, payments and appeals decisions• linkages to rules and regulations and other information relevant for promoting competition and transparency. <p>// Minimum indicator // Quantitative indicators to substantiate assessment of sub-indicator 7(a) Assessment criterion (c):</p> <ul style="list-style-type: none">• 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) :• invitation to bid (in % of total number of contracts)• contract awards (purpose, supplier, value, variations/amendments)• details related to contract implementation (milestones, completion and payment)• annual procurement statistics• appeals decisions posted within the	<p>KIMDIS registers data from contracting authorities / contracting entities and the CPBs regarding:</p> <ul style="list-style-type: none">(a) the primary and the approved requests, i.e. the decisions undertaking the obligation and / or the decisions of the body responsible for the budgetary commitment;(b) the procurement documents;(c) the award decision;(d) the contract and;(e) the payment order or any other document corresponding to it. <p>Article 5 of MD 57654/2017 on the operation and management of KIMDIS lists the minimum data to be registered per each of the above categories. Article 6 of MD 57654/2017 lists the documents to be registered as follows:</p> <ul style="list-style-type: none">a) primary requests, i.e. the requests of the services of the contracting authorities / contracting entities by which the need for the conclusion of a public contract is established, before the budgetary commitment is undertaken. In case of public works, designs and the provision of technical and other related scientific services, the primary request is the document by which the initiative for implementation is established in any way;b) approved requests, i.e. the decisions undertaking an obligation, or the decisions of the competent body on the budgetary commitment or any similar procedure approving the expenditure of the primary requests;c) prior information notices, procurement notices and relevant documents. The amendments to these documents are also registered in KIMDIS;d) the award decisions and their amendments;e) the contracts and their amendments / extensions;f) the payment order, i.e. the document by which the legally competent body orders the payment of a specific expense to the beneficiary in accordance with the relevant law provisions in force. <p>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 decisions on</p>	<p>The MAPS quantitative indicators are not readily available through the e-procurement system. Data can be partially retrieved from the sample analysis. It should be noted that this information was collected for the MAPS assessment, but is otherwise not readily available.</p> <ul style="list-style-type: none">• procurement plans published (in % of total number of required procurement plans) – not available• key procurement information published along the procurement cycle (in % of total number of contracts) : <p>Indicator available from the sample analysis:</p> <p>- Share of contracts with accurate records</p> <ul style="list-style-type: none">• invitation to bid (in % of total number of contracts)	<p>Although information is available in the system, 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.</p> <p>Furthermore, the available information could be complemented in two main areas:</p> <p>Annual or multi-year public procurement planning is not registered in either KIMDIS or ESIDIS except for the Unified Procurement Program of Health Sector Bodies</p> <p>Decisions on applications for review (preliminary appeals) are not registered in the system.</p>	<p>As previously mentioned, all information systems (KIMDIS, ESIDIS, AEPP, HSPPA’s Database) should be consolidated and streamlined. Available information could be complemented by additional data, e.g. procurement planning. This would enhance transparency and align Greece’s e-procurement system fully with international good practice.</p>

<p>time frames specified in the law (in %). Source: Centralised online portal.</p>	<p>requests for reviews regarding public procurements of value of more than EUR 30 000 are posted on HSPPA’s website and linkages to rules and regulations can be found on HSPPA’s website.</p> <p>Nevertheless, KIMDIS provides general information about the process of submitting an appeal (examination of preliminary appeals for tender procedures of supply, service and public works contracts.</p>	<p>Indicator available from the sample analysis:</p> <ul style="list-style-type: none">- Total number of bids received- Number of responsive bids• contract awards (purpose, supplier, value, variations/amendments) <p>Indicator available from the sample analysis:</p> <ul style="list-style-type: none">- contract value- Number of contract amendments• details related to contract implementation (milestones, completion and payment) <p>Indicator available from the sample analysis:</p> <ul style="list-style-type: none">- contract volume at signature- expected delivery date- Final contract volume- Date on which delivery was completed- quality control measures carried out- certified final acceptance issued- date on which final invoice was issued- date on which last payment was made• annual procurement statistics <p>Statistics are available via the National Public Procurement Database</p> <ul style="list-style-type: none">• appeals decisions posted within the time frames specified in the law (in %).
--	---	--

		Data available only for average time to issue a decision		
(d) In support of the concept of open contracting, more comprehensive information is published on the online portal in each phase of the procurement process, including the full set of bidding documents, evaluation reports, full contract documents including technical specification and implementation details (in accordance with legal and regulatory framework).	More comprehensive information, namely the full set of bidding documents and evaluation reports, including requests for reviews and decisions on them, are published only on the National System of Electronic Public Procurements (ESIDIS), when used, accessible only to the economic operators participating in the specific procurement procedure.		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 system. While this is in line with the legal framework (despite smaller gaps on timely publication of required information), the assessment criterion can not be considered met given the limited functionalities of the e-procurement system to publish comprehensive information along the procurement cycle.	Increase accessibility of procurement information along the procurement cycle.
(e) Information is published in an open and structured machine-readable format, using identifiers and classifications (open data format).*	Documents in KIMDIS are published in pdf format. Identifiers and classifications are used. Research can be carried out based on CA’s name and / or registry number; CPV; time period; value threshold; ADAM number ⁸ . 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.	No information has been published in “open data format”.	Information is not provided in an “open” format. 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. Documents uploaded in the system are often scans of paper-based documents; there is no full-text search.	Consider gathering, storing, processing and publishing data in open data format.
* Recommended quantitative indicator to substantiate assessment of sub-indicator 7(a) Assessment criterion (e): - Share of procurement information and data published in open data formats (in %). Source: Centralised online portal.				
(f) Responsibility for the management and operation of the system is clearly defined.	According to article 10 of MD 57654/2017 documents are registered in KIMDIS by their author or rapporteur. As mentioned above, ESIDIS and KIMDIS are managed by the Ministry of Digital Governance (PD 81/2019 article 1 (1.4)). The responsibility for KIMDIS and ESIDIS was previously assigned to different ministries (until October 2019). 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.		Until recently, responsibility for the two main e-procurement platforms was assigned to different institutions. To date, aspects of e-procurement remain the responsibility of different institutions, for example information management vs. the technical platform. Namely, the business owner is the Ministry of Development and Investment, while the system owner is the Ministry of Digital Governance. The responsibility for the management of ESIDIS is further split. This can result in continued challenges in managing the e-procurement system overall, since there is no unambiguous attribution of responsibility for e-procurement. As mentioned in other assessment criteria in this sub-indicator, this is problematic, as a 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.	Consider attributing responsibility for all aspects of the e-procurement system to one institution.

⁸ A single number that identifies the document posted in DIAVGEIA, which is an electronic data base where all administrative acts must be posted in order to have legal consequences.


*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

7(b) Use of e-Procurement

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) E-procurement is widely used or progressively implemented in the country at all levels of government.* // Minimum indicator // * Quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment criterion (a): 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 Source: e-Procurement system.	<p>Article 36 (1) of L. 4412/2016, as amended by article 4 L. 4782/2021 stipulates that: “The contracting authorities are obliged to use the Electronic System for Public Procurements (ESIDIS) at all stages of the public procurement process under this law, with an estimated value of more than thirty thousand (30,000) Euros, VAT excluded”. Before the amendment by L. 4782/2021 the above threshold was set at 60 000 Euros.</p> <p>Regarding public procurement in the utility sector article 258 (11) of L. 4412/2016 stipulates that CAs can use their own electronic system, if they have one in place.</p> <p>For public procurement of value less than EUR 30 000 (VAT excluded) the use of ESIDIS is optional.</p> <p>ESIDIS is used up to the award of the contract and does not support contract implementation process.</p>	<p>According to the EU Single Market Scoreboard, in 2017, Greece publishes procurements valued at 1.4% of GDP on the European-wide platform Tenders Electronic Daily (TED). This is among the lowest rates in the EU. Only Portugal publishes a lower share (1.3%).⁹ 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.</p> <p>The number of e-Procurement procedures in 2019 (i.e. procurement with deadline for the submission of the offer in 2019) was 7.903, but the total number of procedures is unknown.</p> <p>The value of e-Procurement procedure in 2019 was EUR 4 285 853 492, but the total value of procedures is unknown.</p> <p>No additional data pertaining to the national level was available to assess the quantitative assessment criterion.</p>	<p>The Greek e-procurement system (i.e., ESIDIS) does not provide functionalities for contract management.</p> <p>For public procurement valued at less than EUR 30 000 (VAT excluded) the use of ESIDIS is optional.</p> <p>That said, e-procurement is only used to a very limited extent below the threshold of EUR 30 000, albeit the potential benefits that electronic management of the procedures could have. This might be related to the relatively cumbersome management that KIMDIS entails for suppliers, for example the requirement to submit certain documents in paper form even if the procedure is managed electronically.</p> <p>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.</p> <p>Regarding Public procurement in the utility sector article 258 (11) of L. 4412/2016 stipulates that CAs can use their own electronic system. This makes monitoring more difficult, while economic operators already familiar with one electronic system have to learn and adjust to a different electronic system per CA. In particular, five Contracting Bodies (DEH, DEDDHE, ADMHE, DESFA and ARIADNE) make use of this provision and have achieved through the respective Ministerial Decisions, to be excluded from the mandatory use of ESIDIS (article 36 of Law 4412/2016) and make use of privately owned / private Systems-Bidding Platforms.</p> <p>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 a vis the government. In the eyes of the suppliers, the requirement to submit “almost all” documents as a hard copy was creating unnecessary burden.</p>		<p>Consider developing an e-procurement system that is streamlined sufficiently to make it worthwhile to use it also for handling procedures of smaller value. To this end, investigations should be undertaken with the users of the systems (procurers and companies) to determine their needs and potential for improvement. Such a streamlined system should be equipped with expanded functionalities for the entire procurement cycle (see assessment criteria above) and adequate to be used in all types of procedures, including utilities.</p> <p>Streamlining the e-procurement system could also involve limiting the exceptions to the use of ESIDIS by CA/CBs and avoiding duplication of systems.</p> <p>Gather information about the uptake of the e-procurement system throughout the procurement cycle to determine its efficiency and effectiveness.</p>
(b) Government officials have the capacity to plan, develop and manage e-Procurement systems.	<p>The assessors were unable to evaluate this assessment criterion given that they did not have access to information on this subject.</p>		<p>Assessors did not have access to detailed information on this subject. The fact that the ESIDIS e-procurement platform is currently operating is a demonstration of the existence of capacity to plan, develop and manage e-procurement system. However, the quality of government officials’ capacity to plan, develop and manage e-procurement systems remained unclear. The fact that responsibilities of management of e-procurement system have shifted between different institutions may also represent a weakness in such capacity.</p>		<p>Streamlining responsibilities for e-procurement, as discussed in 7a) f) would also support capacity to plan, manage and develop e-procurement systems.</p>
(c) Procurement staff is adequately skilled to reliably and efficiently use e-Procurement systems.	<p>During the interviews, stakeholders stated that ESIDIS was easy to use and government officials have the capacity to use the system as it is intended to date.</p>		<p>Albeit the general ability to use the existing e-procurement system, late filing of required data, particularly contract data in KIMDIS, may indicate challenges in the capacity of procurers in using the e-procurement environment. Finally, lacking interoperability between ESIDIS and KIMDIS reduces user-friendliness.</p>		<p>Consider evaluating reasons for shortcomings in the quality, availability and delays of procurement data (see following sub-indicators), to determine how a greater uptake could be achieved.</p>
(d) Suppliers (including micro, small and medium-sized enterprises) participate in a public procurement market increasingly dominated by digital technology.* * Recommended quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment	<p>Generally, companies are participating in e-procurement.</p> <p>Data about SME participation in e-procurement is not available. HSPPA’s Monitoring Report refers to available EU data on SMEs and states:</p> <p>"There is no specific data on small and medium-sized enterprises in public procurement. However taking into account that small and medium enterprises in Greece constitute 99.9% of the total, the following general data for 2017 is available: in the electronic tenders of ESIDIS for supplies and services (worth over 60,000</p>	<p>No data was available to assess the quantitative assessment criterion.</p>	<p>During the interviews it was stated that CAs do not use ESIDIS for public procurement of value less than EUR 30 000 because small sized enterprises are not familiar with it and find it difficult to use. It has to 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.</p>		<p>As recommended in previous assessment criteria, consider streamlining the e-procurement system in a way that it is easy to use for suppliers and encourages use also for procurements below the EUR 60 000 threshold.</p> <p>Gather data on the uptake and use of the e-procurement system, including by SMEs, for example to determine what the</p>

⁹https://ec.europa.eu/internal_market/scoreboard/performance_per_policy_area/public_procurement/index_en.htm

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

criterion - bids submitted online (in %) - bids submitted online by micro, small and medium-sized enterprises (in %) Source: e-Procurement system.	(d): euros) bids were submitted by 5,034 candidates. Data from KIMDIS shows that in the same year contracts were concluded (regardless of the threshold) with 46,133 financial institutions / companies " ¹⁰ . 	real obstacles to use are by knowing more about the economic operators that use / do not use the system.
(e) If e-Procurement has not yet been introduced, the government has adopted an e-Procurement roadmap based on an e-Procurement readiness assessment.	Not applicable; e-procurement has been introduced.	

7(c) Strategies to manage procurement data

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) A system is in operation for collecting data on the procurement of goods, works and services, including consulting services, supported by e-Procurement or other information technology.	<p>According to article 2 (2) (j) of L. 4013/2011 on the Establishment of HSPPA, HSPPA is responsible, inter alia, for keeping the National Database of Public Procurements (EBDDHSY). The National Database of Public Contracts is a single database. Data are collected from both information systems containing data on public procurements (ESIDIS, KIMDIS), as well as processed data produced by HSPPA itself. More specifically, according to article 2 (2) (j) of L. 4013/2011 HSPPA (a) collects and publishes information on the legislative and regulatory framework of public procurement and related case law of European and national courts; (b) monitors and evaluates the collection, processing and publication in the Central Electronic Register of Public Procurement data produced by the contracting authorities and the competent public bodies, in accordance with the provisions of article 11. "</p> <p>The latter article 11 of L. 4013/2011 establishes the Central Electronic Register of Public Procurement (KIMDIS) at the Ministry of Development and Competitiveness (General Secretariat of Commerce), in order to collect, process and publish data related to public supply and services contracts regardless of the procurement process. 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.</p> <p>Furthermore, the Ministry of Development and Competitiveness has developed and operates (a) an Integrated Information System (OPS) collecting data on NSRF projects and (b) an Integrated Information System for Public Investments (OPS-PDE), where data of the Public Investment Program are recorded according to the provisions of the EU Regulations (1303/2013/EU) applicable, in order to be used as a tool for the management, monitoring, control and evaluation of Operational Programmes (OPs).</p> <p>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 KHMDHS it is automatically posted on DIAVGEIA, too. Because of the large number of decisions and acts posted on DIAVGEIA it is very difficult to identify a contract opportunity in DIAVGEIA.</p> <p>In addition to the above, provisions of Article 340 of Law 4412/16 have a particular bearing on collecting information about the procurement system. In particular, it should be noted that the procedure for monitoring the implementation of the rules on public procurement is governed by the provisions of Law 4013/2011 (AD 204), as amended and in force. When audit or supervisory bodies identify, on their own initiative or upon receipt of information, specific violations or systemic problems, they are obliged to report these problems to the Single Public Procurement Authority, the audit authorities and the courts.</p> <p>Furthermore, the results of the monitoring activities, according to the previous paragraph, are made available to the public by their mandatory posting on the official website of the HSPPA and are sent to the competent Directorate of the European Commission.</p>		<p>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 CA's obligation to provide information in KIMDIS is monitored or enforced, or whether information is provided in an adequate way. Therefore, the assessors conclude that the system presents gaps with regards to data collection and provision.</p>		<p>Evaluate how the compliance with obligations to provide information can be improved. An important factor is user-friendliness, which can facilitate the use of e-procurement and incentivise its use. An additional incentive could be to make the legality of contracts conditional upon their registration in KIMDIS.</p>

10 PUBLIC CONTRACT MONITORING REPORT FOR GREECE <https://www.eaadhsy.gr/index.php/category-articles-eaadhsy/347-ek8esh-parakoloy8hshstoy-systhmatos-twn-dhmosiwn-symvasewn-etoys-2017>

	The HSPPA provides for the submission of a monitoring report to the European Commission every three years, starting from 18.4.2017. The report shall include, where appropriate, information on the most common causes of misapplication or lack of legal certainty, including possible structural or recurring problems in the application of the rules, the level of SMEs participation in public procurement procedures, as well as the prevention, detection and adequate reporting of cases of fraud, corruption, conflict of interest and other similar serious irregularities in the field of public procurement. By joint decision of the Minister of Economy, Development and Tourism and the Minister responsible for the fight against corruption, the details for the application of the previous paragraph are determined. In particular, the information required for the preparation of the monitoring report, the persons responsible for providing of the said data / information, the time and manner of their submission, the disciplinary responsibilities of the obligors in case of non-submission or late submission of the required data.		
(b) The system manages data for the entire procurement process and allows for analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements.	<p>As already stated above, HSPPA is responsible – inter alia – for keeping the National Database of Public Procurements (EBDDHSY) (article 2 para 2 j of L. 4013/2011. For the exercise of the above responsibilities, data are collected from:</p> <ul style="list-style-type: none">➤ public procurement information systems➤ by sampling by the CAs themselves➤ from audit bodies➤ from the elaboration of decisions of the competent courts <p>In order to improve the quantity, quality and reliability of the collected data, the Joint Ministerial Decision provided for in article 340 of law 4412/16 is processed for a better and in-depth analysis of the data.</p> <p>According to L. 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 establishes the National NSRF Coordination Authority (hereinafter, an executive service, at the level of General Directorate of the Ministry, which is not part of the organization of the Ministry of Development and Competitiveness and reports to the Secretary General of Public Investments - NSRF. Its mission is 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 harmonized 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 OPs, in particular per category of region and thematic concentration. The Integrated Information System shall prevent that permitted levels of over-commitment are exceeded by providing for system checks, automatic notifications, and aggregate reports. According to article 15 (4), the Special Service for the Integrated Information System within the Ministry of Development is responsible for: (a) designing, developing and adapting the Integrated Information System (OPS) to the implementation requirements of the NSRF 2014-2020 and other development programs; (b) ; (c) processing and utilizing the data recorded in the OPS in order to satisfy the requirements of the users of the systems and providing statistical data for the evaluation of the performance and adoption of measures or the determination of the need to establish new ones.</p>	<p>Although responsibilities to analyse information has been assigned and a system for collecting and processing data is operation, 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 stated in the assessment criterion 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.</p> <p>The e-procurement system does not cover the entire procurement cycle (the planning and contract management phase does not seem to be fully covered, see also above.)</p>	<p>More could be done to process, store and enhance procurement data in such a way that it facilitates analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements. This would include including functionalities in the system that allow storing more granular information about each procurement process, and building systems to analyse the gathered information.</p>
(c) The reliability of the information is high (verified by audits).	No relevant procedures are available		
	There are no information verification procedures available. This is all the more relevant as assessors found indications that contracting authorities feed information into contract registry system (KIMDIS) with a delay.		
(d) Analysis of information is routinely carried out, published and fed back into the system. *	The public procurement portal promitheus.org serves to publish routinely analysed information in a visualisation tool. The analysis is conducted by the respective departments tasked with procurement data analysis as stated above. It also serves to publish analysis by the General Directorate of Public Procurements.		
// Minimum indicator // * Quantitative indicators to substantiate assessment of sub-indicator 7(c) Assessment criterion (d): • total number and value of contracts	<p>The portal visualises and allows searches for data on:</p> <ul style="list-style-type: none">(a) published procurements;(b) value ;(c) items;(d) CAs;(e) procurements procedures carried out;	<div><div>General government procurement as share of total general government expenditures: 20.4 percent</div><div>General government procurement as share of GDP: 9.54 percent</div><div>Source: OECD National Accounts Statistics</div><div>The assessors were unable to retrieve data to compile the remaining aspect of</div></div>	<p>While analysis of procurement information is carried out through specific reporting obligations (e.g. monitoring as required per EU directives every three years, HSPPA annual reporting) it remains unclear how the information from procurement system is taken into account and fed back into the system.</p> <p>Second, the quality of the information available remains below potential. For instance, HSPPA could expand performance indicators that are available for consultation by the public on the National</p>

<ul style="list-style-type: none">• public procurement as a share of government expenditure and as share of GDP• total value of contracts awarded through competitive methods in the most recent fiscal year. <p>Source: Normative/regulatory function/E-Procurement system.</p>	<p>(f) tenders submitted; (g) economic operators participated; (h) economic operators registered.</p> <p>In addition, the search allows for a search per:</p> <p>(a) year; (b) services / supplies / both; (c) all CAs/Central Administration/other CAs/local authorities/health sector; (d) specific CA; (e) territory namely: all/Attica/Aegean Islands and Crete/Northern Greece/ Central Greece, (f) region.</p> <p>When the assessors visited the page in mid-April, the database had been last updated on 16 March 2020.</p> <p>In addition to the data published on promitheus.org, public procurement data and reports are also published on HSPPA’s website:</p> <ul style="list-style-type: none">• The monitoring report referred as per article 340 of law 4412/16• Data from the National Public Procurement Database	<div><p>the quantitative assessment criterion: total value of contracts awarded through competitive methods in the most recent fiscal year.</p></div> <p>Procurement Database, allowing for more advanced analytics.</p>
---	---	--

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

8(a) Training, advice and assistance

There are systems in place that provide for:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) substantive permanent training programmes of suitable quality and content for the needs of the system.	<p>Several bodies are part of the training and professionalisation landscape, namely:</p> <p>1) HSPPA</p> <p>It has responsibilities for the development of the appropriate policy architecture for the professionalization and in general the 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 (GGE) and the General Secretariat for Infrastructure (GGY).</p> <p>The Authority trains public executives independently by organizing workshops and seminars in Audit Authorities and / or Ministries upon their request. At the same time, executives of the Authority belong to the register of trainers of EKDDA participating in the training programs of INEP for public contracts. Respectively, in the training programs of the Training Institute INEP for public procurement participate as trainers executives of GGE and GGY as members of the register of trainers.</p> <p>In addition to the above, the Authority cooperates with Management Organisation Unit (MOD), for the training on public contracts of executives who manage co-financed programs. This is a public enterprise that assists public authorities in the effective management of EU-funded programmes.</p> <p>2) EKDA, the National Centre for Public Administration</p> <p>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. The selection criteria, as posted on the EKDDAA’s website, are:</p> <p>(a) The relevance of the responsibilities and tasks performed by the employee with the objectives and the object of the training (target group, as described in the training program circular); (b) Official need for training (c) Date of application (d) Consistency in the obligations during the monitoring of previous training programs (e) The employees of the bodies that have submitted an Education Plan are selected as a priority in order to participate in the training actions of INEP.</p> <p>In 2018, EKDA counted 2 508 participants for all courses on public procurement. In addition, 44 students of the National School for Public Administration and Self-governance have followed a procurement-specific programme. 8.5 % of public servants trained by EKDA have had to do with public procurement. In 2017, EKDA restructured the public procurement programme. The focus of this programme is on awarding contracts (recently redesigned from four-to five-day</p>		<p>During interviews, stakeholders noted that these programmes are not sufficient. According to stakeholders, public officials have predominantly basic knowledge and that they are not adequately specialized on public procurement. 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.</p> <p>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.</p>		Training on public procurement could be expanded, and information gathered on its participants.

	programme.) Emphasis is on legal protection and implementation. A specific programme has been developed to cover the planning stage, preparation and market research.		
(b) routine evaluation and periodic adjustment of training programmes based on feedback and need.	<p>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.</p> <p>There is no regulation available on evaluation and periodic adjustment of training programmes based on feedback and need.</p> <p>When planning its EKDA’s programme each year, the policy and architecture of professionalization of the public procurement sector should be taken into account; in particular, taking into account the specifics and characteristics of the public procurement system as well as and the general and specific needs of CAs and CBs.</p>	As mentioned above, there is limited insight (analysis or data) as to whether the trainings globally are sufficient to maintain a knowledgeable public procurement workforce.	Conduct overarching analysis of the training programmes to determine whether offers are sufficient and adequate for the size of the procurement workforce and their education needs in line with national priorities and strategies.
(c) advisory service or help desk function to resolve questions by procuring entities, suppliers and the public.	<p>Article 2 (2), of L. 4013/2011 on the Establishment of HSPPA stipulates that HSPPA: “provides advice to the contracting authorities on its own initiative or at the request of the latter, in particular at the stage of adjudicating or examining objections, on the lawful conduct of public procurement procedures and the uniform application of European and national public procurement law.” The provisions of article 340 par. 3 of Law 4412/16 further outline HSPPA’s role in this context: “3. The Authority within the framework of its responsibilities, as defined in article 2 of law 4013/2011 provides for: (a) free information and guidance through general guidelines on the interpretation and application of Union law in the field of public procurement, to assist contracting authorities / contracting bodies and economic operators; in particular small and medium-sized enterprises (SMEs) for the proper application of Union rules on public procurement, and through its website, and b) in cooperation with EKAA and the National Coordination Authority (EAS) of the Ministry of Economy, Development and Tourism support of contracting authorities / bodies in the planning and carrying out of public procurement and co-financed public procurement procedures, respectively”</p> <p>Since 1997, KDEOD operates the Public Procurement Monitoring Unit (MoPADIS), 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.</p> <p>According to PD 147/2017, the Secretariat General of Commerce and Tourism of the Ministry of Development has the responsibility – inter alia – for issuing circulars and providing instructions and information to the contracting authorities on the provisions of Public Procurement law for goods and services, as well as on any matter arising during the conclusion of such contracts.</p> <p>Advisory services to suppliers and the public are provided by the Ministries, which have the legislative initiative in public procurement and issue relevant circulars (interpretative or implementation). They are also provided by the Professional Chambers.</p>	<p>No verification was possible on whether these existing helpdesks work in practice and in particular how quickly the advisory services respond to the questions.</p> <p>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. The assessors were not able to ascertain whether the needs of suppliers are met with the current set-up.</p>	Consider whether there is a need for advisory service or help-desk function to resolve questions by suppliers and the public.
(d) a strategy well-integrated with other measures for developing the capacity of key actors involved in public procurement.	<p>The strategy for strengthening the administrative capacity of CAs and CBs is depicted in the current National Public Procurement Strategy 2021-2025 (and was already part of the previous strategy 2016-2020) that has been adopted by the Ministers of Finance – Development and Investments – Health – Justice – Infrastructures and Transport – the State in May 2021. More specific Pillar 4, 4th strategic direction, bearing the title “professionalisation of the field of public procurements” includes 2 relevant Actions (Actions 73 and 74), namely: Action 73: Development of an action plan for the architecture and policy of professionalisation in the field of public procurements aligned with the EU recommendation regarding both CAs /CBs and economic operators; Action 74: Implementation of the action plan for the architecture and policy of professionalisation in the field of public procurements aligned with the EU recommendation regarding both CAs /CBs and economic operators. A</p> <p>Several 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. As part of these efforts, it is envisioned to develop a “Train the Trainers” approach, creating a pool of experts that will disseminate knowledge.</p>	Insights from interviews with stakeholders indicate that a dedicated strategy to professionalisation might be highly beneficial towards increasing the capacity of the Greek public procurement systems. 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.	Introduce a training strategy closely linked to and integrated with other measures intended to develop the capacity of other key actors involved in PP. Such a strategy could harmonise the different efforts to build capacity in the public procurement system.

8(b) Recognition of procurement as a profession

The country’s public service recognises procurement as a profession:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Procurement is recognised as a specific function, with procurement positions defined at different professional levels, and job descriptions and the requisite qualifications and competencies specified.	<p>Procurement is not recognised as a specific function. 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, but not for procurers.</p> <p>In particular, with regard to the assignment and execution of projects, studies and related services, specific qualifications must be met to fill positions related to public procurement procedures.</p>		<p>Overall, procurement is not recognised as a specific function and procurement positions are not defined despite the fact that some procurement roles related to projects studies and related services require specific qualifications. 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.</p> <p>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.</p>		Recognise procurement as a specific function, defining procurement positions at different professional levels and specify job descriptions and the requisite qualifications and competences.
(b) Appointments and promotion are competitive and based on qualifications and professional certification.	<p>The general rules on appointments and promotion of public servants apply. According to article 12 of the Code of Status of Public Civil Servants and Employees of Legal Persons Governed by Public Law (Law 3528/2007), civil servants are employed by exams or by order of priority (ranking order), following a procedure carried out by the Independent Authority under the name Supreme Personnel Selection Council, based on clearly defined and objective criteria, including experience, set out in the procurement documents. Regarding promotions, article 83 of the same Code states that promotions are made following a relevant decision of the service council. Employees are promoted to the next level if they have completed the required time stated in the law at the level they are and have substantive qualifications in their evaluation reports.</p> <p>EKDA provides certification for civil servants, but there has yet to be a certification system for public procurers.</p>		<p>According to the above-mentioned rules, appointment and promotion are based on qualifications and professional certification, but since procurement is not recognized 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.</p> <p>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 public procurer.</p>		Recognise procurement as a specific function, defining procurement positions at different professional levels and specify job descriptions and the requisite qualifications and competences.
(c) Staff performance is evaluated on a regular and consistent basis, and staff development and adequate training is provided.	<p>The general rules on public officials’ performance evaluation apply (articles 14 seq. of L. 4369/2016), namely staff performance is annually evaluated by the relevant competent supervisor. Staff development depends on the CA’s organization, and training is provided at the CA’s discretion.</p>		<p>The assessors were unable to triangulate, for example through interviews, how these rules are implemented in practice.</p>		

8(c) Monitoring performance to improve the system

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The country has established and consistently applies a performance measurement system that focuses on both quantitative and qualitative aspects.	<p>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.</p> <p>Since the summer of 2021, with the introduction of JMD No. 70362/30.6.2021 of the Minsters 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.</p> <p>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.</p>		<p>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.</p>		Integrate the available information into an overarching performance measurement framework based on clearly defined indicators. Strengthen the monitoring system by making it fully electronic.

	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 law ¹¹ . Monitoring reports have been issued for the years 2021, 2020, 2019 and 2018.	
(b) The information is used to support strategic policy making on procurement.	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 (L. 4412/2016 , article 347 (1)). There is no regulation describing or defining the way information shall be used to this purpose.	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.
(c) Strategic plans, including results frameworks, are in place and used to improve the system.	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.	Assessors were unable to determine that contracting authorities use results frameworks to advance their work strategically
(d) Responsibilities are clearly defined.	As already noted (see sub-indicator5 (b) (d)) HSPPA is responsible for monitoring performance to improve the system. Since there is no results framework used to improve the system responsibilities this sub-indicator is not applicable. Regarding HSPPA, L. 4013/2011on the Establishment of HSPPA defines them clearly. ¹² Responsibilities for action in the Action Plan are assigned. Similarly, JMD No. 70362/30.6.2021 clarified responsibilities for reporting data to HSPPA.	No gaps identified

¹¹ L. 4412/2016, article 340 (2)

¹² In short, HSPPA according to article 2 of L. 4013/2011 on the Establishment of HSPPA: (a) Supervises and coordinates the actions of the bodies of the central administration in the field of public procurement and can participate in collective governmental bodies having competence on public procurement. Also, in order to integrate and uniformly develop and implement the law of public procurement, HSPPA may convene coordination meetings with representatives of the central administration and set up working groups with the participation of representatives of all relevant Ministries. The competent bodies of the central, regional and local self-governments plan their needs regarding the execution of works, provision of services and supply of goods for the next year and forward a relevant table to HSPPA for information; (b) Promotes national strategy in the field of public procurement and ensures compliance with the rules and principles of the European and national public procurement legislation. In particular, it makes recommendations to the relevant national bodies for the harmonization of the national legal framework with European law, the simplification, supplementation, reformulation, codification and consolidation of the relevant legislative and regulatory provisions of the national law, as well as the streamlining of administrative practices for the purpose of their uniform, rapid and for the benefit of public interest implementation, ensuring the observance of appropriate procedures for the award and execution of public contracts; (c) Gives opinions on the legality of any provision of any draft law or regulation concerning public procurement and participates in the relevant legislative committees. The competent authorities must take into account HSPPA’s opinion; (d) Issues and posts on its website regulations on specific technical or detailed issues concerning public procurement, relating in particular to the interpretation of the relevant national and EU law, provides guidelines to the competent public bodies and the procuring authorities and suggests to the competent Ministers the issuance of relevant circulars; (e) Issues model procurement documents and contracts following consultation with the relevant public bodies. It establishes rules for the standardization of technical specifications in cooperation with the competent bodies and checks their harmonization with the general principles of national and EU law; (f) Monitors and evaluates the efficiency and effectiveness of the actions of public bodies in the field of public procurement, including the relevant Ministries, the competent administrative bodies exercising control and supervision, as well as the contracting authorities, within the framework of the applicable national and European legislation on public procurement; (g) Carries out sampling audits, seeking ex officio information and data on the ongoing public procurement procedures by contracting authorities and involved public and private entities, and invites their representatives to hear their opinions and provide data and information. Within the framework of this competence, the Authority may order the competent audit bodies to collect data and submit findings in the field of public procurement. All competent public bodies and contracting authorities must cooperate with HSPPA, provide all necessary or relevant information and comply with its instructions. It examines, by applying risk assessment methods, in particular public procurement procedures that fall within the scope of European legislation or are co-financed by European programs. It also examines all public procurement procedures that are being investigated by the European Union for alleged violations of European law. The findings of HSPPA's investigation into the above-mentioned public procurement procedures are notified to the relevant contracting authority. If a violation of national or European law on public procurement is found, HSPPA, by a relevant decision which is taken in the light of the seriousness of the violation, shall address the appropriate simple or mandatory recommendation or discontinue the process of the public procurement procedure that has been the subject of investigation. In the event of discontinuance, the procedure may not be recaptured without HSPPA's decision providing its written consent.; (h) Supervises and evaluates, as the case may be, the competent administrative auditing bodies in the field of public procurement in terms of compliance with the applicable national and European legal and regulatory framework and the guidelines of HSPPA. These bodies must comply with HSPPA’s instructions; (i) May submit remarks on matters of public procurement, in particular on the interpretation of public procurement law, either in writing or orally on its own initiative or at the request of the competent courts in proceedings before them; (j) Keeps a National Public Procurement Database, i.e. (i) collects and publishes information on the legal and regulatory framework of public procurement and the relevant case law of the European and national courts; (ii) monitors and evaluates the collection, processing and publication of data in the Central Electronic Register of Public Contracts (KHDMHS) by the contracting authorities and the competent public bodies; (k) Provides advice to contracting authorities on its own initiative or at the request of the latter, in particular at the stage of adjudicating or examining objections, on public procurement procedures and on the uniform application of European and national legislation; (l) Participates in the relevant European institutions, as the national center of communication for exchanging views, information and data concerning the national strategy, the legal framework and the public procurement procedures. It also participates as the country's representative in international organizations and meetings in the field of public procurement; (m) Prepares and submits to the President of the Parliament, within the first quarter of each calendar year, an annual report published on the Internet, including an assessment of its actions, in accordance with its purpose and responsibilities, proposals for improving the legal and regulatory framework on public procurement, as well as the level of compliance of the competent bodies and bodies with the said proposals.

Pillar III. Public Procurement Operations and Market Practices

9. Public procurement practices achieve stated objectives

9(a) Planning

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Needs analysis and market research guide a proactive identification of optimal procurement strategies.	<p>The assessors were able to assess only to a limited extent how needs assessments and market research are conducted. Based on the information available to the assessors, there is limited indication that contracting authorities have developed any specific approaches or strategies in the area of needs analysis and market research to guide the identification of optimal procurement strategies-</p> <p>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. This seems to be the most wide-spread approach used by contracting authorities to conduct market research. Consultation lasts at least fifteen days and cannot exceed the period of sixty days commencing from the announcement upload. Preliminary consultations are carried out through the ESIDIS System. The number of consultations has steadily gone up over the past years, from 658 in 2017 to 1651 in 2020. Typically, contracting authorities carry out public consultation on the draft of the procurement notice and collect comments and suggestions on the tender specifications and requirements. In the direction of the development of best practices and strategies in the field of Public Procurement, HSPPA issued on 12/12/2019 a Technical Instruction on "Preliminary market consultations". The objective of the Technical Instruction is to provide public bodies intending to be involved in the award and execution of a "public contract" with a concise explanation of how the so-called "preliminary market consultations" are conducted and managed.</p> <p>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 decision. However, to date such ministerial decisions have not been issued.</p> <p>Procurement Programmes are prepared on an annual basis at the level of each (procurement) Body, following internal consultation with its services. In the Sector of Co-financed Projects (NSRF), the Competent Services (Managing Authorities),have special service units that deal with issues of planning and depicting needs.</p> <p>Based on input from the fact-finding mission, it appears that central purchasing bodies have developed additional practices of needs analysis and market analysis. However, this may not be the case for a broad range of contracting authorities. 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. Public consultations also do not appear to be part of the standard practices of contracting authorities, although they are being used in some cases.</p> <p>Furthermore, 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 in its annual report for the financial year 2016 as a source of irregularities.</p>		<p>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 professionalization of public procurement in Greece, there is often limited focus on the pre-award phase¹. Findings from the Court of Auditors as well as the private sector highlighted gaps in this area, too.</p> <p>While HSPPA has dedicated guidance to preliminary market consultations, additional specific guidance on either needs or market analysis has not been developed. This could signal the importance of these topics to procurement practitioners and support its implementation. Similarly, targeted guidance or training dedicated to the choice of optimal procurement strategies is lacking.</p>	<p>Raise awareness about the importance of needs analysis and market analysis, as well as appropriate procurement strategies. These elements should be fully part of the professionalization efforts in public procurement.</p> <p>Introduce specific guidance on needs analysis, market analysis and identification of procurement strategies.</p>	
(b) The requirements and desired outcomes of contracts are clearly defined.	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. There is also a set of standard specifications, which appears to be used by contracting authorities. The use		Many stakeholders expressed difficulties with drafting technical specifications that are fit for purpose despite the availability of resources, such as Unified Technical		Contracting authorities could benefit from training and awareness-raising about

¹ 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
*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

	<p>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 Minister (Law 4281/2021, article 17 amending L. 4412/2016 article 54 (9)).</p> <p>Suppliers stated that the use of these standard specifications facilitated clear communication of requirements. Procurement templates developed by HSPPA are:</p> <p>Call for tenders - Works - above EU thresholds – MEAT on the basis of the price Call for tenders - Works - below EU thresholds – MEAT on the basis of the price Call for tenders - Works and design contest - above EU thresholds – MEAT on the basis of the price Call for tenders - Works and design contest - below EU thresholds – MEAT on the basis of the price Call for tenders - Design contest - above EU thresholds – MEAT on the basis of the price Call for tenders - Design contest - below EU thresholds – MEAT on the basis of the price Call for tenders - Design contest - above EU thresholds – best price-quality ratio Call for tenders - Design contest - below EU thresholds – best price-quality ratio Call for tenders - Goods - above 60.000 (e-submission only) Call for tenders - Services - above 60.000 (e-submission only) Call for tenders – Framework Agreement for goods - above 60.000 (e-submission) Call for tenders – Dynamic Purchasing System for Student Transport Services - above 60.000 (e-submission) Call for call for expressions of interest, in the context of concluding a contract using the competitive dialogue process for the Construction and Upgrading of Port Infrastructure through Concessions and Public-Private Partnerships (PPPs).</p> <p>Procurement notices based upon the templates are analytical and include the obligations and rights of contracting authorities and successful tenderers for the whole duration of the contract. The obligations are included in a contract document template, as an annex in the call for tenders.</p> <p>Furthermore, the General Secretariat of Commerce and Consumer Protection maintains a list of Unified Technical Specifications, which is being constantly updated.</p> <p>The technical and functional specifications and the deliverables of a contract are drawn up and submitted to the procurement departments A) by the competent services of the contracting authority submitting the primary request B) by a working group set up to the contracting authority for this purpose or C) by an external consultant.</p> <p>In spite of the above, during fact-finding mission, some contracting authorities described difficulties with developing technical specifications. In particular, contracting authorities express interest in having a catalogue of technical specifications to increase the efficiency of their job.</p>	<p>Specifications by the General Secretariat of Commerce and Consumer Protection. This suggests that available product/service specifications or output/outcome-based specifications may not fully meet users’ needs.</p> <p>There is little indication that contracting authorities are sufficiently skilled in defining requirements and desired outcomes of contracts through an output/outcome-based definition of requirements (functional specifications).</p> <p>Findings by the Court of Auditors in its annual report on the financial year 2016 highlight limited technical expertise related to specific works or specific service that are the subject matter of public contracts. This suggests that contracting authorities may have difficulties in establishing requirements and desired outcomes.</p>	<p>defining outcomes of public procurement contracts. This shall include training on the use of design of technical specifications, including functional specifications.</p>
<p>(c) Sustainability criteria, if any, are used in a balanced manner and in accordance with national priorities, to ensure value for money.</p>	<p>As discussed in Pillar I, sustainability is part of the national public procurement agenda and is reflected in several policy documents:</p> <p>1. National Public Procurement Strategy, more specifically strategic direction C1 under the 3rd Pillar,through specific actions (action 40 to 43) and objectives. (https://ypen.gov.gr/wp-content/uploads/2021/12/SXEDIO-DRASHS-KO-FINAL_.pdf)</p> <p>2. National Action Plan for green public procurement, adopted by No. 14900 / 4-2-2021 Joint Decision of the Ministers of Development and Investment and of the Environment and Energy.</p> <p>3. the National Action Plan 2018-2019 for the circular economy, revised and specified with more details to align with the correspondent EU Plan in November 2021 The action plan is a four-year roadmap (2021-2025) and includes 71 actions aiming at making the country's economy sustainable and competitive at the same time. It includes actions divided into 5 main Axes:</p> <p>(a) sustainable production and industrial policy, e.g. ecological design, ecological certification, industrial coexistence, tax exemptions;</p> <p>(b) sustainable consumption, e.g. promotion of green public procurement, repair services, reuse;</p> <p>(c) less waste with higher value, e.g. financial programs for prevention, institutional framework for prevention;</p>	<p>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.</p> <p>As indicated, at present, the legal framework does not appear to pose hurdles to sustainability per se and the policy framework is being developed. However, there is limited evidence on the use of sustainability criteria in practice.</p>	<p>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 etc.</p>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

	<p>(d) horizontal actions, e.g. national observatory, voluntary agreements, coordinating body, indicators, and;</p> <p>(e) specific product categories to be addressed as a priority e.g. plastic products, batteries and vehicles.</p> <p>The actions concern the entire Greek territory. They cover the entire value chain of commodities, align with the corresponding European Commission initiatives for the period 2021-2025, and have predefined implementing bodies.</p> <p>4. In the Corporate Pact for the Regional Development Framework 2021-2027 (https://www.espa.gr/el/Documents/2127/Etairiko_Symfwno_Perifereiakis_Anptyxis_2021-2027.pdf)</p> <p>The legal framework as defined in L. 4412/2016 also allows for sustainability considerations in a number of ways:</p> <p>1. Establishment of a horizontal clause of compliance of the contractors with the applicable environmental obligations (article 18 par. 2). For work contracts :</p> <ul style="list-style-type: none">• compliance with environmental licensing (L. 4014/2011 Government Gazette 209 / A 21.09.2011) and monitoring the implementation of environmental conditions adopted at this stage for the elaboration of studies-services related to plans and programs• elaboration of a strategic environmental assessment as a high level protection of the environment and integration of environmental issues in the preparation and adoption of plans and programs, promoting sustainable development (JMD 107017 / 28.8.2006 for the environmental impact assessment of 32 specified plans and programs, in compliance with the provisions of Directive 2001/42 / EC). <p>2. Use of technical specifications to meet environmental requirements at any stage of the life of the subject matter of the contract (Article 54)</p> <p>3. Use of labels that allow contracting authorities to request a specific certificate of conformity of specific environmental characteristics, e.g. Eco-label (Article 55)</p> <p>4. Use of environmental management standards e.g. EMAS procedure (Article 82)</p> <p>5. Use of award criteria incorporating environmental criteria (quality, economics, production process) (Articles 86 - 87 "Life cycle costing")</p> <p>6. Obligation to comply with environmental obligations during the execution of the contract. Especially for supply contracts, obligation to comply with the obligations arising from Law 2939/2001 (NTUA) on the penalty of revocation of contractor and forfeiture of guarantee (Article 130, as amended by Law 4496/2017).</p> <p>Overall, there is limited evidence to suggest that sustainability criteria are used widely. In fact, contracting authorities apply price-only criterion in the majority of cases, leaving little room for sustainability consideration in the award. Nevertheless, some contracting authorities have shared their experience with sustainability considerations for specific contracts. In most cases, contracting authorities do not have comprehensive policies and approaches in place, but may use sustainability considerations for instance regarding energy efficiency in buildings or lighting.</p> <p>Life cycle costing appears to be used in particular for procurement of street lighting, based on a study of the Center for Renewable Energy (KAPE).</p>
--	--

9(b) Selection and contracting

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Multi-stage procedures are used in complex procurements to ensure that	As a general rule, any public procurement procedure above EU thresholds requires a pre-qualification stage, whereby suppliers must fulfill selection criteria dedicated to a) suitability		The assessors lack detailed information for a comprehensive assessment. Data on the use of		Provide practical training to practitioners (in addition to

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

only qualified and eligible participants are included in the competitive process.	<p>to pursue the professional activity b) economic and financial standing c) technical and professional ability.</p> <p>Other procedures defined in the EU legal framework (i.e. restricted procedure, negotiated procedure, competitive dialogue, innovation partnership) 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.</p> <p>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 suppliers. 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 dialogues². While open procedures are most competition-friendly procedures, it should be noted that limited use of other types of procedures may indicate lack of professionalization.</p> <p>Over the past years, HSPPA has examined the following requests for negotiated procedure without publication:</p> <p>2016: 147 2017:124 2018: 142 2019: 130 2020: 169</p> <p>Number of procurements through Public Works ESHDHS: 2017: 495 2018: 3.826 2019: 2.860</p> <p>Number of procurements through Supplies Services ESHDHS: 2016: 4.227 2017: 5.745 2018: 7.218 2019: 7.905</p> <p>Guideline Instructions on the design and implementation of Framework Agreements and the Development of the Competitive Dialogue have been issued by the Authority in 2014 and 2017 respectively.</p> <p>The dynamic purchasing system technique is used in some procurements to restrict candidates to those satisfying specific selection criteria. For instance, in cooperation with the Ministry of the Interior and the Region of Attica, the Authority issued model procurement documents for the implementation of a Dynamic Purchasing System tender for the student transportation.</p>	<p>procedures suggests that practitioners are not familiar with procedures that involve a pre-selection stage. Guidance developed by HSPPA on framework agreements and the use of competitive dialogue are an important step to enhance the use of complex procedures. Findings from the Court of Auditors in its annual report on the financial year 2016 also highlight lack of technical expertise and limited administrative capacity to conduct procurement procedures.</p> <p>Nevertheless, based on available information, the use of selection criteria to qualify suppliers for open procedure does not appear to pose a particular challenge to procurement officials.</p>	<p>guidance) to the use of more complex procedures, when appropriate.</p>
(b) Clear and integrated procurement documents, standardised where possible and proportionate to the need, are used to encourage broad participation from potential competitors.	<p>Assessors found a mixed picture with regards to the practical implementation and performance in the area of procurement documents.</p> <p>Contracting authorities have templates at their disposal, including procurement notice templates, which are either compulsory (works, studies), or optional (supplies, services). The templates for both compulsory (works, studies) and optional (supplies, services) are updated every time there is a change in the legal framework (law 4412/2016). Additional available templates include a contract template with specific contract performance conditions. In addition, several models for</p>	<p>Templates and model documents by HSPPA are generally accepted by CAs and provide important support, however, gaps remain in the completeness of procurement documentation. Indeed, contracting authorities and suppliers voiced concerns about the lack of clarity regarding documentation to be provided in support of a bid. Namely, contracting authorities often must reject bids due to missing documents, while</p>	<p>Enhance 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</p>

²Open Tender, Greece, Market Analysis <https://opentender.eu/gr/dashboards/market-analysis>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

	<p>technical specifications exist. In particular, a registry of technical specifications accessible to contracting authorities has been developed by the General Secretariat of Commerce and Consumer Protection.</p> <p>Overall, stakeholders considered that there is the potential to simplify the law, while including more aspects in model documents. This would allow for greater flexibility to contracting authorities.</p> <p>While these templates are available, during stakeholder interviews, an important challenge was highlighted regarding procurement documents in the construction sector. In response to a collusion scandal, additional requirements were imposed on suppliers regarding potential involvement in collusive behavior (self-declaration). These provisions have been relaxed for suppliers that have settled their case with the Competition Authority. Based on HSPPA’s analysis these requirements apply to a very small share of suppliers.</p> <p>Furthermore, stakeholders repeatedly indicated that greater standardization is welcome from the side of contracting authorities, 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, as often procurement officials lack the skills to do so. For complex procurement cases, contracting authorities often need to outsource the preparation of tender documents to external consultants. From the private sector side, also 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.</p> <p>Finally, analysis by the European Commission in the EU Semester Country Report suggests that competition in Greek procurement markets is limited by the over-specification in tender documents, particularly in the health sector³. Moreover, the high number of single bids registered (34% in 2018, and 40% in 2019) further underscore the need for greater participation in public procurement⁴.The sample analysis also shows high prevalence of single bids, which amount to 37.0% for open procedures.</p>	<p>suppliers point to limited clarity and standardization in the requests for supporting bid documentation.</p> <p>Often there are skills gaps regarding the development of technical specifications.</p> <p>Furthermore, findings by the Court of Auditors identity that established administrative practices are often in the way of healthy competition in procurement markets.</p>	<p>areas in the definition of their needs.</p>
<p>(c) Procurement methods are chosen, documented and justified in accordance with the purpose and in compliance with the legal framework.</p>	<p>Procurement procedures, both over and below thresholds, are designed in accordance with the provisions of the public procurement legal framework (L. 4412/2016 and 4413/2016).</p> <p>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. These specific flexibilities according to the recently passed law will last until the end of 2021.</p> <p>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 the extraordinary events. Within the framework of its advisory competence, HSPPA points out the supremacy and direct application of Union law to contracts above the thresholds and in the application of the general principles of the TFEU to those having cross-border interest.</p>	<p>There is evidence documenting the lack of compliance with the legal framework by artificially splitting contracts in order to allow for direct award applicable to co-financed projects in the infrastructure sector. While these findings are limited to a specific area of procurement, they represent a very significant gap, as it could be a signal for corrupt practices.</p> <p>Furthermore, stakeholders suggest that direct awards occur too frequently.</p> <p>The continued implementation of ex ante controls for contracts above certain thresholds ⁶ may also be considered as evidence for the fact that there are concerns with respect to compliance with legal</p>	<p>Strengthen the audit and control framework to limit the potential for circumventing public procurement rules (see Indicator 12). Increase disclosure of information regarding irregularities of public procurement (e.g. audit findings) to allow for greater accountability. The initiatives taken by HSPPA are important steps in this direction on generating transparency for direct</p>

³ European Commission (2020), Country Report Greece 2020 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0507&from=EN>

⁴ European Commission, Single Market Scoreboard, Public Procurement https://ec.europa.eu/internal_market/scoreboard/performance_per_policy_area/public_procurement/index_en.htm

⁶ 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

	<p>Artificial splitting of project budgets is an issue of concern, particularly for project funded with EU Funds in the infrastructure sector. Namely, authorities have identified a practice of segmentation of the budget/project, which allows for a direct award of contracts ⁵. Stakeholders also commented about the overly high level of direct awards being carried out.</p> <p>The National System of Electronic Public Procurement fully supports the technical implementation of Framework Agreements, Dynamic Purchasing Systems, whilst action is underway to configure the System to implement Electronic Catalogues. The relevant study, in collaboration with the Austrian national central purchasing authority BBG, has already been completed. Nevertheless, stakeholders also mentioned that framework agreements are not sufficiently used, despite the fact that they are considered useful tools. Indeed, contracting authorities often lack the skills or the confidence to make use of them.</p> <p>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.</p>	<p>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 annual report for the financial year 2016. Namely, the share of illegal procurement procedures compared to all contracts in 2016 of all public bodies rose to 5.57%. Furthermore, the Court of Auditors observes weaknesses in the execution of internal controls as well as limited capacity of public entities to improve their capacity, as irregularities are repeated, and recommendations are often not taken properly complied with.</p> <p>Nevertheless, important progress is being achieved. Following HSPPA’s suggestion, KIMDIS’s configuration has been completed in 2019, so that contracts awarded directly are explicitly declared in KIMDIS (articles. 118 and 328 of law 4412/2016). The same applies for contracts concluded by negotiation without prior publication (article 32 and 269 of law 4412/2016). Within 2020, accurate data on direct award has been published for 2020-2021; using such data, HSPPA (a) will make the appropriate proposals to promote transparency and centralisation of the public procurement, and (b) will carry out sampling audits in Contracting Authorities/Bodies within its remit.</p> <p>With respect to procurement techniques, gaps emerge in the use of framework agreements and as well as in the use of electronic catalogues. This issue is being addressed, as the updated training programmes of the National Center 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.</p>	<p>awards and negotiations without prior publication.</p> <p>Enhance the professionalization of public buyers by continuing efforts on training of complex procurement methods.</p> <p>Expand the functionalities of the e-procurement system to capture all procurement techniques.</p>
(d) Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. This means, for instance, allowing bidders or their representatives to attend bid openings, and allowing civil society to monitor bid submission, receipt and opening, as prescribed.	<p>The procedures concerning the bid submission, including means of proof for eligibility criteria and the opening of tenders, either in paper form or through electronic procedures, is explicitly detailed in the procurement documents. Monitoring the tender opening procedure is permitted only to representatives of tenderers participating in the specific procurement procedure.</p>	<p>Civil society’s participation in bid opening is limited, as only representatives of tenderers are allowed to do so. It should be noted that in the EU context, participation from external stakeholders in the procurement process and bid opening is rare (see Ind. 11).</p> <p>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 does pose some hurdles in this area (see Ind. 7).</p>	
(e) Throughout the bid evaluation and award process, confidentiality is ensured.	<p>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.</p>	<p>During the fact-finding mission, confidentiality was mentioned by private sector stakeholders as a concern when using the e-procurement platform. However, these concerns may be more closely related to the administrative burden resulting from the need to present documentation electronically and in paper.</p>	

⁵ 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

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

(f) Appropriate techniques are applied, to determine best value for money based on the criteria stated in the procurement documents and to award the contract.	Procurement procedures awarded on the basis of the best price – quality ratio (most economically advantageous tender), are evaluated according with the criteria stated in the procurement notice, each of them specified with a relative weighting. However, it should be noted that the award based on the best price-quality ratio is used rarely in Greece, with 90% of contracts awarded exclusively based on the lowest price in 2018, compared with 47% at EU level ⁷ .	The available information suggests that whenever the award is based on the best-price-quality-ratio, appropriate techniques are applied following the criteria outlines in the procurement documents.	Train contracting authorities to make use of best-price-quality-ratio in contract award to take into account quality in public procurement, and ensure value for money.
	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.		
	The public procurement law 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 CA. Should this be not sufficient, the CA may resort to another public service for a member to be appointed. As a last resort, the CA may draw the tender committee through the tender committees members register (MIMED). Deadlines for the completion of the work of the committees are set in article 221 A. Regarding the skills of the committee members, according to article 221, the members should come from the technical staff that have experience, technical specialization and expertise that are specific to the contract to be awarded.		
(g) Contract awards are announced as prescribed.	The successful tenderer and the rest of the participants are informed about the contract award by means of electronic communication through ESIDIS. Furthermore, the contract award is uploaded on the information systems of DIAVGEIA and KIMDIS allowing any interested stakeholder to access this information.	The available information do not suggest any gaps in this area. In general, contract awards are published in KHMDS after the time needed to express objections.	
(h) Contract clauses include sustainability considerations, where appropriate.	As mentioned above, the consideration of sustainability aspects in procurement procedures is relatively low, which also renders the respective contract clauses unnecessary. In specific sectors (such as vehicles, street lighting) sustainability considerations are used, including in contract clauses. This applies in particular to street lighting, where the use of energy-efficient LED technology is common. However, from the private sector perspective, the monitoring of	The assessors lacked information on this aspect. As indicated above, at present, the legal framework does not appear to pose hurdles to sustainability per se and the policy framework is being developed . However, assessors could not identify the frequency of their use	Introduce model contract clauses that take into account sustainability considerations. Share good practices in the

⁷ European Commission (2020), Country Report Greece 2020 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0507&from=EN>

⁸ <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/>

⁹ <https://www.kathimerini.gr/905698/article/epikairothta/politikh/antidraseis-gia-tis-allages-stis-promh8eies>

	sustainability targets could be improved, suggesting that contract clauses may not be sufficiently developed in this area.		of sustainability considerations, and overall procurement practices suggest that such use may be very limited.	area of monitoring sustainability targets.
			Furthermore, stakeholders indicated that contract clauses related to sustainability considerations are not sufficiently developed.	
(i) Contract clauses provide incentives for exceeding defined performance levels and disincentives for poor performance.	<p>Although not specifically mentioned, given the strong focus on lowest price and limited attention to quality in contract award, the use of contract clauses that provide incentives for performance seems unlikely.</p> <p>The model documents and templates provide the possibility to define special conditions for the execution of a contract.</p>		Assessors have limited information to provide an assessment on this aspect. Evidence about the professionalisation of the procurement workforce indicates there is limited emphasis on the post-award phase, suggesting limited use of incentives for contract performance. Nevertheless, available model documents with these features may prompt CAs to make use of such incentives.	Gather evidence on the use incentives for performance in contract clauses.
(j) The selection and award process is carried out effectively, efficiently and in a transparent way. *	<p>Overall, performance on the effectiveness and efficiency of procurement processes in Greece shows weaknesses. For instance, the selection and award process is slow compared to European peers (see quantitative assessment.) Delays are often due to the legal remedies process, as highlighted during the fact-finding interviews.</p>	<p>According to analysis from the European Commission, on average, award procedures take 236 days compared with an EU average of 86 days¹¹.</p> <p>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:</p> <ul style="list-style-type: none">• 27 open procedures• 33 direct awards• 2 restricted procedures• 1 negotiated procedure without prior publication <p>The sample comes from approximately 15 different CAs covering various types sectors as well as categories (goods, services, studies and works).</p> <p>1) Number of days between advertisement/solicitation and contract signature (average days)</p> <p>Open procedure: 318 Direct award: 117 Restricted procedure: 410 Negotiated procedure without prior publication: 8 All procedures: 208</p> <p>2) Average number of bids that are responsive</p> <p>Open procedure: 4.6 Direct award: 1.6 Restricted procedure: 4.0 Negotiated procedure without prior publication: 3.0 All procedures: 3</p> <p>3) Share of bids that are responsive</p> <p>Open procedure: 85.9% Direct award: 92.4%</p>	<p>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, indicating inefficiencies. Frequent recourse to appeals further slows down the award process. There is a heavy focus on lowest price as award criterion, which also is a signal for limited efficiency and effectiveness. Efficiency gains through centralization and the use of framework agreements are not fully exploited. Transparency, while fulfilled in principle, may be sometimes be incomplete in practice, specifically regarding the upload of contracts in KIMDIS. Other procurement documentation (primary request, awards, payment orders etc.) are published immediately. Furthermore, transparency is hindered by the lack of machine-readable data.</p> <p>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.</p> <p>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%.</p>	<p>Training and awareness raising are needed to teach contracting authorities the use of best price-quality ratio as award method.</p> <p>Authorities could focus on effectively centralizing public procurement as a means to enhance efficiency and effectiveness. This could entail the implementation of training on the use of framework agreements and ensuring the effectiveness of central purchasing bodies.</p> <p>Greek authorities could investigate potential administrative burden or lack of capacity linked to the slow conclusion of procurement procedures.</p> <p>Greek authorities could also ensure that effective mechanisms are in place for compliance with transparency requirements regarding the publication of contracts in KIMDIS. For instance, contracts could only have legal validity once there are uploaded in KIMDIS.</p>
*Recommended quantitative indicators to substantiate assessment of sub-indicator 9(b) Assessment criterion (j): - average time to procure goods, works and services number of days between advertisement/solicitation and contract signature (for each procurement method used) - average number (and %) of bids that are responsive (for each procurement method used) - share of processes that have been conducted in full compliance with publication requirements (in %) - number (and %) of successful processes (successfully awarded; failed; cancelled; awarded within defined time frames) Source for all: Sample of procurement cases.	<p>Furthermore, there is very limited focus on quality in the award of procurement contracts, as over 90% of awards are based on lowest price. This also limits the economic efficiency of public procurement. Furthermore, centralisation of public procurement is not carried out effectively, in particular for the area of health. Specifically, a central purchasing body for the health sector (EKAPY) has been set up but it has not been operational¹⁰.</p> <p>As reported in the fact-finding mission, contracting authorities make only limited use of framework agreements, thereby foregoing gains in efficiency and effectiveness. Nevertheless, some implementation of efficiency tool is picking up. For instance, the General Secretariat of Commerce has already implemented six Framework Agreements. In addition, the implementation of the Electronic Catalogues using ESIDIS is planned. Framework Agreements are being designed for a variety of goods and services.</p> <p>Transparency requirements are met through the publication of information through KIMDIS and Diavgeia systems throughout all procedure stages. However, despite relatively broad transparency requirements, there are challenges in having access to comprehensive data about the procurement process and related contracts above and below the thresholds. To improve transparency and facilitate monitoring of the procurement system, HSPPA requested a specific configuration in KIMDIS. Namely, the field for the award process in all relevant forms of KIMDIS, became from optional mandatory in 2019.</p> <p>Transparency of the procurement process is automatically fulfilled when procedures are conducted electronically via ESIDIS. In contrast, the publication of contracts in KIMDIS shows delays, as reported by stakeholders and evidenced by analysis from the OECD team. Further limitations to transparency consists in the difficulty to linking documentation related procurement award from ESIDIS to contract documentation in KIMDIS (lacking interoperability). Similarly, data is not accessible in a machine-readable format. Further information about procurement data are outlined in Indicator 7. To improve transparency of public tenders, Greece joined a pilot project ("Smart Public Contracts Register – Empowering Public Procurement Statistical Reporting, Market Analysis and Monitoring") by the European Commission in partnership with the European Bank for Reconstruction and Development (EBRD) and the Open Contracting Partnership. The results were expected by the end of 2021.</p>			

¹⁰ European Commission (2020), Country Report Greece 2020 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0507&from=EN>

¹¹ Ibid.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

	<div>Restricted procedure: 100% Negotiated procedure without prior publication: 100% All procedures: 90.2% 4) 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% 5) Number of successful processes Open procedure: 27 Direct award: 32 Restricted procedure: 2 Negotiated procedure without prior publication: 1 All procedures: 62 6) 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%</div>	Interoperability between the two systems ESIDIS and KIMDIS should be ensured.
--	---	---

9(c) Contract management

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Contracts are implemented in a timely manner.* Recommended quantitative indicator to substantiate assessment criterion (a): time overruns (in %; and average delay in days)	<p>It is common for contracting authorities to modify or extend of contracts to adjust for possible delays. Exploitation of option rights is also a common phenomenon, as results from the monitoring of published notices and negotiated procedures. It is based on the article 132 (Law 4412/2016), which gives the right to a contracting authority to modify contracts during their terms, if it is clearly described in the initial procurement documents.</p> <p>During the fact-finding interviews, some contracting authorities highlighted that their system for contract management allows monitoring progress from tendering to delivery and invoice. Other contracting authorities had less elaborate systems but would collaborate with financial departments to follow up payment schedules etc.</p> <p>It should be noted that in the ESIDIS System, there is a relevant contract monitoring subsystem, which however is not mandatory for CAs/CBs and therefore it is not being used.</p>	<p>The sample analysis provides the following information regarding time overruns:</p> <p>Average time overruns (in days):</p> <p>Open procedure: 284 Direct award: 8 Restricted procedure: 378 Negotiated procedure without prior publication: 59 All procedures: 139</p> <p>Average time overruns by category of procurement</p> <p>Goods: 22 Services: 32 Studies: 1084 Works: 663</p> <p>In total, the share of delayed procedures amounted to 33.3%.</p>	<p>Extension or modification of contracts are common practices, highlighting the need to adjust for delays. Not all contracting authorities have streamlined processes for contract management, and are therefore capable to implement contracts in a timely manner.</p> <p>The forthcoming redesign of KIMDIS and the further development of the National Public Procurement Database will significantly strengthen the monitoring index of the system.</p> <p>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).</p> <p>Data from the World Bank confirms long contract implementation times. Greece is the worst performing</p>		Mainstream mechanisms for monitoring contract performance and implementation. This includes provide incentives to make use of the available contract monitoring sub-system in ESIDIS.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

			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 day (World Bank, Doing Business 2020, Contracting with the Government) ¹²	
(b) Inspection, quality control, supervision of work and final acceptance of products is carried out.* Recommended quantitative indicator to substantiate assessment criterion (b): quality-control measures and final acceptance are carried out as stipulated in the contract (in %)	<p>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 Monitoring and Acceptance Committee established by appointment for the whole contract or for a specific lot. 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. The assignment of Committees is provided in article 221 of L.4412 / 2016.</p> <p>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. Namely, they highlighted the need for better mechanisms to ensure the delivery of the ordered goods, services and works.</p>	<p>The sample analysis provides the following picture with respect to quality control and final acceptance.</p> <p>Share of procedures applying quality control measures</p> <p>Open procedure: 77.8% Direct award: 69.7% Restricted procedure: 100% Negotiated procedure without prior publication: 100% All procedures: 74.6%</p> <p>Share of procedures for which an acceptance certificate was issued</p> <p>Open procedure: 69.2% Direct award: 90.9% Restricted procedure: 50% Negotiated procedure without prior publication: 100% All procedures: 80.6%</p> <p>The results regarding quality control and final acceptance are not in line with expectations, as these steps are mandatory step to complete payment. Limited understanding of the survey question may have contributed to the result.</p>	<p>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. At the same time, comprehensive rules seem to be in place.</p> <p>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 80.6% of procedures.</p>	<p>Identify gaps in the practice of contract implementation, particularly regarding the need to ensure the delivery of the ordered goods, services and works.</p>
(c) Invoices are examined, time limits for payments comply with good international practices, and payments are processed as stipulated in the contract. Recommended quantitative indicator to substantiate assessment criterion (c): invoices for procurement of goods, works and services are paid on time (in % of total number of invoices).	<p>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 favorable payment terms, namely 30 days from the receipt of the invoice. Furthermore, the circular YPOIK / 21.2.2019 / 2/16563/0026 stipulates that if the debtor receives an invoice before the goods or services, the "30 days" run from their receipt and not from the issuance of the invoice.</p> <p>Payment delays are a major issue in the Greek public procurement system. 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 payout 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. T Recently, the online control of tax clearance of Economic Operators has been implemented by CAs / CBs allowing to speed up payment execution.</p> <p>The challenges with payment delays are often exacerbated at regional level.</p>	<p>For the central administration, the average payment time amounted to 40 days in 2019, a delay of 10 days compared to the payment terms (30 days) ¹³ . 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 2020¹⁴.</p>	<p>The assessors lack information on the processes for examining invoices. Major gaps occur with respect to payment delays. At regional level, payments may be even slower.</p> <p>Verifications with tax authority prior to proceed to payments contributed to delays. However, significant improvements have occurred this fronts.</p> <p>Furthermore, recent changes to digitalise the process of online control of tax clearance is likely to speed up the overall payment process.</p> <p>Not least, the introduction of e-invoicing contributes to the digitalization 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 CAs may still be required to print and store file in paper. Furthermore, at the time of the assessment the e-invoicing is entering into</p>	<p>x</p> <p>Greek authorities need to ensure that mechanisms are in place for contracting authorities to comply with the law.</p> <p>Encourage full digitalization of the as a means to speed up payments (beyond e-invoice).</p> <p>Eliminate practices of ad-hoc legislation to legalise unlawful procedures, as these undermine the consistency of the legal framework (see Indicator 1).</p>

¹² https://www.doingbusiness.org/content/dam/doingBusiness/excel/db2020/DB2020_CwG_Data.xlsx
¹³ Data provided during the fact-finding mission
¹⁴ World Bank, Doing Business 2020, Contracting with the Government, https://www.doingbusiness.org/content/dam/doingBusiness/excel/db2020/DB2020_CwG_Data.xlsx

	<p>It should be noted that many court cases are linked to issues related to payment (see indicator 13).</p> <p>Finally, the application of Electronic Invoicing is expected to provide valuable information and aggregated statistics on the nature of Public Sector expenditures. In addition, it is expected to speed up procedures and shorten payment times. The relevant Joint Ministerial Decisions were issued in June 2020 and full operations are expected in the first quarter of 2021.</p>		<p>operation, therefore the assessors are not able to ascertain its effectiveness.</p> <p>Finally, occasionally ad-hoc legislation is introduced to legalise unlawful procedures to enable payments. Such legislation stipulates that the procedures carried out by a particular contracting authority in a particular sector is considered to be legal.</p>	
<p>(d) Contract amendments are reviewed, issued and published in a timely manner.*</p> <p>Recommended quantitative indicator to substantiate assessment criterion (d): contract amendments (in % of total number of contracts; average increase of contract value in %)</p>	<p>As per the law, contracting authorities must upload on KIMDIS all contract amendments without delay.</p>	<p>The sample analysis provides the following picture regarding contract amendments and cost overruns:</p> <p>Share of contracts with 1 or more contract amendment</p> <p>Open procedure: 51.9% Direct award: 0.0% Restricted procedure: 50.0% Negotiated procedure without prior publication: 0.0% All procedures: 23.8%</p> <p>The data for direct awards contrasts with the data on time overruns. Given that 8 direct award procedures experience time overruns, related contract amendments would be expected.</p> <p>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.</p>	<p>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.</p> <p>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 high 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 on the whole the sample cases show an average of 2.7% reduction in the final contract volume compared to the volume at signature.</p>	<p>Train public procurement officials to better plan public procurements to avoid unnecessary modifications of contracts.</p> <p>Increase controls for potential unlawful expansion of the contract scope and addition of supplementary contracts.</p>
<p>(e) Procurement statistics are available and a system is in place to measure and improve procurement practices.</p>	<p>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.</p> <p>The National Public Procurement Database Portal, in its full development, will provide the possibility to CAs / CBs, to receive a data-set with the details of their contracts, for further processing and analysis.</p> <p>Some contracting authorities have their own systems in place for data analytics. For instance, a large contracting authority uses a system to monitor the full procurement procedure, from tendering to delivery and invoicing. Other authorities cooperate with their finance departments to obtain statistical information.</p> <p>From the private sector side, better monitoring is welcome, including for aspects related to sustainability.</p> <p>As mentioned above, the ‘Smart Public Contracts Register – Empowering Public Procurement Statistical Reporting, Market Analysis and Monitoring’ seeks to consolidate and integrate data from existing systems, improve data quality and facilitate use of data-driven analytical tools.</p>		<p>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.</p> <p>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.</p>	<p>As discussed in Indicator 7 and 8, Greek authorities need to improve the availability and user-friendliness of data on public procurement.</p> <p>At the level of contracting authorities, the use of statistics to improve procurement practices should also be encouraged. Good practice exchanges could be organized with contracting authorities that are advanced in this area. The expansion and development of the National Public Procurement Database Portal is an important tool to support this.</p>

<p>(f) Opportunities for direct involvement of relevant external stakeholders in public procurement are utilised.*</p> <p>Recommended quantitative indicator to substantiate assessment criterion (f): percentage of contracts with direct involvement of civil society: planning phase; bid/proposal opening; evaluation and contract award, as permitted; contract implementation) Source for all: Sample of procurement cases.</p>	<p>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</p> <p>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.</p>	<p>The sample analysis provides the following picture with regards to involvement of civil society in public procurement.</p> <p>Share of procedures, in which civil society was consulted:</p> <p>Open procedure: 7.4% Direct award: 9.1% Restricted procedure: 0% Negotiated procedure without prior publication: 0% All procedures: 7.9%</p> <p>Number of Preliminary Market Consultations in KIMDIS 2016: 73 2017: 658 2018: 967 2019: 1109 2020: 1651</p>	<p>Opportunities for involving stakeholders early in the procurement process are available, namely prior market consultations. However, these do not appear to be used with great consistency. Other practices to involve stakeholders, i.e. civil society, during the tendering process are rare in the European context and not explicitly foreseen by the legal framework.</p>	<p>Raise awareness and train contracting authorities to engage in market consultations.</p>
<p>(g) The records are complete and accurate, and easily accessible in a single file.*</p> <p><i>// Minimum indicator // * Quantitative indicators to substantiate assessment of sub-indicator 9(c) Assessment criterion (g):</i></p> <p><i>- share of contracts with complete and accurate records and databases (in %)</i> <i>Source: Sample of procurement cases*</i></p>	<p>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 (so it will be kept for contracts over EUR 30,000).</p> <p>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.</p> <p>Procurement documents for contracts over EUR 30,000 (previously 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 some records are available on ESIDIS, this platform has not been conceived for the purpose of record-keeping.</p> <p>In addition to the above, the following data is registered in KIMDIS for all procurements above EUR 2,500. This threshold has been recently amended by the new public procurement law from EUR 1,000.</p> <p>a) 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.</p> <p>b) Procurement announcements and documents</p> <p>c) Contract assignment or award decisions</p> <p>d) Contracts</p> <p>e) Payment orders</p> <p>For data relating to the whole procurement management including acceptance protocols, payments, invoices, the following applies:</p> <ul style="list-style-type: none">Acceptance protocols are stored and kept locally (outside the ESIDIS/KIMDIS system).Payment orders are uploaded and stored in KIMDISInvoices 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).	<p>The sample analysis provides the following picture with respect to completeness and accuracy of records, based on responses reported by contracting authorities.</p> <p>Share of contracts with accurate records:</p> <p>Open procedure: 88.9% Direct award: 87.9% Restricted procedure: 100% Negotiated procedure without prior publication: 100% All procedures: 88.9%</p>	<p>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 systems ESIDIS, KIMDIS and the Interoperability Centre for E-Invoice, while some documentation is not available on neither platform. Some records are not available in machine-readable formats. Nevertheless, the interoperability of the systems and the coverage of the whole cycle of the contract has been set as a goal in the draft National Strategy.</p> <p>The sample analysis confirms that there are gaps in the accuracy and completeness of records for 11.1% of procedures analysed.</p>	<p>Increase interoperability between the various platform containing procurement records, as defined in the draft National Strategy 2021-2025. User-friendly access to records should be ensured, including below EU thresholds.</p> <p>Make the data available in user-friendly format (machine-readable).</p>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

With the implementation of E-Invoice, e-invoices, regarding contracts above the EU thresholds, will be transmitted to the systems of CAs / CBs 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 set up via e-invoice KED of the General Secretariat of Public Sector Information Systems (upcoming)
Below thresholds	Public Procurement Documents, payment orders	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)

10. The public procurement market is fully functional

10(a) Dialogue and partnerships between public and private sector

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) The government encourages open dialogue with the private sector. Several established and formal mechanisms are available for open dialogue through associations or other means, including a transparent and consultative process when formulating changes to the public procurement system. The dialogue follows the applicable ethics and integrity rules of the government.*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(a) Assessment criterion (a):</p> <p>- perception of openness and effectiveness in engaging with the</p>	<p>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 for example.</p> <p>It is noted that in the field of public works and studies, HSPPA puts the Standard Issues out for consultation with the representatives of the scientific bodies of engineers as well as with the productive bodies of designers and contractors.</p> <p>Consultation processes were held during the preparation of the new 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 was able to 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.</p> <p>Similarly, consultations were held during the preparation of the 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) 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</p>	<p>No survey was conducted.</p>	<p>While dialogues appear to follow rules and guidelines and the prescribed process is followed when formulating policy changes, no regular established and formal mechanisms for dialogue beyond the policy realm appear to exist (for example on market practices, implementation of objectives, etc.)</p>		<p>Formalise ongoing consultation processes with public procurement stakeholders, going beyond the policy discussion, and including technical and operational aspects.</p>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

MAPS assessment in: Greece
Name/organisation: HSPPA / OECD
Date: September 2022

private sector (in % of responses). Source: Survey.	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. According to the National Strategy Plan, an open consultation with economic operators and associations of them 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 Defense and the NTA. All comments submitted, were analysed and taken into account for the final Proposal of the Draft National Strategy for Public Procurement 2021-2025.		
(b) The government has programmes to help build capacity among private companies, including for small businesses and training to help new entries into the public procurement marketplace.	<p>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.</p> <p>There do not seem to be training programs to build capacity on public procurement beyond this focus on e-procurement.</p>	<p>Programmes to build capacity of private companies with regards to public procurement appear to be available to a limited extent and cover only the e-procurement system ESIDIS.</p> <p>The assessors were unable to retrieve sufficient information to assess the effectiveness of the available programs to build capacity of the private sector.</p>	[Pending additional input]

10(b) Private sector’s organisation and access to the public procurement market

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The private sector is competitive, well-organized, willing and able to participate in the competition for public procurement contracts.* * Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) Assessment criterion (a): • number of registered suppliers as a share of total number of suppliers in the country (in %) • share of registered suppliers that are participants and awarded contracts (in % of total number of registered suppliers)	<p>The Greek private sector is broadly responsive to the public procurement market, although some limitation with respect to competition have been registered. According to the <u>EU Single Market Scoreboard</u>, the share of contracts with a single bid accounted for 34% in 2018, and 40% in 2019¹⁵. This indicates overall low levels of competition for more than a third of public contracts.</p> <p>Private sector representatives stated that the focus on price is an area of concern. 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 procedures¹⁶. Awarding contracts on price-only 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.</p> <p>Nevertheless, in terms of organization and participation from SMEs, the Greek procurement system appears to perform well, indicating the presence of a competitive</p>	<p>• number of registered suppliers as a share of total number of suppliers in the country (in %)</p> <p>Economic operators registered in ESIDIS for supplies and services:</p> <p>2016: 3382</p> <p>2017: 2623</p> <p>2018: 2346</p> <p>2019: 1726</p> <p>2020: 2085</p> <p>Economic operators registered in ESIDIS for public works:</p>	<p>Based on limited interviews and secondary analysis, there are indications of instances of limitations to competition, ability and willingness of Greece’s 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.</p> <p>Furthermore, a complex cases of alleged collusion against major Greek and international companies in the construction sector spanning over several years has been brought forward by the Hellenic Competition Commission, which led to the imposition of a EUR 80 million in fine in 2017¹⁹. Such case sheds light on the potential lack of competition within certain procurement markets.</p>		<p>Increase awareness, guidance and training to promote a stronger use of non-price attributes in public procurements. Similarly, emphasis on needs and market analysis, as well as structured market dialogue could contribute to increase competition.</p> <p>Train public buyers in the identification of red flags related to bid-rigging.</p>

¹⁵European Commission, Single Market Scoreboard, Public Procurement https://ec.europa.eu/internal_market/scoreboard/performance_per_policy_area/public_procurement/index_en.htm

¹⁶Ibid.

¹⁹ <https://www.lexology.com/library/detail.aspx?g=cb209dfa-0378-402b-896c-399b0aea6b5c>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

<ul style="list-style-type: none">• total number and value of contracts awarded to domestic/foreign firms (and in % of total) Source: E-Procurement system/Supplier Database.	and capable market. Greek SMEs account for 92% of the value of public contracts awarded according to the SME Performance Review ¹⁷ . 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%) ¹⁸ .	2017: 2087 2018: 3758 2019: 4476 2020: 4885 (until 20/10/2020) • share of registered suppliers that are participants and awarded contracts (in % of total number of registered suppliers) Share of registered suppliers that are participants: for public works: 65.66% for supplies and services: 29.72% • total number and value of contracts awarded to domestic/foreign firms (and in % of total) In 2018, the total number of contracts awarded to domestic firms was 189,058 and the total value of awarded contracts was EUR 6,224,377,136 The total number of contracts awarded to foreign firms was 1,510 and the total value of awarded contracts was EUR 50,008,733	The assessors did not have access to data to assess the quantitative assessment criteria fully.	
<p>(b) There are no major systemic constraints inhibiting private sector access to the public procurement market.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b)</p> <p>Assessment criterion (b): - perception of firms on the appropriateness of conditions in the public procurement market (in % of responses).</p> <p>Source: Survey.</p>	<p>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. 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.</p> <p>Nevertheless, important challenges persist. It should be noted that Greece presents an overall low publication rate (i.e. value of procurement advertised on TED as a share of GDP) of its procurement (1.4% in 2017)²⁰. 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.</p> <p>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 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.</p>	<p>The percentage of awarding to foreign firms was 0.8% both in terms of number of contracts and in terms of value of contracts</p> <p>• share of contracts with a single bid for supplies and services:</p> <p>[Unknown share].</p> <p>Number of single bid procedures > 60.000 in ESIDIS:</p> <p>2017: 1577 2018: 2341 2019: 2627</p> <p>• share of contracts with a single bid for public works:</p> <p>2017: 12.5% (number of processes), 1.21% (value) 2018: 5.5% (number of processes), 0.12% (value) 2019: 6.64% (number of processes), 0.11% (value)</p> <p>It should be noted that the share of contracts with a single bid from the sample analysis is much higher, amounting to 37.0% of the open procedures analysed.</p>	<p>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 (see 9a) a) and 9 c) b)); weak compliance with payment procedures and a slow judicial system (see 9c)c)); as well as administrative burden related to the use of the e-procurement system (as discussed here).</p> <p>As noted, procurement opportunities above EU thresholds are less frequently published than in peer countries. In addition, procurers lay a 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.</p> <p>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 are expected, as past cases are being resolved, and the current legislative framework no longer allows for proceeding with a contract without the commitment of funds.</p> <p>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.</p>	<p>A range of measures, already highlighted in other parts of this assessment, should be employed together to increase the accessibility of the public procurement market. The following should be prioritized:</p> <p>- 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 9, 8).</p> <p>- Evaluate the reasons behind low compliance with payment requirements and adopt changes accordingly (see indicator 4)</p> <p>- Consider streamlining the e-procurement system into a coherent, open and interoperable system. In doing so, close collaboration with</p>

¹⁷European Commission, 2019 SBA Fact-sheet Greece <https://ec.europa.eu/docsroom/documents/38662/attachments/13/translations/en/renditions/native>
¹⁸Ibid.
²⁰European Commission, Single Market Scoreboard, Public Procurement https://ec.europa.eu/internal_market/scoreboard/performance_per_policy_area/public_procurement/index_en.htm

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

<p>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.</p> <p>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.</p> <p>The average payment delay from public authorities amounts to 8 days according to the SME Performance Review²¹. 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 2020²².</p> <p>Finally, limited effectiveness of the court system also presents a barrier for suppliers, in particular when dealing with cases related to payments (see Ind 9c(c)). In particular, suppliers experience severe time lags in receiving a decision due to high number of court cases and the understaffing of the courts.</p>		<p>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.</p>
--	--	--

10(c) Key sectors and sector strategies

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Key sectors associated with the public procurement market are identified by the government.	<p>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 enhancing the efficiency of the procurement system with well-designed and measurable goals.</p> <p>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 opportunities²³. See indicator 10(a)(a) for further information on SME participation to public procurement.</p> <p>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%) ²⁴ . Indeed, the health sector is addressed specifically in L. 4865/2021 titled “ Establishment and organisation of a legal entity under the name “National Centralized Health Procurement Authority " (NCHPA), a central strategy for supplies of health products and services</p>		<p>While sectors are targeted in the National Strategy for Public Procurement, there are challenges with the implementation of actions pertaining to these sectors, notably the health sector.</p>		<p>Increased focus on the effectiveness of procurement in the health sector is paramount. Greek authorities need to ensure that the actions foreseen in their strategies are implemented and receive appropriate follow-up.</p>

²¹ European Commission, 2019 SBA Fact-sheet Greece <https://ec.europa.eu/docsroom/documents/38662/attachments/13/translations/en/renditions/native>

²² World Bank, Doing Business 2020, Contracting with the Government, https://www.doingbusiness.org/content/dam/doingBusiness/excel/db2020/DB2020_CwG_Data.xlsx

²³ 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>

²⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020SC0507&from=EN>

	<p>and other urgent provisions for public health and social welfare.” The new law transforms the old HCHPA 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. Article 6 of this new law provides for the preparation every 3 years of a Central Procurement Strategy of Health Products and Services, which shall refer to:</p> <p>(a) the vision, which will have as its center the patient, the health professionals, improving procedures and increasing resource efficiency;</p> <p>(b) procurement policy and systems, hierarchy, procurement costs and suppliers;</p> <p>(c) controlling and monitoring the implementation of procurement policy, procurement tools reporting mechanism and annual reports, progress and;</p> <p>(d) the cooperation of government agencies with universities, supplier associations and other stakeholders.</p> <p>Innovation is also identified as a strategic direction in in National Strategy under the 3rd Pillar.</p>		
<p>(b) Risks associated with certain sectors and opportunities to influence sector markets are assessed by the government, and sector market participants are engaged in support of procurement policy objectives.</p>	<p>The assessors were unable to identify any assessments of risks and opportunities in sectors. The above-stated identification of key-sectors does not include any considerations on associated risks or opportunities.</p>	<p>The assessors did not have access to information indicating that the government assesses risks and opportunities related to sector markets.</p>	<p>Consider targeting specific sectors to improve the overall performance of procurement markets.</p>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

11. Transparency and civil society engagement foster integrity in public procurement

11(a) Enabling environment for public consultation and monitoring

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) A transparent and consultative process is followed when formulating changes to the public procurement system.	<p>The process of amending the public procurement system at the legislative level is initiated by the competent Ministry. Informal consultations with the stakeholders are usually carried out. As part of these consultations, draft laws are posted on the website opengov.gr and anyone interested can post comments and proposals. It is a process with specific requirements and consultation rules, detailed in Law 4048/2012.</p> <p>HSPPA has responsibilities to coordinate among different government bodies with regards to public procurement (Art. 2 (2a), Law 4013/2011). 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 suggesting arrangements to national institutions.</p>		<p>In its fourth evaluation round on Corruption prevention in respect of 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.¹ It should be noted that these observations apply to legislative processes in general, not to the area of public procurement specifically.</p> <p>As discussed in Indicator 1, stakeholders commented on the frequency of changes of the procurement law, noting that the L. 4412/2016 underwent substantive changes in a short amount of time (over 200 modifications occurred since its introduction).</p>		<p>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 (see Indicator 1)</p>
(b) Programmes are in place to build the capacity of relevant stakeholders to understand, monitor and improve public procurement.	<p>Building awareness and capacity of stakeholders with regards to public procurement seems to be limited to the general consultations on draft laws as described in assessment criterion 11(a).</p>		<p>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.</p>		<p>Consider organising programmes to building the capacity of stakeholders with regards to public procurement, i.e. in using publicly available information.</p>
(c) There is ample evidence that the government takes into account the input, comments and feedback received from civil society.	<p>In case of a public consultation, a public consultation report is drawn up after completion of the procedure; 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 (Article 6 of Law 4048/23.12.12). “Bills are also mandatorily accompanied by a report assessing the consequences of the regulation and a report on the public consultation preceding their submission”).</p> <p>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 assessment criterion 11(a).</p>		<p>Assessors were unable to triangulate this information with representatives of civil society. During the validation workshop no further comments were received by civil society. No gaps identified.</p>		

11(b) Adequate and timely access to information by the public

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Requirements in combination with actual practices ensure that all stakeholders have adequate and timely access to information as a precondition for effective participation.	<p>Greece publishes certain information in its e-procurement systems and all administrative acts are published on the transparency portal Diavgeia. 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).</p>		<p>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 systems 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,</p>		<p>As recommended in indicator 7, consider substantially streamlining the e-procurement system. Benefits for users also apply for civil society in its task to monitor government activity.</p>

¹<https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/168078f072>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

	<p>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.</p> <p>The assessors were unable to consult with users of public procurement information in the public (e.g., civil society organisations).</p>
--	---

11(c) Direct engagement of civil society

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) The legal/regulatory and policy framework allows citizens to participate in the following phases of a procurement process, as appropriate:</p> <ul style="list-style-type: none"> • the planning phase (consultation) • bid/proposal opening (observation) • evaluation and contract award (observation), when appropriate, according to local law • contract management and completion (monitoring). 	<p>The legal framework theoretically allows citizens to participate in the monitoring of public procurement processes through public information in the e-procurement system (i.e., information about concluded 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.) 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.) Pilot programmes, such as Integrity Pacts implemented by Transparency International provide a framework for greater participation by civil society,</p>		<p>Citizen participation in public procurement in Greece is very limited and practically, hurdles do exist. 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 do not exist in Greece. 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 authority².</p> <p>It should also be noted that the format of publicly available information (see indicator 11a and 7) does not facilitate citizen involvement.</p>		<p>Consider legal or regulatory changes allowing citizen participation in defined ways.</p>
<p>(b) There is ample evidence for direct participation of citizens in procurement processes through consultation, observation and monitoring.</p>	<p>Citizen's direct involvement may take place during the planning phase as long as a consultation on the terms of the procurement notice is carried out; the submitted comments of participants are recorded.</p> <p>Consultation is carried out through the portal of promitheus.gov.gr (central portal of KHMHDS and ESIDIS). Interested persons may choose the procurement process to comment online. 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 (1 or 2 on a very limited number of draft procurements.) Most of the drafts had no comments at all.</p> <p>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.</p> <p>No other form of direct participation is regulated.</p>		<p>The assessors found very limited evidence for citizen participation in the procurement process. No citizen involvement is possible for stages beyond planning. For example, in monitoring of implementation.</p>		<p>Consider piloting the proactive involvement of citizens in a more complex public procurement. For example, the pilot could select citizens that would be affected by the planned purchase and receive their input in the planning stage during meetings or interviews. Additionally, citizens could be involved in monitoring the implementation of a procurement. Regardless, citizens' input should be documented and published in order to maintain transparency.</p>

² <http://integritypact.gr/en/to-symfono-akeraiotitas/to-symfono-akeraiotitas-stin-ellada/>

12. The country has effective control and audit systems

12(a) Legal framework, organisation and procedures of the control system
The system in the country provides for:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) laws and regulations that establish a comprehensive control framework, including internal controls, internal audits, external audits and oversight by legal bodies	<p>The control framework is comprised by the following audit and control structures established by a number of different laws and regulations:</p> <div><div></div><div><div>1) General Directorate for Financial Audit (<i>centralized financial audit/inspection</i>);</div><div>2) Internal Audit Units;</div><div>3) National Transparency Authority (<i>development of national systems for integrity and accountability, horizontal and sectorial inspections, AFCOS</i>);</div><div>4) The Decentralised Administration</div><div>5) the Court of Audit (<i>external audit by the Supreme Audit Institution</i>);</div><div>6) Single Public Procurement Authority (<i>central oversight over public procurement</i>).</div></div></div> <p>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).</p> <p>Centralized financial audit / inspection of the use of budgetary funds is performed by the General Directorate for Financial Audit of the Ministry of Finance (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"), together with the Audit Coordination Committee and Financial Auditors. The main role of these institutions 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 and to verify adequacy of the management and control systems of the public organisations. The Directorate can impose financial corrections or sanctions accordingly. The main responsibilities according to the Law are:</p> <div><div></div><div><div>○ <i>Check of the adequacy of the bodies' management and control systems;</i></div><div>○ <i>Audit of the legality and regularity of expenditure, the sound financial management of resources and the proper collection and display of the bodies’ revenues, as well as the management of their property, in order to detect and prevent maladministration, abuse, waste, fraud or corruption, [...];</i></div><div>○ <i>Evaluation of programming, planning and execution of entity's projects;</i></div><div>○ <i>Verification of compliance with the relevant management rules and procedures and accurate accounting of the entity's financial position and management;</i></div><div>○ <i>Review of supplies / services / works contracts based on sampling of all contracts concluded, the procurement process followed by entities for the award;</i></div><div>○ <i>Evaluation of the performance of the audited body based on the principle of sound financial management,</i></div><div>○ <i>Carrying out on-the-spot inspections at the headquarters of the controlled body or there where the physical object of the work is performed, [...].</i></div></div></div> <p>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. It conducts audit of EU co-financed Projects and the Financial Mechanism of the European Economic Area. The <i>Financial Audit Committee</i> of the Ministry of Finance acts as the Audit Authority for programs and projects co-financed by EU funds, which works with the European Commission's audit services to coordinate audits and their</p>	<p>Internal control (managerial responsibility and accountability) is not addressed in the framework. Internal control shall 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; it can both aid external audit processes and assist central control agencies perform proactive monitoring.</p> <p>The internal audit is regulated under central financial audit/inspection authority. Internal audit shall not be part of control activities, according to international good practices - it undermines the independence and objectivity of internal audit and creates risk for misunderstanding and confusion about the internal audit role.</p> <p>The central harmonization of regulations, coordination, development and quality monitoring of internal audit and internal control is not comprehensively comprised by the framework. This is a vital factor of the framework to streamline, standardize and coordinate internal control and audit throughout the public sector and to ensure necessary developments and quality supervision. The introduction of L. 4795/2021 is meant to address some of these aspects, but the assessors lack feedback on implementation given that the law was introduced during the execution of the project.</p> <p>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.</p> <p>Mandatory ex-ante control / legal review by the Supreme Audit Institution creates a risk to undermine: SAI independence (being part of the procurement process), progress of managerial accountability, efficiency of procurement process itself, and efficiency / effectiveness of external audit work (i.e. to direct efforts to the performance and system audits).</p> <p>The application and use of control and audit terminology in legislation is confused, because of national language specificity. Nevertheless, from the international standards point of view, each duty has to follow different standards and responsibilities, and to ensure adequate independence. Thus</p>	<p>To facilitate harmonized, coordinated and comprehensive internal control framework, it is suggested to consider the preparation and adoption of a Governmental Policy Paper on internal control and internal audit, which shall include a swot / gap analysis of the existing situation and the detailed action plan.</p> <p>To ensure harmonized application throughout the public sector, consider the establishment of primary legislation on internal control, internal audit and central harmonization, based on the action plan of the Policy Paper and taking into account international standards for internal control and internal audit, and the Three lines of defence model principles. Consider abolishing central ex-ante control by SAI proportionately to the progress of internal control.</p> <p>Consider the establishment of a Governmental High Level Central Audit Committee for regular monitoring of the internal control and audit development progress in the public sector and to facilitate coordination of work between different audit and control bodies.</p>		

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

methods according to applicable EU regulations. The Committee develops 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 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 2014-2020 ³and for the programming period 2021-2027⁴ and is the EU interlocutor.

With respect to internal audit, a new 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, during the execution of this project. The main objectives of the law are: to regulate comprehensively all issues regarding the Internal Control System and the operation of the Internal Audit Units in the public sector in order to help them achieve their goals 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 apply⁵.

The provisions of the new law ensure:

- Clarification of the scope of internal control. 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);
- 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.

functional responsibilities have to be clarified taking into account defined objectives.

3 L. 4314/2014), article 11 (1)
4 L. 4914/2022, article 17 (1)
5 Law 3492/2006 (A' 210), article 12

According to Law 3492/2006, **Internal audit units** are established in ministries and decentralized administrations. Internal audit activity mostly comprises compliance, financial, regularity audits, also various investigations and some control duties. It is regulated and analysed by the General Directorate for Financial Audit, which is also responsible for monitoring and evaluating the results of internal audits and assessment of its findings. Internal audit units must fully comply with the specifications set out in the above standards and inform the Directorate on the findings of their audits. The National Transparency Authority (below) is responsible for the development, coordination and monitoring of a public internal audit system.

National Transparency Authority (NTA)(Law 4622/2019 "Executive State: Organisation, functioning and transparency of the government, governmental institutions and central public administration") - an independent authority with the aim of:

- a) enhancing transparency, integrity and accountability in the action of government bodies, authorities, government agencies, and public bodies and
- b) 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 activities.

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). The National Transparency Authority is responsible for planning and taking concrete actions to better coordinate, remove duplication of responsibilities and exploit synergies between all public bodies and agencies involved in the fight against fraud and corruption.

The following responsibilities were transferred to the Authority in 2019:

- a) The General Secretariat for the Fight against Corruption of the Ministry of Justice,
- b) The Body of Public Administration's Inspectors – Auditors,
- c) The Office of the Inspector General of Public Administration,
- d) the Health and Welfare Service Inspectorate,
- e) the Public Works Inspectorate,
- f) the Transport Inspectors – Auditors Body.

According to Law 4622/2019, NTA has the following responsibilities (among others):

- 1) monitoring and evaluating the work and activities of specific bodies, services and inspection and control bodies, that are not part of the Authority, including Internal Audit and Internal Affairs Units, and submitting proposals to address any problems identified by the evaluation process; and
- 2) the development of the institutional, organisational and operational framework, the national internal control system, internal audit and risk management function in cooperation with the ministries responsible for public administration and financial management.

It also responsible for strengthening the internal audit function.

The Court of Auditors, as external audit / the Supreme Audit Institution, (according to the article 98 par. 1 b of the Constitution and the relevant provisions of Laws 2145/1993, 2741/1999, 3060/2002, 4820/2021, 4270/2014) externally audits the financial statements and accounts, as well as the accounting and financial reporting systems for all general government bodies. 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. During the ex-post audits, the Court of Auditors checks adherence to the principle of sound financial management and in particular economy, efficiency and effectiveness; proper compliance with the applicable accounting or management system as appropriate, in accordance with the applicable rules and principles; keeping and updating accounts so that they reflect economic operations and budgetary operations accurately; entity's operating systems (system control), etc.
- Targeted audits - for improving the financial management and accountability of General Government bodies, contributing to the strengthening of financial control and accountability systems, as well as strengthening the governance of controlled entities by strengthening internal control systems.
 - Mandatory ex-ante legal / compliance control on supplies, works and services contracts of high economic value.

External ex-ante control (legality review) of the public procurement contracts by **the Court of Auditors** comprises the mandatory legality review of the whole administrative procedure and the draft public supplies, works and services contracts of high economic value⁶ (from EUR 500 000) to be concluded by the State and public legal persons. The contract that has not been subject to such review is 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 4700/2020⁷.

External ex-ante control (legality review) **in Municipalities** is 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 act⁸.

Single Public Procurement Authority (HSPPA), according to the Law 4013/2011 "Single Public Procurement Authority" has as its object the development and promotion of the national strategy, policy and action in the field of public procurement, ensuring transparency, efficiency, coherence and harmonisation of the procedures for the award and execution of public contracts to national and EU law, the continuous improvement of the legal framework of public contracts and its observance by public bodies and contracting authorities, according to par. 2 of article 2 of law 4013/2011. HSPPA has, among others, the

⁶ Generally, high economic value is considered above EUR 500 000 for contracts concluded by the state and the legal persons governed by public law subject to a mandatory preventive (ex ante) expenditure audit; it is EUR 1 000 000 regarding contracts concluded by other contracting authorities. For co-funded public contracts, this threshold is set at EUR 10 000 000.

⁷ 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.

⁸ L. 3852/2010, articles 225 and 238

	<p>following responsibilities: 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 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. Also, 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 Authority.</p> <p>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 legislation⁹.</p>		
(b) internal control/audit mechanisms and functions that ensure appropriate oversight of procurement, including reporting to management on compliance, effectiveness and efficiency of procurement operations	<p>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 Units¹⁰.</p>	<p>The assessors were unable to establish that internal control and internal audit mechanisms exist for public organisations that ensure oversight over procurement and reporting arrangements on compliance, effectiveness and efficiency of procurement operations to a satisfying extent. As mentioned above, there are no specifications for internal control in the legal and regulatory framework. In addition, the assessors were unable to identify procurement-specific rules, guidance or instructions.</p> <p>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 organizations is performed.</p>	<p>Recommendations for organization of public procurement and internal control in public entities should be issued and implemented.</p> <p>Internal audit units should perform internal audit according to risk-based strategic and annual plans, internal audit charters and manuals adopted in their organizations, taking into account any existing methodological issued by the central harmonization function, and developing a consistent and comprehensive methodology.</p> <p>Methodology guidelines for public procurement risk management and tools / questionnaires for internal auditors shall be developed together with central procurement authority.</p>
(c) internal control mechanisms that ensure a proper balance between timely and efficient decision-making and adequate risk mitigation	<p>No information on internal control systems and tools, including risk management in public organisations to support management decisions (in general and regarding procurement procedures) was available to the assessors.</p>	<p>Internal control systems and tools, including, process descriptions and risk management in public organisations to support management decisions have not been developed. According to international good practices, 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</p>	<p>Minimum requirements for internal and financial control should be developed at the central level, either on internal and financial control, in general, or regarding public procurement specifically by the respective, competent organization.</p> <p>Internal control policies, risk management and financial control rules should be adopted in the individual organisations.</p> <p>Internal Auditors should provide consulting and assurance activity regarding governance, risk management and internal controls.</p>

⁹ L. 4412/2016, article 340
¹⁰ L. 4795/2021, article 22 (1)

		provide the second line of defence. The third line of defence – internal auditors – provides independent assurance to management regarding the effectiveness of the first two lines and how effectively risks are managed.	
(d) independent external audits provided by the country's Supreme Audit Institution (SAI) that ensure appropriate oversight of the procurement function based on periodic risk assessments and controls tailored to risk management	<p>Independent external audit is provided by <i>the Court of Auditors</i>. It performs independent regular external ex-post audits (including for public procurement). Regarding the compulsory ex-ante control / legality review of supply contracts, work contracts and services contracts of high economic value - contracts for the supply of goods, the execution of works and the provision of services, concluded by the State, public persons governed by public law and public undertakings or bodies, whose estimated value exceeds one million Euros, a mandatory legality review shall be carried out over the contract, before the contract is concluded, by the Court of Auditors. If the estimated value exceeds the amount of five hundred thousand Euros and up to the threshold referred above, a mandatory legality review shall be carried out over the contract, prior to its conclusion, by the Commissioner of the Court of Auditors responsible for the ex-ante control of the expenditure of such entities. This scrutiny extends to all the acts that make up the successful tenderer selection process and results in the signing of the contract. The Unit or the Commissioner shall only make a negative judgment if it is found that there are substantial legal irregularities in the administrative acts and in the draft contract. Substantial legal irregularities are in particular those that distort free competition or affect the transparency of the whole process, or those that do not serve the public interest and don't ensure protection of the environment. The Court of Auditors' legality review shall be completed within thirty (30) days from the transmission of the relevant file. If the legality review is not carried out, the contract concluded is invalid.</p>	<p>The SAI audits procurement issues mainly during the financial or regularity audit. 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.</p> <p>Overall, the supreme audit institution does deliver adequate oversight over public procurement. However, doubts remain about the adequacy of the system as a whole: whether ex-ante controls (i.e., the involvement of the SAI in the public procurement process) present a risk to the independence of the SAI as it becomes an actor in specific public procurements, whether this involvement unduly impacts the efficiency and effectiveness of the public procurement process, in comparison to the achieved benefits and other ways of achieving the same goal.</p>	The Supreme Audit Institution should place a stronger focus on performance and system-based audits on public procurement. It should also ensure appropriate oversight of the procurement function based on periodic risk assessments.
(e) review of audit reports provided by the SAI and determination of appropriate actions by the legislature (or other body responsible for public finance governance)	<p>Each year <i>the Court of Auditors</i>, through its plenary report to the Parliament, which is given to the President of the Parliament by the President of the Court of Auditors, reports the outcome of its work along with its observations on the comparison of revenue and expenditure under the relevant laws, and on the exercise of its duties in general, as well as thoughts on reforms and improvements. The Court's observations on the financial management of the State contained in its annual report shall be communicated to the authorising ministers by the Minister of Finance before the report is presented to the President of the Parliament. The Ministers' replies are contained in a separate issue and are sent by the Minister of Finance, within two months from the receiving of the report, to the President of the Court of Auditors, who then transmits them, together with the Court's annual report to the President of the Parliament. The Court of Auditors' annual report together with the replies of the authorising ministers is published in the Greek Government Gazette. In its annual report to the Parliament, the Court of Auditors reports on its judicial and audit work, presents the results of its audit work and makes observations on the violations found during the financial year in the implementation of the budget and in the implementation of the rules of Public Accounting and indicates the main deficiencies, irregularities, errors and weaknesses of the administrations found in each financial year in the field of financial management and the award of public contracts by entities under its control, with a view to establishing a lawful and sound financial management system in Greece, upgrading public accountability, informing Parliament and public opinion on how the citizens' money is being spent. It also submits its proposals for legislative and administrative measures to improve and reform the financial organisation and management and to upgrade audit powers.</p> <p>According to the provisions of Law 3492/2006, article 10, the annual report of the Audit Coordination Committee (under <i>the General Directorate for Financial Audit</i>), presenting the most important findings of financial audits, evaluates the work of auditors and makes proposals on how to improve their functioning and performance. It is submitted to the Prime Minister and the President of the Parliament in May each year and communicated to the</p>	The decision-making and follow-up mechanism are not clearly defined. The annual activity reports should be required to disclose the main decisions taken by the legislator and responsible authorities regarding the implementation of the provided recommendations.	Consider the establishment of open data system regarding the implementation of external audit recommendation.

	members of the Council of Ministers. Also, according to Article 22 “Annual Audit Report” of the same law, the following are provided for: “1. The conclusions of financial audits, the evaluation of audits and findings of the Internal Audit Units of Ministries, Regions and other bodies and the related recommendations are included in the Annual Audit Report, which is the basis for providing sufficient assurance to the Minister of Finance and Economics or for expressing reservations regarding to all or part of the management and audit system of State finances. The annual audit report for that year shall accompany the General Budget of the State for the following year. [...]”.		
(f) clear mechanisms to ensure that there is follow-up on the respective findings.	There is no information about mechanisms to ensure that there is a regular follow-up on the findings by audit and control bodies.	The assessors were unable to establish that defined mechanisms ensure that there is a regular follow-up on the findings by audit and control bodies and evaluation of the achievements regarding the necessary progress and developments.	Ensure timely evaluation and monitoring (follow-up) mechanism for managerial decisions, residual risks and quality of results.

12(b) Coordination of controls and audits of public procurement

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are written procedures that state requirements for internal controls, ideally in an internal control manual.	<p>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 Units¹¹. 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:</p> <ul style="list-style-type: none">• 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 <p>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.</p> <p>In addition, important tools have been developed by the NTA to assist the work of internal auditors.</p> <p>In this context, the following documents have been developed:</p> <ul style="list-style-type: none">• 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 <p>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.</p>		<p>The assessors were unable to receive feedback on the implementation of the standards, guidelines and methodologies developed by NTA to strengthen internal control and audit given that tools were introduced during the execution of the project.</p> <p>Stakeholders during the validation meeting did not provide comments on this matter.</p>		<p>The competent authority in charge of harmonising approaches could focus on strengthening internal control. Internal control policies, risk management and financial control rules should be adopted in the individual public institutions.</p> <p>HSPPA could develop internal control guidelines (possibly in the form of a manual)_ for public procurement.</p>

¹¹ L. 4795/2021 article 22 (1)

	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.			
(b) There are written standards and procedures (e.g. a manual) for conducting procurement audits (both on compliance and performance) to facilitate co-ordinated and mutually reinforcing auditing.	<p>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 was to assist auditors to perform 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. The risk is reviewed and updated by further information obtained during the audit. Auditors use "correct judgment", based on professional standards.</p> <p>In 2011, the Court of Auditors 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 (the pre-contractual stage).. The Practical Guide describes the public procurement process from the perspective of audit, and details the role of the Court of Auditors in the public procurement process. Specifically, the Guide includes chapters on public works contracts, supplies, service and designs contracts. Six annexes summarize the most important Acts and Decisions of pre-contractual judicial formations, and include supporting documents for public works tenders and details of the contents of a public works award procedure dossier (i.e., models for the types of documents that have to be submitted for legality review at the Court of Auditors.)</p> <p>The Financial Audit Committee for the EU 2014-2020 program has issued an Operations Audit Questionnaire, which includes questions regarding the audit of public procurement procedures. The General Directorate for Financial Audit has developed procurement audit questionnaire (Questionnaire on works- supplies- services audits) as Annex D of the Regulation of conducting audits and investigations by Financial Auditors/Inspectors of the Directorate.</p> <p>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 / entities¹².</p>		There are no dedicated manuals or tools have been developed for internal auditors or external auditors (except for the ex-ante legal control of contracts) for conducting procurement audits.	Methodological guidelines and supporting tools (questionnaires) to support public procurement audits should be developed for internal and external auditors by the central authorities in charge, i.e. HSPPA in cooperation with any other relevant institutions in charge. Training arrangements shall be ensured.
(c) There is evidence that internal or external audits are carried out at least annually and that other established written standards are complied with.* * Recommended quantitative	<p>Availability of annual reports on audit activities appears patchy in some instances. 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 latest annual report on audit findings for the year 2017 (Ετήσια Έκθεση Οικονομικού Έτους 2017- Annual Report Finance Year 2017). Special reports on audits have been issued beyond the year 2017 (Special reports after the year 2017 cover the years 2018, 2019, and 2021). Furthermore, information on the Court's decisions on pre-contractual legality audits issued in 2020-2022 is available.</p> <p>The information provided below is based on the annual audit activity reports for 2016 and 2017; According to these reports, public procurement processes were audited by the</p>		<p>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.</p> <p>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.</p>	<p>Internal audit units should perform internal audit according to risk-based strategic and annual plans, internal audit charters and manuals adopted in their organizations, taking into account the standard methodology issued by the central harmonization function.</p> <p>The Supreme Audit Institution should focus more on performance and system-based audits in public procurement.</p>

¹² 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

indicator to substantiate assessment of sub-indicator 12(b) Assessment criterion (c): - number of specialised procurement audits carried out compared to total number of audits (in %). - share of procurement performance audits carried out (in % of total number of procurement audits). Source: Ministry of Finance/Supreme Audit Institution.	<p>Directorate-General for Financial Audits and the Court of Auditors. Internal audit activity is very limited in this area (with only a few internal audit cases that related to public procurement.)</p> <p>The Annual Report of the <i>Directorate-General for Financial Audits</i> describes the Directorate-General’s regular, extraordinary and specific financial or management audits at the national level for the period of 1 July 2016 to 30 June 2017. The report also presents the most important findings, including also on public procurement. The report was approved by the Audit Coordination Committee, and submitted to accompany the General Budget for the following financial year. According to the report, a total of (32) regular management audits (system audits) were carried out. The objective of these audits is to verify the adequacy of the management and control system of the entities as well as the sound management of their budget, The correct implementation of the budget, including the procurement process, based on sampling of all contracts, followed by entities for the award of supplies / services / works contracts is reviewed.</p> <p>According to the Annual Report, several institutions conducted <i>internal audit activity in 2016</i>:</p> <ul style="list-style-type: none">• Ministry of Finance,• Ministry of Interior (as well as the former Citizen Protection and former Macedonia-Thrace),• Ministry of Maritime and Island Policy,• Ministry of National Defence,• Ministry of Justice,• Ministry of Labour and Social Affairs,• Ministry of Social Security and Social Solidarity,• Ministry of Education, Research and Religions,• Ministry of Culture and Sport,• Ministry of Health. <p>It was noted that Ministries of Environment & Energy and Infrastructure, Transport & Networks did not send any audit activity data. Ministries of Economy and Development, Rural Development and Food, Digital Policy, Telecommunications and Information, Administrative Reconstruction, Tourism and Foreign Affairs did not perform any audit activity, mainly due to under-staffing. Two internal audit units audited processes related to public procurement.</p> <p><i>The Court of Auditors</i> has been auditing annually public procurement contracts during its regular external and ex-ante audits. The annual report for the financial year 2016 states that 3 497 draft contracts were audited, totalling EUR 427 611 477, of which 164 were found to be illegal, of a total amount of EUR 276 411 902, i.e. 4.68%. And conclusions related to public procurement as part of its reporting on the results of its audit work have been provided: “During the ex-ante and regularity expenditures audits (valued at a total of EUR 598 457 915 239.04 and including 373 097 cash orders) significant findings were found regarding the category of reimbursements. The most defective or improper payments was the category of the supply of goods and capital equipment, where the largest error rate was found in the management of central government bodies. Regarding regular ex-post audits, most of the findings related to expenditure on salaries, financial management and operation of entities (deficits and non-collection of deduction) and public procurement. Examination of the procurement procedures revealed repeated violations of national and or EU public procurement law. The highest percentage of irregularities was found in the award of program agreements, while the highest rate of irregularities in the procedures for awarding contracts was recorded in legal persons governed by public and private law. The irregularities identified in the procurement procedures are due to the <i>complexity of the legislative and administrative framework, the lack of administrative capacity</i> of public bodies to carry out the procurement process and of the technical expertise related to specific works or specific service that are the subject matter of public contracts and <i>inadequate procurement planning</i>, in particular with regard to irregularities at the stage of contract management concerning the modification, extension or expansion of the subject-matter of contracts and the conclusion of supplementary</p>	<p>Consider a requirement to issue the annual activity reports of previous year in the first half of the current year. Besides administrative and organizational information, consider to disclose the main findings, important information on systemic risks, the main recommendations, impact of implementation of recommendations per audit area, annual comparison, relevant trends and conclusions.</p> <p>The annual summary of internal audit activity reports should be made public.</p>
---	--	--

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

contracts. *Non-compliance with public procurement rules is a chronic and significant source of error.* The share of illegal procurement procedures compared to all contracts in 2016 of all public bodies, rising to 5.57%, is sufficiently high to conclude that there are difficulties in operating the entities' systems concerning their financial management and demonstrates the existence of administrative practices that do not favour the development of healthy competition, in conditions of transparency and equal treatment of tender participants, and eliminate the possibility of achieving maximum beneficial effect from the award of contracts. These findings demonstrate *operational weaknesses in financial management and in proper execution of internal controls*. Likewise, they demonstrate their *reduced ability to prevent or detect defects and to comply with prior recommendations and observations of the Court of Auditors* in categories of expenditure such as the above, regarding of which there is a high number of findings over time, meaning that they are of high audit interest. They also mean that *public entities are not able to identify the problems* and to comply with the recommendations that have been given to them by the Court of Auditors."

<p>(d) Clear and reliable reporting lines to relevant oversight bodies exist.</p>	<p>Reporting is centrally coordinated through the National Transparency Authority: Law 4622/2019 "Executive State: Organisation, functioning and transparency of the government, governmental institutions and central public administration"), Article 85 "Relations with the Parliament, the judiciary, prosecutors and administrative authorities - Transparency of actions" provides inter alia:</p> <p>"[...] 2. The National Transparency 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. The Authority also undertakes horizontal actions in co-operation with the Independent Public Revenue Office to identify taxable items related to corruption cases. [...]".</p> <p>Also, Article 100 "Audit procedure" of the same law provides:</p> <p>"5. Implementation of the recommendations contained in the inspection and audit reports are mandatory for the audited bodies. The bodies, authorities and services referred to in Article 83 (1) shall, within two months from notification of the relevant inspection-audit report, inform the Authority of the action taken to implement the report's proposals. It should be noted that the identification of disciplinary misconduct is binding for the disciplinary authorities responsible for disciplinary action. Special Inspection and Audit Bodies and Services of the bodies referred to in Article 83, paragraph 1, which continue to operate not subordinated to the Authority, shall be required to notify such Authority about a) their findings and reports as soon as the relevant inspections and audits have been completed, b) their annual action plans by the end of December of each year at the latest".</p>	<p>The assessors were unable to establish that reporting lines, responsibilities and arrangements are defined in regulation and are functioning effectively. Criteria of reporting to different oversight authorities are not clearly defined.</p>	<p>Clarify the reporting structure, criteria and standards for different oversight authorities.</p> <p>Establish internal reporting standards regarding internal control reports, internal audit plans, reports, annual internal audit activity reports.</p>
--	---	--	--

12(c) Enforcement and follow-up on findings and recommendations

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) Recommendations are responded to and implemented within the time frames established in the law.*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 12(c) Assessment criterion (a):</p> <p>- Share of internal and external audit recommendations implemented within</p>	<p>According to the Annual Report of Directorate-General for Financial Audit (audit period from 1 July 2016 to 30 June 2017), the Directorate-General carried out an administrative follow-up on the recommendations of regular audits carried out until the entry into force of P.D.142/2017 on December 2017 (Law 4537/15-5-2018, article 137) . The administrative follow-up of the above audits revealed adequate compliance of 58.8% of recommendations, while recommendations remained</p>		<p>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 decision-making procedure for the received audit recommendations.</p> <p>No quantitative information was available.</p>		<p>Define managerial responsibility and requirements regarding the decision-making procedure for the received recommendations.</p> <p>Define timely evaluation and monitoring mechanism of the decisions, residual risks and quality of results.</p>

<p>the time frames established in the law (in %).</p> <p>Source: Ministry of Finance/Supreme Audit Institution.</p>	<p>unaddressed 31.8% of cases. 9.4% of recommendations showed partial compliance or follow-up. Overall, the compliance rate is considered at 68.2%¹³.</p> <p>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 open¹⁴.</p> <p>The annual report on the results of <i>the Court of Auditors'</i> work for the financial year 2016 notes with regard to compliance with previous recommendations by the Court of Auditors:</p> <p>“The majority of the bodies were found to have complied, and in cases where there were disagreements, these were resolved after the relevant Units’ Acts were issued, which were executed by the bodies, with few exceptions. In a few cases, they were slow to respond, notably regarding commitments (older years and multiannual expenditure) of appropriations. Concerning follow-up audits carried out by the Court of Auditors: (i) in the Municipality of Agios Dimitrios, it was found that, at the audited body level and of all 28 recommendations of 2013 (targeted) audit report, 21% of recommendations were fully implemented, 11% were partially implemented, 50% were ongoing, and 18% were not implemented. Correspondingly, at stakeholder level and of a total of 39 recommendations, 15% were fully implemented, 10% were partially implemented, 54% were ongoing, and 21% were not implemented. ii) In OAED (Workforce Employment Organisation supporting the unemployed), significant improvements were found and 73% of the recommendations made in the initial targeted audit report were implemented. Furthermore, the findings of the initial audit regarding the weaknesses of the OPS internal safeguards and the related risk assessment of the Agency as indicated in the initial audit report resulted in immediate action being taken by OAED; ultimately significant material damage was found caused by employee’s disciplinary misconduct.”</p>	<p>Consider the establishment of open data system regarding the implementation of external audit recommendation.</p>
<p>(b) There are systems in place to follow up on the implementation/enforcement of the audit recommendations.</p>	<p>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.</p> <p>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.</p> <p>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 requested¹⁵. However, this</p>	<p>No gap identified.</p>

13 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>

14 Ibid.

15 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).

power will become applicable as of 2022 due to the recent enactment of L. 4795/2021.

12(d) Qualification and training to conduct procurement audits

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) There is an established programme to train internal and external auditors to ensure that they are qualified to conduct high-quality procurement audits, including performance audits.*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 12(d) Assessment criterion (a):</p> <ul style="list-style-type: none"> - number of training courses conducted to train internal and external auditors in public procurement audits. - share of auditors trained in public procurement (as % of total number of auditors). <p>Source: Ministry of Finance/Supreme Audit Institution.</p>	<p>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.</p> <p>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 cancelled¹⁶. 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.</p> <p>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.</p> <p>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.</p>		<p>While a comprehensive training has been set up for internal audit, the assessors have no information on whether and to what extent public procurement is part of the training. The assessors were unable to establish what trainings apply to external auditors.</p> <p>No quantitative information was available.</p>		<p>Establish standard professional continuous learning requirements, and criteria for necessary skills and competencies.</p> <p>Ensure that public procurement is part of the regular training program for internal and external auditors.</p>
<p>(b) The selection of auditors requires that they have adequate knowledge of the subject as a condition for carrying out procurement audits; if auditors lack procurement knowledge, they are routinely supported by procurement specialists or consultants.</p>	<p>For audits conducted by <i>the Directorate-General for Financial Audit</i>, article 14 of 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",, provides that audits are carried out by its auditors. During their audit duties, these officials shall have all the responsibilities, duties and rights of the Financial Auditors or of the Assistant Auditors, depending on their degree. The above may be assisted in their work by assistant auditors, as well as by Experts. Experts may be civil servants of the categories "PE" (University educated) or "TE" (technical trained) and individuals who are registered with the Registry of Experts or Audit Companies. The assessors did not find information on the requirements for registration.</p>		<p>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.</p> <p>There do not appear to be specific requirements for selecting auditors for procurement audits.</p>		<p>Consider establishing guidelines for the selection procedure and core competencies, including necessary knowledge, skills and experience requirements of auditors regarding procurement audits. Ensure clearly defined quality supervision mechanism for auditors' activities.</p>

16 Law 4795/2021, article 9 (8, 10)

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

	<p>For Internal Audit of public companies (article 4 of Law 3429/2005, as amended by Article 15 of Law 3965/2011 and Article 31 paragraph 4 of Law 4465/2017,) 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.</p> <p>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 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 Unit¹⁷.</p>		
(c) Auditors are selected in a fair and transparent way and are fully independent.	<p>Minister of Finance decides regarding:</p> <ul style="list-style-type: none">i) the qualifications of Financial Auditors and EU projects' Auditors and of Experts in Financial Audits and EU Audits registered in the relevant Registers,ii) the criteria for the classification of Financial Auditors and EU Auditors and of Experts in Financial and EU Audits in categories,iii) the procedure and competent bodies for evaluating and selecting the candidates,iv) the manner in which the Registers are established and kept and the Office responsible for them,v) the procedure and body responsible for appointing the Financial and EU funds Auditors and Experts in Financial and EU Audits to carry out specific audits and for selecting those to participate to audits,vi) the length and nature of the term of office,vii) the manner of removal from the Registers and any other necessary details relevant thereto. <p>According to the provisions of Law 4314/2014, Article 12, functional independence is guaranteed for the participants in the audit teams by the managing authorities, intermediaries' managing bodies and the Certifying Authority. Article 4 of Law 3429/2005, as amended by Article 31 (4) of Law 4465/2017 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</p>	<p>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.</p>	<p>Consider establishing guidelines for the selection procedure and core competencies.</p>

17 L. 4795/2021, article 9 (8, 10)

independent service contracts and do not acquire employee status or subordinate employment.

Furthermore, to ensure independence for the auditors of the **General Directorate of Financial Audit** of the Ministry of Finance the provisions of par. 8 of article 15 of law 3492/2006 (A '210) apply:

«8. (a) 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 up or co-signed in the performance of their duties. Excluded from the above is the case of intent, breach of the confidentiality of information and data obtained in the performance of their duties and breach of the duty of confidentiality of the audit bodies.

(b) The staff in general of the Audit Departments of the Directorate-General for Financial Audit (GDDE), when examined or prosecuted or sued for acts or omissions attributed to them, in the performance of their duties before the criminal or civil courts, may be represented by a member of the Legal Council of the State (NSK), following a written request of the Head of the GDDE to the NSK, in which it is certified that the persecuted or defendant acted in the public interest.

(c) The members of the Audit Coordination Committee (ESEL) and the staff in general of the Audit Directorates of GDDE are not personally liable to anyone for any acts or omissions in the exercise of their duties and responsibilities provided for in the applicable law, unless acted with intention. This provision does not release the above from any liability towards the Greek State for breach of duty and, in general, for acts or omissions due to gross negligence. "

The independence of internal auditors is defined in Article 9 of L. 4795/2021.

According to the **Court of Auditors'** Code of Audit Ethics, the following applies:

Officials carrying out audits in accordance with the principles and rules of this manual, as well as those performing the duties of supervising, administering or evaluating the quality of such audits or providing any supporting and ancillary services shall comply with the provisions relating to obligations generally laid down for judicial officers and in particular 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 recently replaced by L. 4820/2021). They should behave at the same time in accordance with the provisions of this Chapter, 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. In particular, they must ensure that audits are carried out in a way that:

- a) upholds and enhances independency, integrity, objectivity and authority of the Court of Auditors as the supreme financial court and external audit body of public expenditure and accounts, and
- b) guarantees the confidentiality of the information gathered during the audit process.

	<p>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 (i.e. "Statement of compliance with the rules of conduct"). The evaluation of the quality of the audit work of audit team members by another auditor who is not a member of it is an appropriate measure to eliminate or limit these risks. Auditors are therefore prohibited from participating in audits on entities of significant public interest for a period of more than five years and may resume such audits after at least two years have elapsed since the last audit mandate expired.</p>
--	---

13. Procurement appeals mechanisms are effective and efficient

13(a) Process for challenges and appeals

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Decisions are rendered on the basis of available evidence submitted by the parties.	<p>As stated in Pillar I the review mechanism differs according to the value of the contract concerned.</p> <p>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 doesn't provide for any administrative challenging procedure (article 127 of L. 4412/2016.)</p> <p>For public procurements valued above EUR 30 000 and in case of technical assistance contracts for PPs valued over EUR 60 000, requests for review are to be filed with the Single Public Procurement Review Authority (HSPPA)(articles 360 et seq. of L. 4412/2016), established initially in 2016 as an independent public procurement review body (AEPP), in operation since Q3/2017, and recently merged with HSPPA in 2022.</p> <p>According to article 365 of L. 4412/2016, the CA shall communicate to HSPPA the whole file of the case. In case that the file is not sent, AEPP may presume the omission as a confession of the facts on which the request is based. When HSPPA concludes that the omission to send the case file is not justified (which renders pre-judicial protection substantially difficult), HSPPA may impose a fine to the CA of 100 – 500 € proportionately to the circumstances and the gravity of the omission. Furthermore, according to the P.D. 38/2017 “Rules of Review Procedure before AEPP” and in particular Article 12 (3) thereof, the rapporteur (i.e., the member of HSPPA tasked with the case) may request the applicant, the contracting authority and / or the intervener to provide missing evidence or evidence that might be useful in supporting or challenging the application for review.</p> <p>According to article 18 of P.D. P.D. 38/2017 “Rules of Review Procedure before AEPP”, HSPPA’s unit examining the request for review checks the legitimacy of the review. It is also stated in the above article that after taking into account the</p>		<p>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.</p> <p>The assessors were unable to triangulate the actual extent of implementation and process regarding evidence-based rending of decisions with economic operators. No further comments or inputs were received by business representatives during the validation workshop. Hence, no gaps are assigned.</p>		

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

	details of the case file, the suggestion of the person appointed as the rapporteur of the case, the applicant's actual and legal allegations, the views of the contracting authority and, in case of intervention, the allegations of the intervener, HSPPA issues a reasoned decision.	
(b) The first review of the evidence is carried out by the entity specified in the law.	<p>Yes.</p> <p>For procurements valued at EUR 30 000 or less (and in case of technical assistance contracts for PPs valued at EUR 60 000 or less), article 127 of L. 4412/2016 provides for no administrative review procedure. The relevant article provides for judicial challenging proceedings only and explicitly states that any kind of administrative challenge is forbidden.</p> <p>For procurements valued at more than EUR 30 000 (and in case of technical assistance over EUR 60 000) requests for review are examined by HSPPA. 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 3-members 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 7 members (article 365 para 1 of L. 4412/2016). One of the members is designated as the rapporteur to first review the case file and submit his or her opinion/suggestion to the Unit in order for the latter to decide (article 12 of P.D. 38/2017 "Rules of Review Procedure before AEPP").</p>	<p>Legally, no gap identified.</p> <p>The assessors were unable to triangulate the extent of implementation with contracting authorities or economic operators. No further comments or inputs were received by stakeholders during the validation workshop. Hence, no gaps are assigned.</p>
(c) The body or authority (appeals body) in charge of reviewing decisions of the specified first review body issues final, enforceable decisions. * // Minimum indicator // * Quantitative indicator to substantiate assessment of sub-indicator 13(a) Assessment criterion (c): - number of appeals. Source: Appeals body. * Recommended quantitative indicator to substantiate assessment of sub-indicator 13(a) Assessment criterion (c): number (and percentage) of enforced decisions. Source: Appeals body.	<p>There is no appeals body, i.e. body in charge of reviewing decisions of the first review body.</p> <p>HSPPA's decisions are final and enforceable, but can be judicially challenged. If judicially challenged, the CA shall abstain from concluding the contract, unless the court decides otherwise (article 372 of L. 4412/2016).</p>	<div> <p>Data on judicial challenge of AEPP's decisions</p> <p>Source: AEPP: http://www.aepp-procurement.gr/images/Archiki/</p> <p>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 AEPP's decision were filed before the competent court and 276 applications for review (annulment).</p> <p>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 AEPP's decision were filed before the competent court and 141 applications for review (annulment).</p> <p>In 2018, 1 154 decisions on requests for review were issued. Out of these, 262 were subsequently challenged in court, i.e. requests for interim measures for the suspension of AEPP's decision were filed before the competent court and 109 applications for review (annulment).</p> <p>In 2017 (22 June 2017 to 31 December 2017¹⁸), 218 decisions on requests for review were issued. Out of those, 53 requests for interim measures for the suspension of the AEPP's decision were filed before the competent court and 1 application for review (annulment).</p> </div> <p>No gap identified</p>
(d) The time frames specified for the submission and review of challenges and for appeals and issuing of decisions do	Yes. For procurements valued at or less than EUR 30 000 (and in case of technical assistance contracts at EUR 60 000)), 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	No gap identified

¹⁸AEPP started operating in the second half of 2017.

not unduly delay the procurement process or make an appeal unrealistic.	<p>concerned or from the day the omission occurred. (article 127 of L. 4412/2016 in combination with article 46 of PD 18/1989).</p> <p>In case the procurement is valued above EUR 30 000 (and in case of technical assistance contracts over EUR 60 000) , the economic operator may file a request for review with HSPPA within 10 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 KHMDS. In case of omission, the time limit is 15 days from the day that the omission occurred (article 361 of L. 4412/2016).</p> <p>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 (article 367 of L. 4412/2016.)</p>
--	--

13(b) Independence and capacity of the appeals body

The appeals body:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis / conclusions</u> (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) is not involved in any capacity in procurement transactions or in the process leading to contract award decisions	The competent review body (HSPPA) is an independent of the CAs body having as its responsibility – inter alia - to examine requests for review; it is not involved in any capacity in procurement transactions or in the process leading to contract award decisions.		For procurements valued at equal of or less than EUR 60 000, there is no administrative review available, but procedures can be challenged in court and therefore no gap is assigned.		
(b) does not charge fees that inhibit access by concerned parties	<p>For procurements valued at or below EUR 30 000 (and in case of technical assistance contracts for PPs valued at EUR 60 000 or less), the economic operator challenging the CA's decision before the administrative courts shall have to pay a fee of 5% of the estimated value of the contract (article 127 of L. 4412/2016 and 36 (1) of PD 18/1989).</p> <p>For procurements valued at more than EUR 60 000 (and in case of technical assistance contracts over EUR 60 000 or less), the economic operator filing a request for review has to pay to the State a fee equal to 0.50 % of the estimated value (VAT excluded) of the contract, which cannot be less than EUR 600 nor more than EUR 15 000. If according to the procurement documents the value of the contract cannot be estimated, the fee to be paid is EUR 600. The fee shall be reimbursed to the economic operator if the request is fully or partially accepted by HSPPA (article 363 of L. 4412/2016). In case the economic operator challenges HSPPA's decision, a fee equal to 0,1% of the estimated value, including VAT, of the contract, which may not be less than EUR 500 and no more than EUR 5 000 shall be paid. Half of the amount shall be paid at the time of filing the request and if the request is rejected the applicant shall be ordered to pay the remaining half by court decision (article 372 par. 4 L.4412 / 2016). 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.</p>		The assessors were unable to triangulate practical implications of the fees with economic operators. According to interviews, fees are relatively high given the local context of a high propensity to file complaints. Fees are proportionate to the value of the contract and vary between EUR 1 100 (EUR 600 + 500) and EUR 20 000 (15 000 + 5 000). The highest fee is levied in contracts valued at EUR 3 million or above, i.e. a relatively high amount compared to this high fee. Fees are returned to the economic operator in case the ruling is in favour of the applicant. Therefore, it is assessed that fees charged do not inhibit the access of the concerned parties. Stakeholders during the validation meeting confirmed that fees do not have a deterrent effect to access the review process. No gaps identified.		
(c) follows procedures for submission and resolution of	Procedures for submission and resolution of complaints, namely request for review procedures, are clearly defined in the law, as mentioned above.	Assessors were only able to retrieve data about the average time of issuance of AEPP's decisions according to AEPP's data on its website	Procedures for submission and resolution of complaints are not made public.		Publish the applicable procedures for submission and resolution of

<p>complaints that are clearly defined and publicly available</p> <p><i>// Minimum indicator // *</i> Quantitative indicator to substantiate assessment of sub-indicator 13(b) Assessment criterion (c): - appeals resolved within the time frame specified in the law/exceeding this time frame/unresolved (Total number and in %). Source: Appeals body.</p>	<p>However, procedures are not publicly available.</p>	<p>http://www.aepp-procurement.gr/images/Archiki/</p> <p>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.</p> <p>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.</p> <p>In2018, the average time for issuing a decision from the day the application was filed was 40 days for requests for review and 8 days for requests for interim measures.</p> <p>In 2017 (22 June2017 – 31 December 2017) average time for issuing a decision from the day the application was filed was 29 days for requests for review and 7 days for requests for interim measures.</p> <p>During the interviews, it was stated that all HSPPA’s decisions are issued within the time frames. 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.</p>	<p>complaints in an easily accessible manner (e.g., online.)</p>
<p>(d) exercises its legal authority to suspend procurement proceedings and impose remedies</p>	<p>HSPPA may set aside the contested decision and take interim measures in accordance with Article 366 of L. 4412/2016. As provided for in Article 367(1) of the same law, HSPPA may dismiss the request for review in whole or in part. In case HSPPA rules in favour of the request, the contested act is annulled in whole or in part; in case of contested omission, the omission is annulled and the case is referred back to the contracting authority to act accordingly (article 367 par. 2 law 4412/2016). In case HSPPA is requested to take interim measures, HSPPA can reject the application for interim measures or suspend the procurement procedure or the enforcement of the contested act. HSPPA may also impose interlocutory remedies ex officio, provided that a request for review has been duly filed, including suspension of the procuring process.</p>	<p>According to the data gathered from HSPPA’s website (http://www.aepp-procurement.gr/images/Archiki/) within the year 2020 52% of the decisions issued were in favour of the applicant, annulling the contested administrative act. Regarding decisions on applications for interim measures the ratio amounts to 89, i.e. 89% of the decisions issued suspended the conclusion of the contract.</p>	<p>No gap identified</p>
<p>(e) issues decisions within the time frame specified in the law/regulations*</p>	<p>HSPPA has to issue its decision on requests for review within 20 days from the day of examination, which shall take place within 40 days from the day the request for review was filed; total of 60 days.</p>	<p>According to AEPP’s annual report for 2020, out of 605 requests for suspension lodged with the courts, 381 decisions have been issued by the time the annual report was published. The remaining procedures might have been withdrawn by the complainant or might have been pending at the time of publication of the annual report. Delays in the issuance of decisions are also linked to the administration’s own delays in sending its opinion (arguments) of the case.</p>	<p>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. Prior to the merger, decisions were issued within the timeframes. No gaps identified</p>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

(f) issues decisions that are binding on all parties	Yes, as mentioned above, HSPPA's decisions on requests for review are enforceable, unless challenged before courts. See above sub-indicator 13 a (c).	No gaps identified	
(g) is adequately resourced and staffed to fulfil its functions.	<p>According to article 348 of L. 4412/2016 the Chairman and the Directors of HSPPA are retired judges of the Council of State or the Court of Auditors or the Administrative Appeal Courts with the grade of President, in the latter case with experience in PP law . Members of HSPPA shall have the qualifications laid down in article 2 of PD 50/2001, namely they shall be educated in public procurement law, experienced in public procurement law and have perfect or very good knowledge of at least one foreign language.</p> <p>According to article 357 of L. 4412/2016, HSPPA shall be staffed with 45 employees and 7 legal councils experienced in public procurement law (article 358). According to article 350 of L. 4412/2016, 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 of value over EUR 1 000, no matter the financial source of these procurements.</p>	<p>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.</p>	Ensure that HSPPA and administrative courts have sufficient staff to be able to handle their caseload.

13(c) Decisions of the appeals body

Procedures governing the decision making process of the appeals body provide that decisions are:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) based on information relevant to the case.	<p>According to article 367 (1) of L. 4412/2016, HSPPA shall 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 already mentioned in sub-indicator 13(a), decisions are made after examining the case file, consisting of all documents regarding the relevant public procurement.</p> <p>According to article 18 of P.D. 38/2017 "Rules of Review Procedure before AEPP", HSPPA's unit examining the request for review, checks its legitimacy. After taking into account the details of the case file, the suggestion of the person appointed as the rapporteur of the case, the applicant's actual and legal allegations, the views of the contracting authority and, in case of intervention, the allegations of the intervener, AEPP shall issue a reasoned decision.</p>		<p>No gap identified in the legal and regulatory framework.</p> <p>However, the assessors were unable to triangulate the extent of implementation through interviews with economic operators. No further input was received during the validation workshop.</p>		
(b) balanced and unbiased in consideration of the relevant information.* Recommended quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (b): - 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.	<p>According to article 349 of L. 4412/2016, HSPPA/s Chairman, Directors and members during the execution of their responsibilities 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 and in particular they are not allowed 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. They cannot be assigned to this position if they or their spouses are kin up to the second grade or have a close relationship with any person, physical or legal, having a personal, financial, or other kind of interest that could affect their impartiality and objectivity. After their term of office, they are not allowed to provide services in any way or to participate as shareholders to any company or enterprise linked</p>	No data available / no survey was conducted.	<p>No gap identified in the legal and regulatory framework.</p> <p>However, the assessors were unable to triangulate the extent of implementation through interviews with economic operators. No further input was received during the validation workshop.</p>		

	to any decision they were involved in, for a time period of 2years. According to article 7 of PD 38/2917, AEPP's members shall abstain from any action or procedure relating to cases assigned to them if they have a conflict of interests.	
(c) result in remedies, if required, that are necessary to correcting the implementation of the process or procedures.*	According to article 367 of L. 4412/2016 HSPPA can either: (a) Reject the request for review (b) Accept the request for review and annul the contested decision of the CA partially or as a whole; in case of contested omission, the omission is annulled and the relevant case is sent back to the CA to take the appropriate action. HSPPA cannot change or modify CA's decision. (c) On the applicant's request, or ex officio, HSPPA can take interim measures, suspending the contested decision of the CA or the procurement procedure and imposing any other appropriate measures that will remain in force until the AEPP decides on the request of review. (d) Declare the contract already signed ineffective (null) under the conditions of articles 368-371 of L. 4412/2016. Where HSPPA decides that although the contract was illegally awarded within the meaning of the above articles, overriding reasons related to a public interest requires that the contract effects should remain, HSPPA may alternatively impose a fine to the CA, which shall be proportionate to the seriousness of the law infringement, the CA's behaviour and the term of the contract and shall not exceed 10% of the contract value (VAT excluded). HSPPA can also decide that the amount of the fine shall be paid to the applicant.	According to data published in the AEPP's website: ¹⁹ In 2020, 2 000 decisions were issued: 1 725 related to requests for review and 275 related to interim measures. Regarding the decisions on requests for review 895 (52%) were in favour of the applicant and 828 (48%) in favour of the CA or dismissed the request. Regarding the decisions on interim measures 246 (89%) ruled in favour and 29 (11 %) against the applicant. In 2019, 1 996 decisions were issued: 1 414 related to requests for review and 582 related to interim measures. Regarding the decisions on requests for review 697 (49%) were in favour of the applicant and 717 (51%) in favour of the CA or dismissed the request. Regarding the decisions on interim measures 460 (79%) ruled in favour and 122 (21 %) against the applicant. In 2018, 1 689 decisions were issued: 1 154 related to requests for review and 535 related to interim measures. Regarding the decisions on requests for review 517 (45%) were in favour of the applicant and 637 (55%) in favour of the CA or dismissed the request. Regarding the decisions on interim measures 431 (81%) ruled in favour and 104 (19 %) against the applicant. According to information in HSPPA's annual reports, out of 381 decisions issued in 2020 on requests for suspension lodged with Administrative Courts of Appeal and Council of the State, 140 have been accepted in favour of the applicant. Regarding though the ratio of decisions suspended out of the total decisions issued by AEPP this is 8% of the total of decisions issued in 2020. Regarding 2019, out of 245 decisions issued in 2020 on requests for suspension lodged with Administrative Courts of Appeal and Council of the State, 70 have been accepted in favour of the applicant. Regarding though the ratio of decisions suspended out of the total decisions issued by AEPP this is 4,95% of the total of decisions issued in 2019. In2017 (22 June 2017 – 31December2017) 359 decisions were issued: 218 related to requests for review and 141 related to interim measures. Regarding the decisions on requests for review, 83 (37.92%) were in favour of the applicant and 135 (62.08%) in favour of the CA or dismissed. Regarding the decisions on interim measures, 115 (81.56 %) were in favour and 26 (18.44 %) against the applicant. According to information in AEPP's annual out of 195 decisions issued in 2018 on requests for suspension lodged with

¹⁹http://www.aepp-procurement.gr/images/Archiki/AEPP_2017.pdf, http://www.aepp-procurement.gr/images/Archiki/AEPP_2018.pdf

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

		Administrative Courts of Appeal and Council of the State, 57 have been accepted in favour of the applicant. Regarding though the ratio of decisions suspended out of the total decisions issued by AEPP this is 5% of the total of decisions issued in 2018, while the corresponding ratio for 2017 was less than 2%.		
		During the second semester of 2017, out of 218 decisions issued, 53 have been challenged by lodging a request for suspension (48 with the Administrative Courts of Appeal and 5 with the Council of State), out of which 14 decisions have been issued.		
		In 2018 (for which statistics refer to the whole year and not to one semester only as it has been the case in 2017), 1154 decisions have been issued by AEPP, out of which 262 have been challenged by lodging an application for suspension with the Administrative Courts of Appeal and the Council of the State. In particular, 230 were lodged with Administrative Courts and 32 with the Council of the State.		
(d) decisions are published on the centralised government online portal within specified timelines and as stipulated in the law.*	According to article 365 (6) of L. 4412/2016, HSPPA’s decisions are posted on its website in line with the 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. No timelines are specified in the law.	No data available	No timelines for publication are specified in the law, and no data on the publication of decisions is available.	Consider monitoring the compliance with publication requirements, and setting a timeline for publication.
// Minimum indicator // *Quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (d): - share of appeals decisions posted on a central online platform within timelines specified in the law (in %).Source: Centralised online portal.*	Decisions are indexed internally and made known to all judges. To date, 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. HSPPA’s decisions are published on its website, albeit not searchable.		Not all spaces for publication of decisions actually contain decisions.	
			The assessors were unable to triangulate the extent of implementation through interviews with economic operators. No further input was received during the validation workshop.	

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:
The legal/regulatory framework provides for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) definitions of fraud, corruption and other prohibited practices in procurement, consistent with obligations deriving from legally binding international anti-corruption agreements.	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 Code(Law 4619/2019), the Public Procurement Law (4412/2016) 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, hereafter “Law on the Council of Europe’s Corruption Convention”). While general, these definitions also apply in the context of public procurement.		No gaps.		

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

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 in Article 386 of the **Criminal Code** (Law 4619/2019). The following definitions apply:

“1. Anyone who knowingly presents false facts as true or unlawfully hides the truth damaging a third persons' property by persuading someone to act, omit or tolerate an act with the intent to reap the benefits himself or for a third party, harming such property shall be punished with imprisonment and a fine. If the damage caused exceeds the total of EUR 120,000, a penalty of up to ten years and a fine shall be imposed.

“2. If fraud is directed against a legal person of the Greek State, legal persons governed by public law or local self-governed authorities and the damage caused exceeds the total amount of EUR 120,000, a minimum of ten years' imprisonment and a fine of up to thousand daily units shall be imposed. Twenty years after the expiry of this period the act is time-barred.”

According to article 386 of the Criminal Code, the crime of fraud requires (a) that the perpetrator intends to obtain himself or herself unlawful property ; it is not required that the property was actually obtained, b) misrepresentation of events, from which, as a cause, someone has been misled and committed, omitted or tolerated a harmful to himself or to a third party act, and c) damage of third party's property, according to the provisions of civil law, which is directly caused by the misleading actions and omissions of the perpetrator; the person misled and the person harmed need not be identical. The crime of fraud involves causing and damaging the property of another person in order for the offender or a third party to obtain illicit property, which is achieved by deceiving the other by knowingly presenting false events as true or by not revealing and hiding the real events.

Specific provisions exist for computer fraud (Article 386A of the Criminal Code) and grants related fraud (Article 386B of the Criminal Code). In addition, specific provisions apply in case the fraud caused low-value damage (Article 387 of the Criminal Code). In this case, the provision for theft and embezzlement of little value (Article 377) shall apply.

The Procurement Law (4412/2016) translates the general provisions on fraud into a public procurement context. Article 73 contains conditions for participation aimed at countering fraud effectively.

The specific arrangements of the article 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.

	<p>Paragraph 7 enables economic operators in the situations referred to in paragraphs 1 and 4 to adopt compliance measures with a view to removing the effects of certain offences found. Finally, the evaluation of the adequacy or not of the remedial measures referred to in paragraph 7 shall be subject to the assent of a relevant committee set up by decision of the Minister of Economy, Development and Tourism as the competent ministry for supply and services procurement (paragraph 9).</p> <p>CORRUPTION</p> <p>Provisions related to corruption are included in Law 2957/2001, which ratified the Council of Europe’s on Civil Law Convention on Corruption. For the purpose of this Convention, "corruption" means 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 (Article 2, Law 2957/2001 on the Council of Europe’s Corruption Convention.)</p> <p>The public procurement law translates these general provisions into the context of public procurement. It includes specific anti-corruption provisions for preliminary market consultations (Articles 46, 47), prior involvement of candidates or tenderers (Articles 48-280), electronic procurement (Articles 34-37), mandatory and optional exclusion criteria (Article 73), self-cleaning rules (Article 73 para. 7), stricter provisions on amending public contracts (Article 132), the collection of data on corruption and conflict of interest cases (Article 341), as well as monitoring and reporting obligations (Articles 340,342).</p> <p>OTHER PROHIBITED PRACTICES</p> <p>The Criminal Code includes additional relevant provisions on Bribery (article 235); Trade of influence - intermediaries (article 237A); power abuse (article 239); violation of domestic asylum (article 241); false confirmation, falsification, destruction or embezzlement of documents (article 242); falsification of judicial documents (article 243); breach of official secrecy (article 252 of the Penal Code); concealment of grounds of non-participating to a case (article 254), unlawful participation to a procedure that falls into the scope of his/her duties (article 255), breach of duty (article 59). In case of a final conviction for one of the criminal offences described in articles 235, 239, 242, 243 above, the convicted shall lose his/her position.</p> <p>Article 73 of the procurement law 4412/2016 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.</p> <p>For civil servants, the Civil Servants' Code establishes a list of disciplinary offences that can be considered as prohibited practice, as well as the Guide to Administrative Behaviour. Both are general provisions and not specifically public procurement related.</p>	
(b) definitions of the individual responsibilities, accountability and penalties for government employees and private firms or individuals found guilty of fraud, corruption or other prohibited practices in procurement, without prejudice of other provisions in the criminal law.	<p>No public procurement-specific provisions exist, but the general rules on responsibilities, accountability and penalties apply.</p> <p>Civil servants / public officials, in the performance of their duties, are subject to three different types of liability, namely disciplinary, criminal and civil liability. There are different conditions for establishing any type of liability and there are different legal consequences. These responsibilities are not identical, but may run in parallel.</p> <p>Criminal liability of officials arises from acts or omissions, which are characterized 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.</p>	<p>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 individuals found guilty of any wrongdoing concerning their involvement in public procurement procedures.</p>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

	<p>Officials have a particular criminal liability, the scope of which is set out in Articles 235 to 387 of the Criminal Code. Criminal liability differs from disciplinary liability in its three main characteristics: a) pursuit’s objective, b) nature of the penalties and c) procedure by which they are imposed.</p> <p>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.</p> <p>Law 4622/2019 on the "Organisation, operation and transparency of government, governmental institutions and Central Public administration” specifies responsibilities of civil servants. This law establishes a high standard of integrity for civil servants, and also specifies how conflicts of interests should be signalled.</p> <p>Private firms or individuals are subject to their internal rules and the criminal code.</p>		
(c) definitions and provisions concerning conflict of interest, including a cooling-off period for former public officials.	<p>General provisions on conflict of interest, without a dedicated focus on public procurement, are detailed in Law 4622/2019 on the "Organisation, operation and transparency of government, governmental institutions and Central Public administration”. It defines conflict of interest for civil servants (Article 71) and procedures and timelines that have to be followed to avoid conflicts of interest (article 72), notably what kind of information has to be reported to whom and by when. 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 (Article 75).</p> <p>Procurement-specific provisions on conflict of interest are included in the Public Procurement Law (Article 24, 4412/2016), in line with the EU Directives’ spotlight on conflict of interest. These rules apply to:</p> <p>a) 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,</p> <p>b) members of the management or other bodies of the contracting authority,</p> <p>c) 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.</p> <p>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.</p> <p>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 in turn is required to inform the 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 (Article 341 (1) (i) of the public procurement law.). In the event that competition was distorted, the candidate concerned may be excluded from any participation in the contract award procedure (Article 4 (4) and (5) of Law 2690/1999.) In case of failure to remedy the conflict of interest, a candidate can be excluded from the procedure (Article 73 par. 4 d).</p>	<p>There are no specific provisions for cooling-off periods for former public officials who are involved in future award processes representing an economic operator.</p> <p>It remained unclear, what precisely the obligations of the contracting authorities are once a conflict of interest is being reported (“appropriate measures.)</p>	<p>Add provisions for cooling-off periods in the legal and regulatory framework. Consider providing additional guidance to contracting authorities on how to handle conflict of interests. In doing so, avenues outside of the law could be most promising, such as tools to identify conflicts of interests, as well as a information (brochures, check lists) on how to effectively respond to a conflict of interest situation (reporting, mitigation, prevention.)</p>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

In the event of a conflict of interest, the contracting authority shall immediately inform the Authority.
The contracting authority is expected to send to the Authority a relevant report on the public procurement procedures it has conducted, including cases of conflicts of interest identified as well as the subsequent measures taken

14(b) Provisions on prohibited practices in procurement documents

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The legal/regulatory framework specifies this mandatory requirement and gives precise instructions on how to incorporate the matter in procurement and contract documents.	<p>The legal and regulatory framework for public procurement as set out in the relevant law 4412/2016 describes in detail the essential information that must be included in the contract documents. The law specifies that exclusion grounds must be noted, and “inviolable conditions” leading to the rejection of the tender. In addition, relevant circulars and general public administration directives are issued that further specify all stages of the whole process related to the preparation / planning, award and execution of a public contract.</p> <p>According to article 73 (4) (g) and (h) the CA 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 procurement procedure or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or award.</p> <p>These provisions are not mandatory, but can be drawn upon in the procurement documents.</p>		There are no legal provisions giving precise instructions what kind of information regarding prohibited practices needs to be included in the procurement documents.		Develop guidance on how to incorporate provisions on prohibited practices in procurement documents.
(b) Procurement and contract documents include provisions on fraud, corruption and other prohibited practices, as specified in the legal/regulatory framework.	The assessors conducted a “spot check” of a limited number of procurement contracts available online. The majority of procurement documents in case of procurements valued more than 60.000 Euros, include the provision in article 73(4) and (h) of the procurement law on exclusion of a supplier. Procurement documents valued less than 60.000 Euros usually do not.		As there is no specification on including provisions on prohibited practices in procurement and contract documents, no gap can be assigned. However, including similar provisions also in contracts below EUR 60 000 could be worthwhile.		Consider providing guidance on how to include provisions on prohibited practices in procurement procedures of all sizes.

14(c) Effective sanctions and enforcement systems

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Procuring entities are required to report allegations of fraud, corruption and other prohibited practices to law enforcement authorities, and there is a clear procedure in place for doing this.	<p>Contracting authorities and entities as well as the participating economic entities in the context of compliance with the principles of legality, transparency and integrity shall report to the competent authorities any cases of unlawful practices / actions for which they shall submit complaints, reports and request for review and possibly objection. The public procurement law does not specify the competent authorities, but according to the criminal code (article 38), all civil servants receiving information in the performance of their duties about a criminal offence committed must report it to the Public Prosecutor without delay in writing.</p> <p>Employees of procuring entities, like any citizen, can choose to report allegations to any competent authority charged with following up on these issues.</p> <p>The procedure may be carried out on paper, electronically or in person, and can be made anonymous. The reports have to have an appropriate form, for example as a report (such as in the case of a conflict of interest report). The notice should include information about the action or omission that is the object of the reporting. Different reporting structures exist, according to the individual rules on internal organisation and the management system in place.</p>		The assessors did not identify a clear and standardized procedure clarifying how contracting authorities should report allegations, to whom and under what timeframes.		

(b) There is evidence that this system is systematically applied and reports are consistently followed up by law enforcement authorities.

According to the system of internal management of complaints received by each agency receiving these complaints, a report shall be drawn up, the results of which determine the further action of the agency based on the credibility and gravity of the incident being reported. Cases, which, after further investigation, require remedial action, implementation of recommendations and enforcement of the law, whatever this means for the possibility of sanctions, shall be sent to the competent bodies (supervisory, judicial, regulatory authorities, supervisory bodies) to act in accordance with their competence and shall be published in the annual reports of the competent authorities.

The assessors identified a few annual reports on the websites of the former auditing authorities (prior to NTA, who commenced work too recently to have reports available.) These reports were general, including but not focusing on public procurements. In the Annual Report of the Inspector General of Public Administration 2017, the assessors found a reference to an audit conducted on the Chemical Toilet Contract of "Road Transportation SA" (OSY SA), which is a public enterprise. It stated that the cleaning work of its chemical toilets have been assigned by contracts since 2007 and henceforth to the same association of companies following competition procedures and extensions of dubious lawfulness. These tenders had raised complaints from other economic operators on the grounds of unlawful procurement conditions, limiting participation and distorting competition. The investigation of these allegations had led, in 2010, both the Ombudsman and the Inspector General of the Public Administration, in instructing for these procurement conditions to be dropped but they were ignored by the OSY SA that continued to illegally extend the last contract concluded for extra twenty-two (22) months, while at the same time was unjustified delaying the process of conducting a new procurement procedure. The competent Minister was requested to disciplinary prosecute those involved and at the same time the case was sent to the competent 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.

Also, it should be noted that the draft of the JMD provided for in article 340 par. 2 of law 4412/2016 namely, JMD No, 70362/2021, determines the information that should be provided - inter alia - by the auditing bodies to HSPPA for the preparation of the monitoring report.

The annual reports by key stakeholders (e.g. HSPPA, NTA, and Competition Authority) contain some relevant information about audit findings, complaints submitted, and violations of illegal collusion. However, there is limited information on follow-up by law enforcement (e.g. sanctions applied)

Gather information and data about implementation and enforcement of integrity efforts

(c) There is a system for suspension/debarment that ensures due process and is consistently applied.

Greece has a system for suspension and debarment. The processes for suspension and debarment (i.e., exclusion) are regulated in the Public Procurement Law 4412/2016. Contracting authorities shall exclude an economic operator from participating in procurement procedure when they have established, by verification in accordance with Articles 79-81, or are otherwise aware that economic operator has been the subject of a conviction by irrevocable judgment for a group of reasons (Public Procurement Law, Article 73, par. 1, 2, 4). See also indicator 1(d) on the legal basis for exclusion.

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, establishing the exclusion grounds. This follows the opinion of the collective body established by the Minister of Development to give opinions on issues related to: (a) Supply and Service Procurements carried out by the National CPB and (b) debarment cases (Article 41 (5)), and consultation with the Technical Council of the General Secretariat for Infrastructure where this is relevant for the object of the procurement.

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, which can record information and the period of exclusion for each of them. 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 behaviour of economic operators will be recorded. The information to be entered in the database includes indicative misconducts in the execution of public contracts, disciplinary sanctions, fines and penalties for

The assessors did not find any information to indicate that the collective body mentioned to the left has ever been established (see Pillar I Indicator 1d) c) for details).

No information was found to indicate that any debarment has ever been imposed since promulgation of L. 4412/2016. 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.

Ensure the implementation of provisions foreseen by the amendments of law 4412/2016 (see Pillar I Indicator 1d) c), i.e. issuance of relevant PDs.

Monitor the application of debarment requirements.

	<p>violations of competition, the environment and labour law, as well as tax and social security law.</p> <p>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 L. 4412/2016.²⁰</p>		
<p>(d) There is evidence that the laws on fraud, corruption and other prohibited practices are being enforced in the country by application of stated penalties.*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(c) Assessment criterion (d):</p> <p>- Firms/individuals found guilty of fraud and corruption in procurement: number of firms/individuals prosecuted/convicted; prohibited from participation in future procurements (suspended/debarred). Source: Normative/regulatory function/anti-corruption body.</p> <p>- Government officials found guilty of fraud and corruption in public procurement: number of officials prosecuted/convicted. Source: Normative/regulatory function/anti-corruption body.</p> <p>- Gifts to secure public contracts: number of firms admitting to unethical practices, including making gifts in (in %). Source: Survey.</p>	<p>According to media reports, there is enforcement action in the area of fraud and corruption as evidenced by ongoing investigations and court cases.²¹ 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.²² 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.²³</p> <p>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.²⁴</p>	<p>Previous analysis illustrates deficiencies with regards to enforcement of laws in this area, for example domestic and foreign bribery.</p> <p>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.²⁵ In December 2019, the Council of Europe voiced strong concerns about the ability of Greece’s criminal justice system to counter corruption.²⁶</p> <p>The Working Group on Bribery in its Phase 3bis Evaluation Report (2015) criticized that Greece had not sufficiently investigated foreign bribery allegations. In addition, the report not that at least in the area of foreign bribery, enforcement bodies and judiciary had insufficient capacity to fulfil their duties adequately.²⁷ By late 2018, Greece followed up on the ensuing recommendations by increasing enforcement capacity, raising awareness and better connecting different government authorities to enable enforcement.²⁸ An external evaluation of progress remains outstanding. While this relates to the area of foreign bribery only and not to the broad concept of corruption in all its forms, it provides an illustration of the status of enforcement action for similar offences.</p> <p>No statistics about prosecution or enforcement of corruption and other prohibited practices in connection with public procurement were available to the assessors.</p>	<p>Greece should maintain efforts to strengthen its integrity system, and consider specific actions relating to public procurement, a high-risk area. Gathering statistics and data on enforcement activity could provide valuable information for improved implementation of the anti-corruption framework.</p>

²⁰ https://ppp.eaadhsy.gr/index.php/el/?option=com_sppagebuilder&view=page&id=83

²¹ <https://gettingthedealthrough.com/area/2/jurisdiction/12/anti-corruption-regulation-greece/>

²² <https://www.bloomberg.com/news/articles/2019-03-20/novartis-says-probe-found-no-trace-of-payoffs-to-greek-officials>

²³ [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://ttlfnews.wordpress.com/2016/06/27/hellenic-competition-commission-launched-its-largest-investigation-to-date/>

²⁴ <https://www.oecd.org/daf/anti-bribery/Greece-Phase-3bis-Report-EN.pdf>

²⁵ <https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/survey/getsurveydetail/instruments/flash/surveyky/2248>

²⁶ <https://www.coe.int/en/web/portal/-/greece-despite-some-improvements-more-work-needed-to-restore-ability-of-criminal-justice-system-to-counter-corruption>

²⁷ <https://www.oecd.org/daf/anti-bribery/Greece-Phase-3bis-Report-EN.pdf>

²⁸ [https://one.oecd.org/document/DAF/WGB\(2018\)43/en/pdf](https://one.oecd.org/document/DAF/WGB(2018)43/en/pdf)

14(d) Anti-corruption framework and integrity training

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) The country has in place a comprehensive anti-corruption framework to prevent, detect and penalise corruption in government that involves the appropriate agencies of government with a level of responsibility and capacity to enable its responsibilities to be carried out.*</p> <p>*Recommended quantitative indicator to substantiate assessment of sub-indicator 14(d) Assessment criterion (a): - percentage of favourable opinions by the public on the effectiveness of anti-corruption measures (in % of responses). Source: Survey.</p>	<p>Greece has an anti-corruption framework in place: Greece is part of the 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 2015²⁹), which provides the overarching direction for the country's efforts that are implemented through a range of different laws and institutions.</p> <p>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. The Authority's main mission is to improve the effectiveness of actions concerning the enhancement of integrity and transparency, achieving measurable results in the fight against corruption and keeping citizens informed of these actions. 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, in accordance with good international practice and the requirements of European legislation and International Law ratified by Greece.</p> <p>The Authority 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. This creates an integrated system of internal and external audit and balancing mechanisms.</p> <p>In addition to parliamentary oversight, additional safeguards include a series of incompatibilities for the administration bodies, the obligation to submit an asset declaration, the active management of conflicts of interest phenomena, confidentiality obligations and especially the regular communication of NTA's actions and results to citizens (explanatory memorandum).</p>		<p>Previous analysis and the monitoring associated with Greece's international commitments points to considerable shortcomings in its anti-corruption framework.</p> <p>Examples are criticism by GRECO and OECD in 2019: In the summer of 2019, the parliament took steps to reduce the penalty of 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.³⁰ Additional recommendations include details in the laws, such as the definition of foreign public official, or to enhance investigation and prosecution.³¹</p>	x	<p>As previously recommended, Greece should continue its efforts to strengthen its anti-corruption framework. In doing so, a focus on public procurement as a high-risk area could make the system more efficient and effective.</p> <p>As the attainment of this indicator lies partially outside of the scope of the public procurement system, a red flag could be assigned.</p>
<p>(b) As part of the anti-corruption framework, a mechanism is in place and is used for systematically identifying corruption risks and for mitigating these risks in the public procurement cycle.</p>	<p>The authority for corruption risk management lies with the National Transparency Authority. HSPPA has procurement-specific authority. In most cases, activities seem to take the form of audits or desktop review of specific procurements, as well as hearings with contracting authorities. To what extent standardised risk-management and mitigation approach is applied in doing so remained unclear. The Court of Auditors conducts mandatory ex-ante control of procurements valued at or above EUR 500 000, but beyond the size of the procurement, no other risk-dimension is considered. A previous OECD analysis reported that in 2015, HSPPA had developed a red-flag tool,</p>		<p>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. 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</p>	x	<p>Develop a practical, updated and systematic risk management approach beyond the dimension of the size of the procurement. As part of this, guidance for risk management and mitigation aimed at procurement procedures should be developed and their implementation monitored. In doing so, contracting authorities could be a particular focus, equipping them with tools they can and are willing to use in their day-to-day procurement processes.</p>

²⁹ <http://www.oecd.org/fr/grece/greece-oecd-anti-corruption.htm>

³⁰ <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>

³¹ [https://one.oecd.org/document/DAF/WGB\(2018\)43/en/pdf](https://one.oecd.org/document/DAF/WGB(2018)43/en/pdf)

but that contracting authorities were not using it and no monitoring of its use was undertaken.³²

aggregate level by HSPPA or NTA with regards to risk along 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.”³³

(c) As part of the anti-corruption framework, statistics on corruption-related legal proceedings and convictions are compiled and reports are published annually.	Statistics concerning corruption-related proceedings are not compiled in an aggregated manner or per year.	The assessors were unable to access any aggregated statistical reporting of convictions related to corruption.	x Compile statistics on corruption-related proceedings.
(d) Special measures are in place for the detection and prevention of corruption associated with procurement.	<p>Notably in recent years, several 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 Law 4412/2016. The new law introduced integrity-related provisions that had been missing prior, for example regarding conflict of interest procedures (articles 24 in both the EU directives and the Greek public procurement law).</p> <p>Greece’s National Strategy for Public Procurement 2016-2020 focused on enhancing integrity in public procurement as it envisioned the creation of several tools:</p> <p>(a) Aiming at improving the effectiveness of control mechanisms : 1) Development of risk assessment tools for the detection and counter-threats against the effective operation of the PP system. Development of tools to identify all the risks involved; 2) Preparation and publication of risk management strategies, for example, red flags systems or programs that report irregularities.</p> <p>B) Aiming at carrying out "smart" controls using computer tools that have been designed specifically for PPs.: 1) development of an electronic control platform in HSPPA interacting with other information systems, 2) development of common control standards, 3) adoption of common codes of ethics in the auditing bodies, 4) adoption of further regulations and provisions, in order to avoid overlaps in controls, 5) development and adoption of a methodology for the supervision and evaluation of the competent control bodies.</p> <p>However the creation of the above mentioned tools except for the adoption of regulations and provisions in order to avoid overlaps in controls, with the establishment of NTA and the abolish of a number of auditing entities through its establishment, were never completed and therefore the same above-mentioned actions are repeated in the new National Strategy for Public Procurement 2021-2012 (actions 66-72 under the fourth pillar, strategic direction: enhancing transparency through auditing procedures in public procurement).</p> <p>Specific measures to be taken are also described with the view of Enhancing supervision and control.</p> <p>In 2015, HSPPA introduced the guideline titled “Fighting corruption during public procurement procedures” aimed at presenting the most important new legislative</p>	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.)	Consider ways to strengthen the implementation and the impact of integrity policies.

³² <http://www.oecd.org/governance/ethics/assessment-greece-anti-corruption-reforms-public-procurement-health-tax-customs-en.pdf>

³³ https://www.oecd-ilibrary.org/docserver/eco_surveys-grc-2018-en.pdf?expires=1585922561&id=id&accname=ocid84004878&checksum=1510EEDF3D3EBB4D3CC00A6F7574FC1D

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.

(e) Special integrity training programs are offered and the procurement workforce regularly participates in this training.

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) etc., in which state executives are regularly participating.

Indicative actions of various bodies in relation to information and training of human resources on corruption and fraud incidents:

In March 2015, a seminar on "Preventing and combating fraud in Structural Actions" took place in the form of a virtual classroom at all Managing Authorities, with very high staff participation (72% of all staff of the Managing Authorities participated). The seminar was organized by the Special Service for Institutional Support (EYTHY) in collaboration with the company MOD SA and covered the following topics: Requirements framework and introduction to key concepts / definitions; Anti-Fraud Strategy and System in Structural Actions; Introduction to the fraud risk assessment tool; "Red flags".

In February 2016, at the first technical meeting of the Internal Network, in which all officials responsible for fraud issues in the Managing Authority as well as a representative from the Audit Authority as an observer participated, the new Management and Audit System concepts, responsibilities and procedures were presented on preventing, detecting and reporting fraud and handling complaints.

A Seminar for all staff of the Managing Authority took place about "Human Resource Development, Education and Lifelong Learning". The training was conducted by the Fraud Officers of DA in cooperation with the Special Service for Institutional Support.

In December 2016, EYTHY designed a training program for beneficiaries of Management and Audit Systems, in the context of which there was targeted information / training in the fight against fraud. The seminar was implemented through the National Centre for Public Administration and Self-Governance (EKDDA) and 6 training courses were planned for the first half of 2017.

As there is no aggregated data about all relevant training programmes, the precise extend to which the procurement workforce (procurers) in different levels of government and throughout the public procurement system participate in anti-corruption training remained unclear.

Consider gathering statistics and information about rollout and frequency of anti-corruption trainings.

14(e) Stakeholder support to strengthen integrity in procurement

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are strong and credible civil society organisations that exercise social audit and control.	There is a number of relevant organisations in Greece that contribute to issues related to public procurement among others. These organisations have the opportunity to make their views known to the general public and government policy bodies in the field of public procurement, to participate in consultation procedures on emerging problems, to propose solutions, technical and legislative interventions and to denounce practices adopted by specific Contracting Authorities or Bodies. In Greece there are various organisations dealing with issues arising in the field of public procurement with key actors various associated professional organisations / societies / associations, as well as bodies with other statutory objectives related to the field of		<p>No gaps identified.</p> <p>The assessors were unable to verify the list of NGOs and whether their remit includes matters related to public procurement. The assessors were also unable to triangulate the information with civil society directly. No further input was received by civil society during the validation workshop.</p>		

	<p>public procurement, due to the general public funds management and the general government planning.</p> <p>Several organisations exist in Greece that contribute to integrity of public procurement, for example the following:</p> <p><i>Transparency International Greece (DDE)</i></p> <p>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.</p> <p><i>Hellenic Anti-Corruption Organization</i></p> <p>The Hellenic Anti-Corruption Organisation, registered in 2016, aims at to 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.³⁴ The extent of its procurement-related work remained unclear.</p> <p>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.</p>	
<p>(b) There is an enabling environment for civil society organisations to have a meaningful role as third-party monitors, including clear channels for engagement and feedback that are promoted by the government.</p>	<p>The views of these organisations concerning public procurement matter and their overall support 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. Unhindered 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.</p>	<p>The assessors have not been able to triangulate information about the enabling environment with civil society. No further input was received by civil society during the validation workshop.</p>
<p>(c) There is evidence that civil society contributes to shape and improve integrity of public procurement.*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (c): - number of domestic civil society organisations (CSOs), including national offices of international CSOs) actively providing oversight and social control in public procurement. <i>Source: Survey/interviews.</i></p>	<p>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.</p>	<p>The assessors were unable to triangulate information with civil society. No further input was received by civil society during the validation workshop.</p>
<p>(d) Suppliers and business associations actively support integrity and ethical behaviour in public procurement, e.g. through internal compliance measures.*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (d): - number of suppliers that have internal compliance measures in place (in %). Source: Supplier database.</p>	<p>Number of suppliers that have internal compliance measures in place (%)</p> <p>Source: Supplier databases</p> <p>The majority of suppliers – particularly larger companies operating internationally – have adopted a code of conduct and anti-corruption policy. This is true especially for companies that have sufficient staff and capital and adequate organizational 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</p>	<p>The assessors were unable to triangulate information on this topic with representatives of the private sector. No further input was received by civil society during the validation workshop.</p>

³⁴ <https://www.linkedin.com/in/hellenic-anti-corruption-organization-a3137b132/>

	<p>competitive advantage. Furthermore, as discussed in Pillar I, the law provides for exclusion in cases of conviction, distortion of competition, collusion, etc.</p> <p>The Business Integrity Forum (BIF) is an initiative developed by Transparency International. It is about creating a network, coordinated by Transparency International-Greece, with the participation of member companies, which openly declare their commitment to operate in a transparent manner, adopting specific policies and practices of good governance. The following companies are part of BIF:³⁵</p> <ol style="list-style-type: none">1. NEPTUNE LINES2. ATHENS INTERNATIONAL AIRPORT - EL. VENIZELOS3. A.HATZOPOULOS SA4. OTEGROUP5. KPMG6. HELLENIC PETROLEUM SA7. ELLAKTOR8. CORINTH PIPEWORKS9. GLAXOSMITHKLINE10. COCA - COLA SA11. INTERAMERICAN12. VIANEX SA13. DEH SA14. SOL SA
--	---

14(f) Secure mechanism for reporting prohibited practices or unethical behavior

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are secure, accessible and confidential channels for reporting cases of fraud, corruption or other prohibited practices or unethical behaviour.	<p>NTA, tasked with establishing the framework for the detection of corruption, provides an online platform for complaints, https://aead.gr/complaints/.</p> <p>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 his / her personal data.</p> <p>For example, the Hellenic Anti-Corruption Organization offers such a reporting possibility on its website, using a standardised form. The website asks any whistle blower to provide personal contact information and the general category of information relayed (from a list of 15 offences including fraud; embezzlement, misappropriation; favouritism, partiality; intimidation; insider trading; conflict of interests; bribery; ; money laundering; identity fraud, forgery; managerial crime; abuse of power; nepotism; blackmail; and bribery.) The organisation promises to contact the whistle blower within 48 hours to arrange a meeting.³⁶</p> <p>In the framework of the European Programme “Widely Expanding Anonymous Tipping Technology Deployment, Operation, And Trustworthiness To Combat Corruption In Eastern And Southern Europe” (EAT), with the support of Transparency International Greece and the Hermes Center for Transparency and Human and Digital Rights International, HSPPA adopted a reporting platform, which meets the conditions for the implementation of Directive 2019/1937, thus providing a secure instrument for whistleblowing. In particular,</p>		<p>HSPPA activated a channel for whistleblowing. Thus, the assessors have limited information to evaluate the effectiveness of this instrument.</p>		<p>Carefully evaluate the effectiveness of the newly implemented whistleblowing instrument, including raising awareness to stakeholders about its availability.</p>

35<http://www.transparency.gr/ti-kanoume/business-integrity-forum/>

36<https://www.hellenicanticorruption.org/report-form/>

	the report is made by means of completing a questionnaire, which is sent anonymously, if the person submitting wishes so.		
(b) There are legal provisions to protect whistle-blowers, and these are considered effective.	<p>Whistle-blower related rules in Greece have been adopted in line with Greece's international obligations and adherence to relevant instruments, including UNCAC (Article 33; ratified by Law 3666/2008); the Council of Europe's Criminal Law Convention on Corruption (Article 22; ratified by Law 3560/2007), as well as the recommendations of the OECD Working Group (Phase 2 and 3 Monitoring Rounds.) Most notably, rules related to whistle blowers and their protection are included in the Code of Criminal Procedure, Article 45B on "public interest witnesses." In 2014, these reforms extended the protection, which until then was only provided to witnesses for specific offences, including organized crime and terrorism offences. In addition, the Code of Civil Servants was amended to ensure that no disciplinary or other internal proceeding would be commenced against a civil servant who is a public interest witness.</p> <p>Law 2928/2001 on the Protection of Citizens from offences committed by criminal organisations had previously (in 2001) introduced an integrated framework of protective measures for key witnesses that help reveal related criminal activities. Article 9 of the aforementioned law provides that all necessary measures may be taken to effectively protect the key witnesses, or their relatives, from possible acts of revenge or acts of intimidation, as part of the investigation. In 2014, the most recent reform with Law 4254/2014 (Article 9 (7)) extended the scope to corruption cases and ensuring the same protection for whistle blowers in corruption cases that was previously assigned to whistle blowers in limited proceedings (see Article 9 (7); Article 253B of the Code of Criminal Procedure). That said, Article 9 (7) of Law 2928/2001 should always be considered in conjunction with Article 45B of the Code of Criminal Procedure, as this significantly extends the limited scope of the latter.</p> <p>In addition to the above-mentioned laws, the Code for Civil Servants Code provides additional protection for civil servants. According to the Civil Servants Code, no disciplinary measures or any discrimination, directly or indirectly (in particular in matters of career, relocation or placement etc.), can be imposed on a public servant due to the fact that he or she had reported a misconduct (Article 110(6)). If an official is subject to disciplinary measures, the authority imposing disciplinary measures must prove that the measures are not retaliatory, i.e. the burden of proof is reversed (Article 139 (4)). Officials who disclose acts of corruption may also be transferred on their request to another agency (Article 73 (6)). Lastly, during the preliminary examination, and under certain circumstances after the end of it, the anonymity of officials who contribute substantially to the disclosure of corruption acts (Article 125) is fully protected.</p> <p>Article 263B of the Criminal Code includes leniency measures in favour of persons who contribute to the disclosure of bribery and corruption acts within the public administration system. The article defines four cases where leniency measures are provided, depending 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:</p> <ul style="list-style-type: none">a) accomplices outside the public administration reporting the misconduct before the beginning of the investigation;b) accomplice individuals who cooperate with law enforcement authorities during an on-going investigation;c) accomplice public servants who cooperate with law enforcement authorities during an on-going investigation; andd) key culpable public servants who cooperate with law enforcement authorities during an on-going investigation.	<p>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 power 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.³⁷ 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.³⁸</p>	<p>Consider expanding legal protection for whistle-blowers in line with international reviews.</p>

³⁷ <http://www.oecd.org/governance/ethics/technical-report-whistleblower-protection-public-sector-greece-en.pdf>

³⁸ <https://www.changeofdirection.eu/assets/briefings/EU%20briefing%20paper%20-%20Greece%20-%20english.pdf>

(c) There is a functioning system that serves to follow up on disclosures.	<p>The institutional framework for the fight against corruption in Greece covers a wide 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 as described above. Among these bodies, some are responsible exclusively for corruption cases, while others may receive also other types of complaints, e.g. tax evasion cases, cases of infringement of environmental or labour law, etc.</p> <p>Due to the large number of authorities receiving corruption complaints, various forms of cooperation have been established between the institutions. In most cases, the National Transparency Authority (hereinafter NTA) is involved in the handling of complaints, even if it is not the recipient itself. Complaints management is essential, especially where an institution receives complaints that fall outside its remit and therefore the complaint should be referred to the competent body. 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.</p> <p>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.</p> <p>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.</p>	As noted in assessment criterion c of this sub-indicator, surveys x found that public servants have doubts about the effectiveness of follow up in disclosures.	Maintain efforts to strengthen the integrity framework, and notably ensure adequate capacity and procedures to allow for effective follow up. Collaborate with relevant agencies to establish an approach that adequately captures allegations coming out of the public procurement area, taking account of the specific characteristics of this high-risk area.
---	--	---	--

14(g) Codes of conduct/codes of ethics and financial disclosure rules

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There is a code of conduct or ethics for government officials, with particular provisions for those involved in public financial management, including procurement.* * Recommended quantitative indicator to substantiate assessment of sub-indicator 14(g) Assessment criterion (a): - share of procurement entities that have a mandatory code of conduct or ethics, with particular provisions for those involved in public financial management, including procurement (in % of total number of procuring entities). Source: Normative/regulatory function.	<p>Public administration in Greece has formed a core of fundamental principles of administrative ethics to ensure that public authority is not exercised arbitrarily but for the benefit of the community as a whole. This includes the traditional principles of legality, public interest, equality and impartiality, neutrality and good governance. Both guidance and legal instruments exist. They generally apply to the public service including procurers. While public financial management is covered, there are no specific rules of conduct for procurers and their specific circumstances.</p> <p>Notable instruments are:</p> <p>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 to Good Administrative Behaviour reminds public servants that the values that underpin the achievement of any outcome of the administration are those that make this achievement important. By adhering to the principles of Good Administrative Behaviour described in the guide, the highest possible standards of behaviour are highlighted. 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.</p> <p>The Code of Administrative Procedure (KDD) takes the form of a law (2690/1999); it is legally binding and subject to sanctions. KDD generally applies to public servants in state and local Self-governed Authorities and other legal entities governed by public law, i.e. KDD applies to</p>		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.		Consider developing a code of conduct for public procurers, including specific, practical guidance that is reflective of the specific integrity-related challenges associated with public procurement.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

	<p>all public administration in a formal or organizational sense and not according to their functional or substantive role. It consists of 5 chapters and 27 articles containing general provisions - 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).</p> <p>In addition, the Civil Servants Code (Law 3528/2007) 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.</p> <p>Finally, HSPPA has developed its own Code of Conducts to cover its operations. These include a Code of Ethics applicable to its members and staff³⁹ and a Code of Ethics specifically to its auditors. NTA has also developed in 2021 a Code of ethics for internal auditors ⁴⁰and so has the Court of Auditors⁴¹ and the General Directorate for Financial Audit. Beyond this, 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 has been included (action 69).</p>		
<p>(b) The code defines accountability for decision making, and subjects decision makers to specific financial disclosure requirements.*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(g) Assessment criterion (b): - officials involved in public procurement that have filed financial disclosure forms (in % of total required by law). Source: Normative/regulatory function.</p>	<p>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.</p> <p>Disciplinary liability: The law provides a list of disciplinary misconduct.</p> <p>There are no other provisions defining accountability for decision-making.</p> <p>Financial disclosure requirements are regulated in a specific law (3213/2003). 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.</p>	<p>Accountability for decision making does not seem to be regulated by the frameworks mentioned in assessment criterion a.</p>	<p>Consider providing harmonised guidance on what kind of aspects should be regulated in what manner, setting the minimum standard for clear accountability and delegation of decision-making authority.</p>
<p>(c) The code is of mandatory, and the consequences of any failure to comply are administrative or criminal.</p>	<p>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.</p> <p>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 offences, disciplinary bodies, disciplinary sanctions, right of objection / application of review etc.) in Law 4057/2012 "Disciplinary Law on Officials and Employees of Legal Persons governed by Public Law".</p>	<p>No gaps identified.</p>	
<p>(d) Regular training programs are offered to ensure sustained awareness and implementation of measures.</p>	<p>Training programs and information seminars are provided to ensure that the measures provided are adequately communicated and implemented.</p>	<p>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</p>	<p>Consider providing guidance, awareness raising and training on the procurement-relevant aspects of the code of conduct to the procurement workforce. Such measures</p>

³⁹ Code of Conduct for Staff of the Hellenic Single Public Procurement Authority https://www.eaadhsy.gr/images/docs/2017-kodikas_deontologias_EAADHSY.pdf
⁴⁰

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

⁴¹ <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>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

		mandatory and regular. It is concluded that no training on the Code of Conduct exists for procurers.	should be taken by the entire procurement workforce in reasonable, regular intervals.
(e) Conflict of interest statements, financial disclosure forms and information on beneficial ownership are systematically filed, accessible and utilised by decision makers to prevent corruption risks throughout the public procurement cycle.	<p>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 Law 4412/2016. However, the law only stipulates that any officials having a conflict of interest shall notify 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 action (L. 4416/2016, article 24 (par. 5-6)). 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.</p> <p>These files are considered important sources to identify irregularities throughout the procurement process.</p> <p>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.</p>	It remained unclear to what extent these forms are gathered and used systematically. No information on beneficial ownership is being collected.	Consider including beneficial ownership information in declarations interest and financial disclosures. Utilise the submitted declarations for regular review and publish anonymised information to establish transparency and accountability.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.